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The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Wednesday, March 20, 2019

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

Prayers.

[*Translation*]

SENATORS' STATEMENTS

THE LATE JOSEPH FAFARD, O.C.

Hon. Serge Joyal: Honourable senators, since today is the International Day of La Francophonie, I'd like to invite you to pay tribute to a great Canadian sculptor from Saskatchewan. The Franco-Saskatchewanian Joe Fafard, Canada's most famous contemporary sculptor, passed away on Saturday.

[*English*]

You might ask yourself: Who was Joe Fafard? Well, senators, he is the artist who produced the six stunning life-sized cows that were placed, in 1986, in the courtyard of the Toronto Dominion Bank Square in Toronto. At the time, it was almost a scandal; why would someone dare place six cows in the middle of the financial district of Toronto, so far away from the peaceful life of the countryside where such animals usually spend their lives?

But was such a site not, in fact, the perfect place for those cows: to remind financiers and all urban dwellers that aside from the rapid pace of business activities, we should not forget that we cannot bypass the rhythm of nature that links us to the human condition?

[*Translation*]

Who was Joe Fafard? He was born in 1942 on a small farm in Sainte-Marthe-Rocanville, on the border between Saskatchewan and Manitoba. Joe Fafard's family came from the Bois-Francs region of Quebec and had migrated west 50 years earlier. As a child, Fafard showed a natural talent for drawing and sculpture. He started modelling clay portraits of his family and the world around him at a very young age, depicting his parents' farm and livestock, the cows, calves, pigs and horses that made up his world.

[*English*]

He realized early that his animals in clay had to be cast in bronze to survive, given the harshness of the Canadian climate, but with no foundry nearby, he started his own foundry on land he bought in Pense, west of Regina. He lived in Saskatchewan his entire life and became well-known for his life-sized animals, expanding his surprisingly realistic works with busts of well-known people on the Canadian scene: sculptures of the Queen, John Diefenbaker, Pierre E. Trudeau, Jean Chrétien, and of the famous painters Van Gogh and Picasso, among others.

The first sculpture I saw by Fafard was in the early 1980s, in a private collection in Montreal: a bust of young Prince Charles, almost in caricature form, an almost kitschy sculpture. The retrospective of his work organized in and held at the Montreal Museum of Fine Arts in 1996, and another at the National Gallery here in Ottawa in 2007, brought national attention to his horses and famous cows, painted in various colours representing the different breeds, and allowed him to be internationally renowned.

I had the privilege of meeting him in 1995, when I was asked by a friend to commission an unusual work. I asked Fafard, "You have done a lot of cows, but what about a big bull? After all, without a bull, there can be no real herd of cows," to keep them happy, as Senator Mercer would have said. He asked what I meant. I said I wanted a bull in bronze, monument-sized, to be placed in a field so that people would be mystified to see a monument of a bull alone, eating grass.

He prepared a template in Styrofoam to determine the outline, profile and size of a Hanoverhill Starbuck bull. The enormous sculpture was shipped from Saskatchewan to Quebec on a flatbed train, as it weighed more than two tonnes. We had to have a concrete base poured to prevent the bull from sinking into the ground, specifically given the spring thaw. Later, the sister of former Prime Minister John Turner wanted to also have a similar bull placed on her farm in the Eastern Townships. Fafard cast one, but in a different colour.

[*Translation*]

There is a powerful lesson to be learned from Joe Fafard's tremendous contribution to Canadian culture. You may be born and live your whole life in French on a small farm in Canada, out in the middle of nowhere, but your talent, language and cultural identity will always shine through.

Let us offer our heartfelt condolences to Joe Fafard's family.

[*English*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Dr. Gerald Baier and a delegation of the University of British Columbia Women in House program. They are the guests of the Honourable Senators Busson, Campbell, Jaffer, Martin, Neufeld and Woo.

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

Hon. Senators: Hear, hear!

UNIVERSITY OF BRITISH COLUMBIA

WOMEN IN HOUSE PROGRAM

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, as a proud alumni of UBC Class of 1987, I rise to acknowledge the delegation of brilliant students from UBC who are taking part in the inaugural UBC Women in House program.

I wish to also acknowledge Moura Quayle, Founding Director of the School of Public Policy and Global Affairs of the Liu Institute of Global Affairs for her leadership and providing the human resources for the program; Professor Gerald Baier; Aaron Posehn; and Rebecca Monnerat for their dedication and staffing support.

Currently ranked as one of the top 20 public universities in the world, UBC is home to more than 60,000 students, and approximately 16,188 international students from 156 countries across its Vancouver and Okanagan campuses.

Most notably known for its credible research and impact in public policy, the Liu Institute of Global Affairs is an entity within UBC that is a purely research-led educational environment that fosters innovation, critical thinking, and experiential learning regarding subject areas concerning teaching and advancing global issues, sustainability, security and social justice.

• (1410)

Having witnessed the successes of the U of T Women in House Program, the McGill Women in House Program, and other programs, I was inspired, along with others, to help launch this very special inaugural program for UBC. This year 10 outstanding women enrolled at UBC have been selected to experience the Ottawa bubble, shadow a parliamentarian for a day, and meet diplomats and political staffers.

Honourable senators, I had the opportunity to meet these women on campus last week and was inspired by their personal stories and visions for the betterment of our world. They are: Camille Claros de Oliveira, Jade Dumoulin, Anam Elahi, Kelley Humber, Deanne Leblanc, Clara Leroy, Alex Lloyd, Michelle Owusu-Ansah, Jory Smallemberg and Nicole So.

I extend sincere gratitude to my fellow B.C. parliamentarians who are not only welcoming these women today, but also acting as co-hosts for the reception tonight in the Sir John A. Macdonald Building, on the second floor. I hope that many senators will be able to take a jaunt across Wellington Street to join us, especially our fellow UBC alumni in this chamber.

Honourable senators, please join me in congratulating this first cohort of women for this inaugural program and the Liu Institute for being part of the launch and for the dedication that they have shown. Also, my amazing staff, who do all the heavy lifting — as we all know our staff do. Let's celebrate today's historic moment for the UBC Women In House Program.

Hon. Senators: Hear, hear!

[*Translation*]

INTERNATIONAL DAY OF LA FRANCOPHONIE

Hon. René Cormier: Honourable colleagues, I rise today on this International Day of La Francophonie, on this International Day of Happiness and on the first day of spring to draw your attention to the status of French in Canada and throughout the world.

The Francophonie is a group of 88 member states that share French as a common language. Over 300 million people around the world speak French and 235 million of them speak it on a daily basis.

[*English*]

According to the International Organisation of La Francophonie, French is the fifth most spoken language and the second most learned language in the world. According to a 2016 study by the European Institute of Business Administration, French is the third most used language of business, after English and Mandarin. It is estimated that by 2050, there will be 820 million French speakers in the world.

[*Translation*]

French, which is spoken on five continents and all across our great country, is an international, modern and inclusive language, now more than ever. Canada's long relationship with French currently enables us to welcome people from all over the world, including Vietnam, Burkina Faso, Madagascar, Europe and Haiti.

The face of Canada's francophone communities is more diverse than ever. According to the 2016 census, 17 per cent of francophones in Canada are first or second generation immigrants, and that number is much higher in some areas of the country, such as Toronto, where 56 per cent of francophones are first or second generation immigrants.

[*English*]

Honourable senators, the French language in Canada is not just the language of a cultural minority. Deeply rooted in our country, from Chéticamp to Yellowknife, from Cap Saint-Georges to Vancouver, as well as in Quebec City, Toronto, Sudbury and Saint Boniface, French is a language for every Canadian. It is a language for inclusions, one that represents our Canadian diversity, and its development should not be left solely to official language minority communities.

[*Translation*]

This year, Canada is celebrating the fiftieth anniversary of the Official Languages Act, which affirms the equal status of both languages as key to creating a society that works. Let us remember that both languages have enriched our nation in the past and, by their inclusive nature, continue to contribute to Canada's extraordinary diversity.

[*English*]

However, it is clear that we still have a long way to go to ensure that all Canadians embrace our two official languages. We have not yet succeeded in creating spaces where our anglophone and francophone language communities can reach their full potential, and we have not succeeded in giving all Canadians the opportunity to learn both of our official languages.

[*Translation*]

Let us also make the most of the fiftieth anniversary of this quasi-constitutional act to make necessary adjustments as we recognize everything our Indigenous languages have to offer and our country's linguistic diversity. Let us work together and use our two official languages to create space for dialogue, coexistence and growth for all.

I wish you all a happy International Day of La Francophonie. Thank you for your attention.

Hon. Senators: Hear, hear!

BROADCASTING SENATE PROCEEDINGS

Hon. Claude Carignan: Honourable senators, the Senate entered a new era this week, that is, the era of televised debates. For those who may not know, bringing cameras into this place is the culmination of efforts that began over five years ago. If I may, I'd like to briefly outline how this came to pass.

In November 2013, the Committee on Internal Economy, Budgets and Administration, chaired by Senator Comeau, decided to broadcast the Senate debates on its website. Because of that decision, that committee, under the leadership of Senator Housakos, now meets publicly.

In 2014, an advisory working group, at the time made up of Senator Douglas Black, Senator Mitchell and Senator Munson and chaired by Senator Greene, was already working on parameters for broadcasting the debates. In March 2015, a company called Blueprint that had been commissioned a few months earlier released its report to the Advisory Working Group on Communications. It recommended further exploring the possibility of televising our debates.

In December 2015, the Senate adopted two motions moved jointly by Senator Cowan, the leader of the Senate Liberals, and me, the leader of the Conservative Party. One motion proposed holding a question period with ministers and the other created the Special Committee on Senate Modernization, which was chaired by Senator McInnis. In October 2016, that committee tabled two reports that recommended moving forward with televised debates once the Senate chamber moved to the Conference Centre.

In December 2016, the *Rules of the Senate* were amended accordingly.

This decision stems directly from the modernization efforts that were undertaken when we, the Conservatives, gained the majority in the Senate in 2010. We had three key themes: efficiency, accountability and transparency. Because the Senate always has to be frugal and as efficient as possible, we adopted

the zero-based budgeting method for preparing our budgets and saved Canadian taxpayers several million dollars between 2010 and 2015.

It is in that spirit of frugality that Senator Tkachuk, the then chair of the Committee on Internal Economy, Budgets and Administration, insisted that the Senate move here to the Conference Centre during the renovation of Centre Block. That decision is to be commended as it saved the public purse several hundreds of millions of dollars.

It is because senators have to be accountable for their actions that major changes were made to expense management, that the Auditor General was called to investigate, and that senators went through a disciplinary process on management in general. It is also because senators became accountable that, in 2014, the Senate adopted a very strict code of ethics.

It is out of concern for transparency that senators' expenses have been publicly disclosed since 2010 and that our way of communicating with the public has completely changed since December 2013.

We welcome the new live broadcasting. We also applaud the leadership of the two groups represented at this time: the Liberal Party of Canada and the Conservative Party of Canada.

Hon. Senators: Hear, hear!

[*English*]

SOCIAL WORK MONTH

Hon. Wanda Elaine Thomas Bernard: Honourable senators, yesterday, March 19, was World Social Work Day, and March is National Social Work Month in Canada.

On Monday, I had the honour of co-hosting the first ever Social Work Day on the Hill with my fellow social workers, Senators Hartling and Seidman, and the Canadian Association of Social Workers, CASW. We welcomed social workers on the Hill to celebrate the profession and plan for the future of social work. I rise today to pay tribute to CASW and all social workers, and to raise awareness about the current issues faced by social workers in Canada.

The profession of social work commits to creating social change and social justice. Much of my career in social work education has been in creating culturally specific and socially just curricula that respects the dignity of individuals and recognizes the unique struggles faced by marginalized groups. For example, in 1999, I developed an Afrocentric social work course that addresses the need for social work education, centred around the experiences of African-Canadian families and communities. It is the only such course in this country.

• (1420)

Developing education programs that focus on social justice and client empowerment is key to creating the change needed for marginalized communities. Opportunities to engage in respectful

discussions that promote equity and diversity must be created in social work education, continuing professional development programs and in social work practice.

As social workers, it is our responsibility to recognize and address the structural and systemic barriers that have been created by oppressive systems and practices. Social workers are allies. I encourage allies to centre the impacted, to listen and to leverage their own privilege.

Honourable senators, Social Work Month is a reminder that social change and social justice can be achieved through education and practice that are inclusive, anti-racist, de-colonial and anti-oppressive. Please join me in thanking all of the social workers who are dedicating their careers to breaking cycles of oppression. Real people, real impact.

Thank 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 Jennifer Preston and Paul Joffe. They are the guests of the Honourable Senator Hartling.

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

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

PARLIAMENTARY BUDGET OFFICER

INFRASTRUCTURE UPDATE: INVESTMENTS IN PROVINCES AND MUNICIPALITIES—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 *Infrastructure Update: Investments in Provinces and Municipalities*, pursuant to the *Parliament of Canada Act*, R.S.C. 1985, c. P-1, sbs. 79.2(2).

[*Translation*]

2019-20 ANNUAL WORK PLAN TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the Parliamentary Budget Officer's annual work plan for 2019-20, pursuant to the *Parliament of Canada Act*, R.S.C. 1985, c. P-1, s. 79.13.

[Senator Bernard]

[*English*]

THE ESTIMATES, 2018-19

SUPPLEMENTARY ESTIMATES (B)—THIRTY-EIGHTH REPORT OF NATIONAL FINANCE COMMITTEE TABLED

Hon. Percy Mockler: Honourable senators, I have the honour to table, in both official languages, the thirty-eighth report of the Standing Senate Committee on National Finance entitled *Final Report on the Supplementary Estimates (B), 2018-19* and I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

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

[*Translation*]

THE ESTIMATES, 2019-20

INTERIM ESTIMATES—THIRTY-NINTH REPORT OF NATIONAL FINANCE COMMITTEE TABLED

Hon. Percy Mockler: Honourable senators, I have the honour to table, in both official languages, the thirty-ninth report of the Standing Senate Committee on National Finance entitled *Final Report on the 2019-20 Interim Estimates* and I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

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

BUDGET 2019

DOCUMENT TABLED

Leave having been given to revert to Tabling of Documents:

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, Budget 2019, entitled *Investing in the Middle Class*.

THE SENATE

NOTICE OF MOTION TO AFFECT QUESTION PERIOD
ON APRIL 2, 2019

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

That, in order to allow the Senate to receive a Minister of the Crown during Question Period as authorized by the Senate on December 10, 2015, and notwithstanding rule 4-7,

when the Senate sits on Tuesday, April 2, 2019, Question Period shall begin at 3:30 p.m., with any proceedings then before the Senate being interrupted until the end of Question Period, which shall last a maximum of 40 minutes;

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

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

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

[English]

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, notwithstanding rule 3-1(2):

1. when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Saturday, March 23, 2019, at 10 a.m.; and
2. when the Senate adjourns on Saturday, March 23, 2019, it do stand adjourned until Sunday, March 24, 2019, at 10 a.m.

[Translation]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTINGS AND ADJOURNMENT OF THE SENATE

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

That the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to meet, in order to continue its study of Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and

to make consequential amendments to other Acts, on Monday, April 1, 2019, Monday, April 29, 2019, and Monday, May 6, 2019, at 6:30 p.m.:

- (a) even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto; and
- (b) even though the Senate may then be adjourned for more than one week, pursuant to rule 12-18(2)(b)(i).

[English]

ABORIGINAL PEOPLES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Hon. Lillian Eva Dyck: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Aboriginal Peoples have the power to meet on Thursday, April 4, 2019, from 1:00 p.m. to 4:00 p.m., for the purposes of its study on the subject matter of Bill C-91, An Act respecting Indigenous languages, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

• (1430)

CONFEDERATION BRIDGE AND BRIDGE TOLLS

NOTICE OF INQUIRY

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

I will call the attention of the Senate to

- (a) The importance of the federally-owned Confederation Bridge to the economy and way of life of Prince Edward Island, providing a vital link for commerce, tourism and the necessities of daily life for the people of that province;
- (b) The heavy financial burden imposed by the toll on that Bridge, which amounted to \$35.00 when it was first opened in May of 1997, but now stands at \$47.75, an increase of 36 per cent, surely making the \$3.70 per kilometer drive one of the most costly in Canada;
- (c) The fact that while Prince Edward Islanders are grateful to have Confederation Bridge for the tremendous convenience and reduced transportation time for goods travelling to and from the Island, the reason Islanders initially agreed to a toll was the understanding that large scale federal transportation infrastructure programs required a “user pay” system in the form of tolls, and that was the only way they were going to get a bridge to replace the previous year-round ferry service;

- (d) The change to that longstanding user pay policy when Justin Trudeau promised in the middle of the 2015 election campaign to cancel the toll on the replacement Champlain Bridge — like Confederation Bridge, also federally owned — being built in Montreal if he won;
- (e) The Liberal victory in October of 2015 that resulted in the promised cancellation of the toll. However, keeping that impulsive election promise has pitted region against region and Canadians against Canadians. The feeling among many Prince Edward Islanders is that the federal government has favoured one part of the country by eliminating the toll on one bridge it owns and not on the other, and they wonder why Canadians are being treated differently depending on where they live;
- (f) The repeated government justification for this unequal treatment — that the Champlain Bridge's status as a "replacement" bridge warrants such inequality — rings hollow among those on the losing end of this disparity, both because the original Champlain Bridge charged a toll for 28 years, until it was paid for, and because the idea that the new Champlain Bridge is a "replacement bridge" is a distinction without a difference. Every bridge is a replacement for what came before, be that an older bridge, a ferry, or an alternate route. The decision to treat "new" and "replacement" bridges differently is every bit as much a political decision as the decision to cancel the toll on the Champlain Bridge;
- (g) The Prime Minister's statement, when asked in January 2017 about the unfairness of the toll on Confederation Bridge, that he would commit to, in his words "look at what can be done to make sure that people are able to travel freely and openly across this country at modest costs", is a two year old commitment to Prince Edward Islanders that remains unfulfilled and is a promise unkept;
- (h) Therefore, the Senate Chamber should examine and discuss the strain on the unity of Canada caused by this inconsistency in how our fellow citizens are treated, depending on where they reside in Canada and recommend to the government possible solutions to this problem.

QUESTION PERIOD

PRIME MINISTER'S OFFICE

SNC-LAVALIN

Hon. Larry W. Smith (Leader of the Opposition): Honourable senators, my question is for the Government Leader in the Senate. Senator Harder, on Monday evening, you assured us that the house committee was still actively meeting on the SNC-Lavalin scandal and that it would make its decisions as an independent committee of the other chamber. However, at almost

the same time you said this, the five Liberal members of the Justice Committee released a letter stated that they had achieved our objectives with respect to the meetings and that Canadians "now have the necessary information to arrive at a conclusion."

Senator Harder, how can we conclude that this is anything other than — I hate to say it — a cover up? I use this term advisedly, but sincerely, as I said before. Why were the Liberal members of the committee directed to shut down the investigation and what is this government so determined to hide?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. It gives me the opportunity to reinforce views that I have expressed earlier. That is to say, the committee of the other chamber made a decision as a committee. I acknowledge that it was not a unanimous decision, but it was a decision reached by the majority of the committee.

Senator Smith: Senator Harder, you previously indicated to honourable senators that, because the house committee was examining this matter, the Senate should not do so. Well, the house committee investigation has been shut down. The Senate may be the only avenue left to get to the bottom of this and to allow former Attorney General Jody Wilson-Raybould to tell her full truth to Canadians.

It is what Canadians want. If the transparency and openness once promised by your government mean anything at all, will you agree to support a Senate study into this very serious matter, and will you support the motion that was put forward on Monday?

Senator Harder: I thank the honourable senator for his question. It gives me an opportunity to remind him of the comments I made when I spoke to his motion in indicating that not only was, at the time of the motion, the committee of the other place under way but we also had, at the direction of the Prime Minister, the Ethics Commissioner and Compliance Commissioner of the House of Commons being mandated to undertake a review that is under way.

Since I made those comments we have had the announcement with respect to the study and investigation by the former deputy prime minister and long-time Minister of Justice and Attorney General, Anne McLellan, with respect to some of the machinery of government issues and the relationship issues attached to the exercise of the justice and Attorney General functions. Those are important pieces that are under way and in direct answer to the question, no I do not.

Hon. Denise Batters: Honourable senators, my question is for the Leader of the Government in the Senate. Senator Harder, have you spoken to any SNC-Lavalin representatives since March 2018? If so, were deferred prosecution agreements discussed, yes or no?

Senator Harder: I thank the honourable senator for the question. Earlier in questioning, I acknowledged that I have met with representatives of SNC-Lavalin. I can't remember the precise dates, but they were in accordance with the Lobbying Act and are reported at the same time, I should mention, that the company undertook a number of representations to a number of

senators and other officials on both sides of the aisle so that they understood the concerns that the company had with respect to the deferred prosecution agreement process.

Senator Batters: Senator Harder, Kevin Lynch was Privy Council Clerk when you were a deputy minister. Now he is the SNC-Lavalin board chair. Have you spoken to Kevin Lynch since March 2018, yes or no?

Senator Harder: No.

NATIONAL REVENUE

OVERSEAS TAX EVASION

Hon. Percy E. Downe: Honourable senators, my question is for the Leader of the Government in the Senate. We all know the Canada Revenue Agency does an outstanding job on domestic tax evasion. If you are trying to cheat your taxes and you have your money in Canada, it is highly likely you will be caught, charged and convicted. Just go to the website and you will see examples of that.

However, they do a terrible job on overseas tax evasion. We now know that it has been almost three years — April 2016 — since the Panama papers were released. We asked the Canada Revenue Agency for some information on how they are doing three years later. There are over 800 Canadians who had accounts there and the CRA advises us that over \$9 million is owing in penalties and unpaid taxes. Therefore, some of the people with accounts there were cheating on their taxes. We asked them how many people have been convicted or charged. Absolutely none.

We all know, colleagues, how the CRA has been caught misleading Canadians on call centres, disability tax credits, basically trying to deceive Canadians in some of the work they are doing. When you ask the CRA how much money has been collected from those Panama papers, here is the answer: They have gone down a new route. They have gone to the route of gobbledygook. How much money has been collected is the question. The answer is that the CRA does not track payments against specific accounts adjustments like audits as its system applies payments to a taxpayer's cumulative outstanding balance by tax year, which can represent multiple audits of different types, voluntary payments and other adjustments.

The real answer, colleagues, is they haven't collected a cent. Why does the government allow this incompetence to continue at the Canada Revenue Agency on overseas tax evasion?

• (1440)

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. It gives me the opportunity to report to this chamber the consequences of the investments that the government, with the approval of Parliament, has made to the CRA.

Colleagues will know that over a billion dollars has been added to the CRA's capacity to ensure compliance, particularly in offshore accounts. I can specifically report, with regard to the Panama Papers, that 894 Canadians were identified, 525 files

were identified for audit, 225 audits are currently underway and 66 audits are completed. Twelve of those have led to reassessments worth \$9.1 billion. I think you can say your money is well invested.

Senator Downe: Thank you for that. Of course, not a cent has been collected.

As for the \$1 billion announced by the government, we all know governments announce large sums of money many years forward. As of the end of 2017, the government had spent over \$107 million of that. Little has been spent so far, but compare it to what other countries are doing.

Everybody got the Panama Papers at the same time. The Germans have recovered over 140 million euros in less than three years. The Australians have collected over \$26 million back to the treasury, and they have identified a much larger sum they are pursuing. People have been charged and convicted in other countries.

Why does the government continue to allow this double standard in Canada? If you can afford to hire lawyers and accountants and hide your money overseas, the government doesn't pursue you with any vigour. These Panama Papers were given to the Government of Canada. If you try domestic tax evasion, you are caught, charged and convicted. Why the double standard in our justice system?

Senator Harder: I thank the honourable senator for his question. I would suggest there is no double standard. There are levels of complexity involved with respect to the Panama Papers and the files that have been commenced, but that hasn't diminished the resolve of the government to pursue those who are outstanding in their compliance and to do so vigorously. I will bring to the attention of the CRA the comments and views of the honourable senator, and I assure him there was some applause to his concerns.

HEALTH

HOMEOPATHY

Hon. Stan Kutcher: My question is for the Leader of the Government in the Senate. Canada has built an international reputation for our championing of scientifically valid and ethically responsible global health work. We must ensure that everything we do in global health upholds that reputation.

Unfortunately, recent reports have identified that in Honduras, Global Affairs Canada has and continues to fund, promote and apply ineffective homeopathic remedies for Chagas disease, a debilitating infection that can otherwise be effectively treated. Homeopathy is to modern medicine as alchemy is to modern chemistry. Its use to treat infectious diseases is both medically wrong and ethically reprehensible.

I understand that several senators have written to the ministers responsible on this issue. What action are these ministers taking to immediately stop this travesty and to ensure that such ineffective, unscientific and unethical practices do not occur again?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his first question in the Senate, if my memory is correct. I look forward to other questions.

Given the nature of the specificity of the question and no advance notice, I will have to take note of the question. I would encourage senators, if they have concerns like this, to either raise them so that I can ensure that the minister's attention is brought to their letters, or concerns that are raised in this Question Period can be brought to attention and I'll report back.

NATIONAL REVENUE

CANADA CHILD BENEFIT

Hon. Kim Pate: My question is for the Government Representative in the Senate. The Canada Child Benefit is a cornerstone of Canada's poverty reduction strategy. On February 26 of this year, the Minister of Families, Children and Social Development issued a statement that the government's poverty reduction target has been met three years ahead of schedule. He attributed the success to the Canada Child Benefit, which he said "... is having a significant positive impact on the income of families."

Given the importance of the Canada Child Benefit to Canadian families, why is it that some of the most marginalized families in Canada, including refugee claimants, temporary foreign workers and people with precarious immigration status, who work and pay income tax like other Canadians, are being denied the benefit they need to support their children, including those born in Canada?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question. I would like to confirm, as the senator suggests, that the Canada Child Benefit has led to significant improvement in the lives of nine out of ten Canadian families and lifted almost 300,000 children out of poverty.

With respect to the issue of ensuring that those who are entitled to the benefits are aware of the benefits, I can report that the Canada Revenue Agency is working closely with Immigration, Refugees and Citizenship Canada to ensure that the benefits issues are addressed quickly for those who are entitled to receive them.

Senator Pate: Thank you for that response, government representative.

The Chinese and Southeast Asian Legal Clinic has filed a constitutional challenge to section 122.6 of the Income Tax Act which denies access to the Canada Child Benefit to marginalized families. Would the government amend section 122.6 of the Income Tax Act to allow all Canadian taxpayers, regardless of immigration status, access to the benefit?

Senator Harder: While I cannot commit the government to such an action, I can assure the honourable senator I will bring this to the attention of the minister concerned.

[Translation]

EMPLOYMENT, WORKFORCE DEVELOPMENT AND LABOUR

JOB LOSSES

Hon. Jean-Guy Dagenais: My question is for the Government Leader in the Senate. This is probably a vestige from my union days, but I break out in hives every time I hear your Prime Minister go on and on about working for the middle class. SNC-Lavalin lobbyists enjoyed easy access to Mr. Trudeau's office, and things got so bad that two ministers, the Prime Minister's top adviser and friend, and the Clerk of the Privy Council all resigned. The Prime Minister apparently wanted to save 9,000 jobs. Meanwhile, 12,000 Sears employees lost their pension funds when the company went bankrupt. Sears executives pocketed \$93 million for their fine work, while pensioners were left high and dry. Your Prime Minister ignored and continues to ignore the 12,000 Sears employees. He even hid a provision in an omnibus bill to save SNC-Lavalin, a company run by corrupt individuals.

Can you explain why the middle-class Sears workers did not deserve the same attention as those at SNC-Lavalin?

[English]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. It gives me the opportunity to reinforce the commitment of this government to jobs and job growth no matter where they occur, and to reference the fact that in the last three years of this government, Canadians and their enterprises have created over 900,000 jobs, most of them full time, and that the Canadian unemployment rate is at a 40-year low. Jobs create growth and create the capacity of families to rise in their economic standing in terms of joining or advancing in the middle class. Irrespective of where those jobs are, this government is championing those jobs.

With respect to the concerns raised with regard to pensioners and the consequences of bankruptcy, in this case Sears, the honourable senator will know that the government has taken a number of steps to examine how better to protect the pension rights of those workers who were found in the unenviable position of having their companies go bankrupt and there not being enough money for the integrity of their pension plans. This is a complex issue, as the honourable senator will know. We have had some debate here on former Senator Art Eggleton's bill, and this is one that the government is seized with and taking action on.

• (1450)

[Translation]

PRIME MINISTER'S OFFICE

SNC-LAVALIN

Hon. Pierre-Hugues Boisvenu: My question is for the Leader of the Government in the Senate. Today, we learned from Radio-Canada's Montreal newsroom that Neil Bruce, the big boss at SNC-Lavalin, publicly stated in an interview that the company had never cited the loss of 9,000 jobs as a reason it should get a deferred prosecution agreement. What was the real motive of Prime Minister Trudeau's office in this matter?

[English]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. I obviously can't comment on what comments the gentleman concerned from SNC-Lavalin may or may not have made. What I can tell you, as the Prime Minister has said on a number of occasions, along with other ministers, is the Government of Canada remains concerned about any job loss and will take steps that are appropriate and within the law to advance those jobs and create other jobs.

[Translation]

Senator Boisvenu: If SNC-Lavalin, the main party concerned, says that it never mentioned the risk of losing 9,000 jobs if it did not get this agreement, doesn't that mean it was the Prime Minister who made up a reason?

[English]

Senator Harder: No.

INFRASTRUCTURE AND COMMUNITIES

INFRASTRUCTURE BANK

Hon. Douglas Black: Honourable senators, my question is also for the Leader of the Government in the Senate, and it concerns the Canadian Infrastructure Bank. You will recall, Senator Harder, that with strong support from many senators, the bank was formed in June 2017. That was two years ago. According to the bank's own strategy statement and the statements of its chair, the bank has, in that period of time, established a governance framework, established policies, launched its Toronto office, launched internal processes, attracted talent and built capacity in the important parts of its mandate.

The bank has made one investment in two years: an investment in rail in Quebec that was announced prior to the bank's formation.

Senator Harder, the Boston Consulting Group indicates in a 2017 report that Canada's infrastructure deficit is in the hundreds of billions of dollars and this unmet need for investment hinders our national economy.

Leader, can you advise us when the Canadian Infrastructure Bank will start investing in projects and not just investing in bureaucracy?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question and for his concern about ensuring that all of the instruments of investment in infrastructure are appropriately robust and fulfilling their mandate.

I remind this chamber, as we pronounced on the law creating this bank, that we insisted that the bank be arm's-length and independent. That is exactly what the bank is. Therefore, it doesn't take direction from the government on specific investments or the pace of their work.

I will reference that the IMF, which is often cited as important governance guidance, has not only welcomed the creation of the bank but has said that it will be an effective instrument for achieving the infrastructure goals of the government.

With regard to the legitimate concern about the pace of project consideration and announcements, while I want to respect the independence of the bank, I also want to assure the senator that I will draw to the bank's attention the concerns of this chamber that we respect that independence but also expect some results.

IMMIGRATION, REFUGEES AND CITIZENSHIP

UNITED STATES—SAFE THIRD COUNTRY AGREEMENT

Hon. Mobina S. B. Jaffer: Honourable senators, my question is also for the Leader of the Government in the Senate, regarding the Canada-U.S. Safe Third Country Agreement. On the base of the Statue of Liberty in New York, United States, it is famously written:

Give me your tired, your poor,
Your huddled masses yearning to breathe free . . .

But since the election of the new U.S. president, who vows to build a wall, many asylum seekers feel unsafe because of the anti-refugee and anti-Muslim measure adopted by the current U.S. administration.

In order to avoid being sent back to the U.S. under the Safe Third Country Agreement, many refugees and asylum-seekers come to Canada at irregular border crossings where the Safe Third Country Agreement does not apply. Unfortunately, the reality of the agreement is that refugees and asylum seekers who come to Canada at normal points of entry are sent back to the U.S., a country where they feel threatened and unsafe.

Leader, when will this government look at the Safe Third Country Agreement with the United States?

Hon. Peter Harder (Government Representative in the Senate): Again, I thank the honourable senator for her question and her long-standing interest in migration and refugee issues and, in particular, the Safe Third Country Agreement.

I remember, when the agreement was first being negotiated, that we had some discussions then and were not always of the same view. I believe that the Safe Third Country Agreement is an important component of Canada's overall refugee protection regime. It has worked well for Canada in the number of years that it has been in place. But as the government and, in particular, the minister, has acknowledged, this agreement and other agreements can always be improved.

To that end, the minister has had and continues to have high-level discussions with our American friends to see whether or not and how this agreement can take into account some of the recent trends that have been of concern to the Government of Canada and Canadians.

Senator Jaffer: Leader, as you mentioned, you and I did not agree when this agreement was being set up. I certainly have the same concerns now that I had then, including that to return people who do not feel safe in the U.S. under the Safe Third Country Agreement is not helpful to these asylum seekers. We are a country that welcomes asylum seekers and we are a country that welcomes refugees. Why would we send back refugees and asylum seekers who do not feel safe in the U.S.? When is the minister going to give us an answer as to what the agreement is?

Senator Harder: Again, I want to assure this house and all Canadians that Canada is not only a signatory to refugee protection agreements, but takes them very seriously. If I could say it this way, I think Canada is a model in terms of how countries that are in accord with the Geneva Convention on the Protection of Refugees ought to act. Having said that, the Safe Third Country Agreement with the United States provides an ability to coordinate the protection regime in both of our countries to the benefit of not only the would-be claimants, but also the integrity of the refugee determination process itself.

Again, these regimes can always be improved. The minister has had ongoing discussions and continues to have them to see how the Safe Third Country Agreement can be improved, but the government is of the view that it is an important component of our refugee protection and asylum system.

INFRASTRUCTURE AND COMMUNITIES

NEW BRUNSWICK—INFRASTRUCTURE PROJECTS

Hon. Carolyn Stewart Olsen: Honourable senators, my question is for the Leader of the Government in the Senate. Senator, the Government of New Brunswick recently made the very difficult decision to cancel four federal-provincial infrastructure projects. The province, as Premier Higgs has said, simply cannot afford them with things as they are. This decision was met with an aggressive response from Intergovernmental Affairs Minister Dominic LeBlanc. Now we hear that New Brunswick must pay.

The province has stated that the costs reflect work already completed, but in my view it's unclear if the federal government is paying its fair share of this uncompleted work. Some of the statements Minister LeBlanc has made seem to insinuate that New Brunswick would find it difficult to get federal money if it doesn't buy into the commitments made by the previous Liberal government.

Leader, can you tell me the details of what money, if any, the federal government disbursed for these projects up until and including their cancellations?

Hon. Peter Harder (Government Representative in the Senate): Again, I would have to take note of the question and get back to the honourable senator. However, I do want to assure the honourable senator, and all senators, that the Government of Canada remains committed to working with provinces on its infrastructure funding to ensure that the priorities of Canada are reflected in the agreements that are signed. It is not the view of the government that it signs these agreements with a political party, but with a government and that those governments are undertaking those obligations on behalf of a government.

• (1500)

There are obviously consequences to elections when governments change, but the obligations were undertaken by a government, not a party.

Senator Stewart Olsen: Thank you, senator, for that response. I agree with you that governments undertake these together.

I want to be very sure the federal government is not short-changing and charging too much to the government of New Brunswick, which has made a responsible decision in their recent budget initiatives. New Brunswick is struggling financially. While \$31 million is not a lot in Ottawa, back home, it goes a long way.

New Brunswick is always ready to pay its bills. As a representative of New Brunswick, it's my duty to question where these costs come from. Would you please endeavour to get me a breakdown of what federal money went into the projects before they were cancelled?

Senator Harder: Again, I thank the honourable senator for her supplementary. As I indicated, I am happy to make inquiries and report back.

HEALTH

ADVERTISING OF VAPING PRODUCTS

Hon. Judith G. Seidman: My question is for the Leader of the Government in the Senate. As you may recall, I rose in the chamber on November 28 to ask you a two-part question on the issue of advertising vaping products in Canada. I first inquired about whether the government planned to take enforcement action against Imperial Tobacco Canada, a tobacco company that runs lifestyle advertisements for their vaping products on television. I then inquired whether the government would use its

regulatory powers to restriction advertisements of vaping products only to brand preference and information advertising, as permitted under the Tobacco and Vaping Products Act.

On February 19, you tabled a response that addressed only my first question. In your response, you stated that:

Health Canada has a rigorous compliance and enforcement program in place to ensure that manufacturers, importers and sellers of vaping products comply with the *Tobacco and Vaping Products Act (TVPA)*.

Senator Harder, I ask you again: When will the government take regulatory action against companies like Imperial Tobacco Canada and ensure that the advertising of vaping products is restricted only the brand preference and information advertising?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question. I must say I didn't remember that it was November 28, but I'm happy to be reminded of that. With respect to the question she has asked today, I will make inquiries of the ministry.

Senator Seidman: As you know, recent reports have shown that young Canadians are taking up vaping at an alarming rate. Dr. David Hammond, a public health professor from the University of Waterloo, conducted a survey of almost 4,000 young Canadians in August and September 2018 on nicotine use. The results of his study are extremely troubling. According to his data, the vaping rates among young Canadians have increased substantially. In 2018, there was a 25 per cent increase in the number of young Canadians who had ever tried vaping. In comparison to 2017, there was an increase of more than 70 per cent — yes, 70 per cent — in the number of young people who were recent or regular vapers.

Similarly, the U.S. has also experienced a dramatic increase in teenage vaping rates in the last year. The U.S. Food and Drug Administration and the U.S. Centers for Disease Control and Prevention found the same 70 per cent increase in vaping among middle and high school students in their 2018 National Youth Tobacco Survey.

With confirmatory evidence in both countries, what we have is a national emergency.

Senator Harder, given these facts, when will the government make the decision to enforce the same advertising prohibitions on vaping products as the ones that we have on tobacco?

Senator Harder: Again, I thank the honourable senator for the additional information. I will add that to my inquiry.

[*Translation*]

ORDERS OF THE DAY

NATIONAL DEFENCE ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Marc Gold moved second reading of Bill C-77, An Act to amend the National Defence Act and to make related and consequential amendments to other Acts.

He said: Honourable senators, I rise today to kick off the debate on Bill C-77. This bill, which does not have an official short title, amends the provisions of the National Defence Act governing the military justice system and makes consequential amendments to other acts.

Bill C-77 consists of four main parts. First, Bill C-77 will enshrine in law important rights for victims of service offences within the military justice system. Second, it will introduce harsher penalties for service offences motivated by bias, prejudice or hate based on gender identity or expression.

Third, it will ensure that the special circumstances of Aboriginal offenders are taken into account in sentencing. Fourth, it will reform the existing summary trial process in order to ensure that minor breaches of military discipline are dealt with through a non-penal, non-criminal process called “summary hearings.”

Bill C-77 was passed by a broad majority in the other place, and all the parties supported it. In fact, most of the proposals regarding victims' rights are based on legislation introduced by the previous government in 2015.

Honourable senators, Bill C-77 isn't perfect. No bill is. Parts of it are potentially problematic. I will touch on those parts in my remarks, and they warrant careful consideration in committee.

Nevertheless, it is a good bill, and I support it in principle. I feel it goes a long way toward modernizing and improving Canada's military justice system. I am both pleased and proud to sponsor this bill in the Senate.

To give you a sense of the context behind this bill, I'd like to say a few words about Canada's military justice system. As most of you know, Canada's military justice system is independent and separate from our civilian criminal justice system.

Members of the Canadian Armed Forces must comply with the Criminal Code and other laws governing all Canadians, but they must also comply with the Code of Service Discipline set out in the National Defence Act. The code contains a number of offences unique to the Armed Forces, such as insubordinate behaviour, quarrels and disturbances, absence without leave, and drunkenness. The regulations pertaining to the military justice system are found in the Queen's Regulations and Orders.

Charges can be handled one of two ways: either through the chain of command by summary trial, which I will call the command stream, or by court martial, in an official court of independent military judges.

The court martial and the summary trial are both criminal trials in which the accused is presumed innocent until found guilty beyond a reasonable doubt. This separate military justice system has been around in Canada since before Confederation. It was inherited from the British system and is explicitly recognized in the Canadian Charter of Rights and Freedoms.

As the Supreme Court of Canada affirmed in a series of Charter cases, our military justice system fulfills the clear and important objective of allowing the Canadian Armed Forces to deal with disciplinary matters and thus maintain discipline, efficiency and morale.

[*English*]

• (1510)

The court recognizes that the Canadian Armed Forces face unique disciplinary challenges as they pursue their mission of defending Canada and Canadian interests at home and abroad. The court understands the need for the military to administer justice for unique service offences that simply do not exist in the civilian system such as absence without leave or drunkenness that makes a service member unprepared to carry out their duties.

The same court decisions also recognize so-called ordinary crimes can take on a heightened significance when admitted within the military because of the need for cohesion, mutual trust and morale among service members. Not only do the Canadian Armed Forces members work together, they also train together, travel together, eat together and sometimes live together in very close quarters over potentially long periods of time. It is a shared way of life, and discipline and accountability are key elements in maintaining trust, morale and cohesion among service members.

Our military justice system has evolved over the years, whether in response to legal developments in the civilian criminal justice system or to military-specific court decisions and previous legislative initiatives. Bill C-77 is part of that evolution. It builds upon certain initiatives taken by previous governments while incorporating several initiatives pursued by the current government. In this way, Bill C-77 seeks to ensure that the military justice system remains both effective and responsive to the interests of victims and other community members, the rights of service members and the disciplinary needs of the military chain of command. Let me begin by outlining how Bill C-77 enhances the rights of victims.

Bill C-77 proposes to add a Declaration of Victims Rights to the National Defence Act, an initiative introduced in 2015 by the previous government. This declaration mirrors the Canadian Victims Bill of Rights which, since 2015, has entrenched the

rights of victims in the Canadian civilian justice system. Bill C-77 would entrench four victims' rights within the military justice system. The first is the right to information. This right is proposed so that victims better understand the military justice system and their role in the system, that they are informed of the services and programs available to them and that they know they have the right to file a complaint if they believe their rights under the declaration have been denied or infringed. This right would also give them access to information about the status and outcome of the investigation, prosecution and sentencing of the person who did them harm.

The second right is that of protection. This would ensure that victims' privacy and security are considered at all stages in the military justice system and that, where it is appropriate, their identity be protected. This right to protection also guarantees that reasonable and necessary measures be taken to protect victims from intimidation and retaliation.

The third right is the right to participation. This right ensures that victims can express their views about the decisions to be made by military justice authorities that affect their rights under this declaration and have those views considered. As a follow up to a previous bill, Bill C-77 clarifies that not only do courts martials have an obligation to consider a victim impact statement in deciding on a sentence, but victims have a right to make such an impact statement. The bill would also make it possible to submit community impact statements to a court martial to describe the harm, the loss and the overall impact of service offence on the community. Where there is harm caused to the Canadian Armed Forces, the bill would allow military impact statements to be presented so that harm done to discipline, efficiency or morale and the impact of the offence is better understood.

The fourth right afforded to victims is that of restitution, allowing a victim to ask a court martial to consider ordering restitution for damages or losses when that value can be readily ascertained. Victims would also be entitled to the support of a victim's liaison officer should they request it. These liaison officers would be available to explain how the military justice system deals with service offences, including offences under the Criminal Code such as assault or theft. Liaison officers would also help victims gain access to the information they have requested and to which they are entitled. They would remain available to assist the victim throughout their interaction with the military justice system.

[*Translation*]

Now I'd like to move on to the second major change proposed in Bill C-77, namely infractions motivated by bias, prejudice or hate based on sex. The National Defence Act already states that the sentence for a service offence should be increased to account for aggravating circumstances if, and I quote:

(ii) the offence was motivated by bias, prejudice or hate based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability or sexual orientation, or any other similar factor

Bill C-77 would modernize that act by expressly adding to that list, and I quote:

gender identity or expression

This mirrors the recent amendments made to the sentencing provisions of the Criminal Code and sends a clear message that this kind of prejudice has no place in the Canadian Armed Forces. Our men and women in uniform, and those who work and live alongside them, must feel welcomed and respected at all times. In that sense, Bill C-77 builds on Operation HONOUR, which seeks to change military culture in order to ensure the Canadian Armed Forces is a respectful workplace of choice for every Canadian.

Honourable senators, we know very well that cultural change is a long and difficult process, and that it cannot be achieved with the stroke of the legislator's pen. Legislation does make a difference, however, since it helps shape the direction of the changes needed and helps define acceptable and unacceptable behaviour. The changes to sentencing guidelines are a step in the right direction.

The same is true of the third new feature in Bill C-77, specifically the provisions to introduce the same guidelines that currently apply in the civil justice system to the military justice system when it comes to the sentencing of Indigenous offenders. For over two decades now, the Criminal Code has required courts to consider all reasonable alternative sanctions under the circumstances when sentencing Indigenous offenders. The purpose of this Criminal Code provision is to decrease the higher rate of incarceration of Indigenous offenders. That said, it should be noted that, to date, that rate remains disproportionate and unacceptable in the civil justice system.

Bill C-77 would enshrine the same sentencing principles in the military justice system, both in the official courts martial and in the new summary hearing process that I am going to describe for you in a moment. Honourable senators, fortunately, Indigenous offenders are not overrepresented in the military justice system. Nevertheless, it is appropriate for our military justice sentencing principles to consider the impact of our history and practices on Indigenous Canadians.

[English]

Let me turn now to the fourth important element in Bill C-77, namely, the proposed changes to what I earlier called the command stream of military justice. You will recall that under the current law we have what we might call a two-tiered system of justice, where charges may be dealt with by the chain of command in summary trials or by a formal court of independent military judges at a court martial. Most service offences give rise to an election by the accused to be tried by a court martial if he or she so wishes. However, for a discrete number of minor offences such as absence without leave, or drunkenness, they are automatically dealt with by a summary trial. At the risk of repeating myself both court martials and summary trials are penal proceedings where an accused is presumed innocent until proven guilty beyond all reasonable doubt.

• (1520)

Honourable senators, year over year, the vast majority of cases that are handled by the military justice system fall on the lower end of the spectrum and are dealt with by summary trial rather than by the more formal processes of a court martial.

According to the Judge Advocate General's annual reports over the last few years, summary trials typically amount to about 90 per cent of all military trials, leaving courts martial to make up the other 10 per cent of military trials. The major change that Bill C-77 introduces is to eliminate summary trials altogether, and to introduce a new system of summary hearings. This builds upon and expands changes introduced by the previous government in 2015. This new system is designed to deal with minor disciplinary infractions, to be called "service infractions," in a more efficient manner.

Summary hearings will not be penal in nature, but are rather designed to enable the chain of command to address issues affecting discipline and morale quickly and effectively. The more serious breaches of military discipline, which will continue to be known as "service offences," would continue to be tried by courts martial.

These changes are the product of consultations by the Office of the Judge Advocate General with the chain of command. They also respond to an issue of delay in the military justice system generally, and in the summary trial process in particular, an issue raised in last spring's report of the Auditor General of Canada. In this regard, Bill C-77 legislates a fast timeline for summary hearings to be concluded. Currently, summary trials are permitted if the charge was laid within six months after the day on which the service offence is alleged to have been committed and the summary trial commences within one year after that day.

Under Bill C-77, summary hearings may only be conducted if the hearing begins within six months after the day on which the service infraction is alleged to have been committed. Under the proposed changes, the new summary hearings would be conducted by officers who have jurisdiction if the person charged is one rank below the officer conducting the hearing or is a non-commissioned member. These changes will provide military commanders with more flexibility in dealing with these matters, and thus be able to better maintain discipline, efficiency and morale of the unit.

Honourable senators, when I was first approached, invited and asked whether I was prepared to sponsor this bill, I had many questions about these particular provisions. I raised them with representatives of both the Department of Defence and the Office of the Judge Advocate General. Most of them were answered to my satisfaction and I was comfortable agreeing to sponsor this bill. Nevertheless, several remain a matter of some concern and I would like to share them with you, as these are undoubtedly issues that will and should be pursued when the bill goes to committee.

The first concerns a question of legislative process. Summary hearings would apply to a new set of service infractions that will be created in regulations, with a corresponding scale of sanctions

that will be partly in the National Defence Act and partly in regulations. Currently, all service offences are set out in the act, as are the possible sanctions.

Only the most minor of sanctions currently appear in the regulations. The question is why the definition of the new service infractions are not set out in the act itself. The reason I was given was to provide the military with the necessary flexibility to adjust their processes as they accumulate experience under this new system. But even if it is appropriate that they should be set out in regulations, should we not see the regulations before we approve this change? I am advised that the work is under way to develop the list of service infractions that would be subject to the new summary hearing process, but that work has not been completed. This is a matter that most certainly needs to be examined at committee. For the moment, let me offer the following based upon the responses I have received to my questions.

First, the idea is that these service infractions will only capture very minor breaches of discipline. We are talking about matters as relatively minor as having dirty boots or unkempt hair. And at the risk of repeating myself, all service offences, including breaches of the Criminal Code and other statutes, will continue to be dealt with by the courts martial process.

Second, while summary trials are limited only to certain powers of punishment from among the options more broadly available at court martial, summary hearings will be even further limited. Summary trials, for example, can impose detention of up to 30 days, but that option will not be available at summary hearings. The maximum sanction that could be imposed in a summary hearing is a reduction in rank, followed in descending order of severity by a severe reprimand, a reprimand, deprivation of pay or allowances “for not more than 18 days.” The least severe would be a group called “minor sanctions” to be prescribed in regulations. Again, these are not penal sanctions. They are not intended to punish. But rather, sanctions tailored to maintaining compliance in view of the particularities of service life.

The second and related concern is with the standard of proof. The officer who conducts a summary hearing would only have to assess whether the person committed a service infraction on a balance of probabilities. This is a typical standard of proof in a civil and administrative proceedings. Under the current system of summary trials, proof must be established beyond all reasonable doubt, the standard of proof in a criminal trial. An amendment to maintain this higher standard of proof for service hearings was introduced but narrowly defeated in the other place.

In my view, this a matter that also deserves and merits further study at committee. I should say, however, that I find considerable merit in the balance of probabilities standard. After all, a summary hearing would only be applicable to a new set of service infractions which, by definition, would be very minor disciplinary infractions. Moreover, summary hearings would not give rise to the full range of sanctions and punishments that may be imposed after a trial in respect of a service offence. Indeed, the consequences would not be penal in nature. The person subject to the summary hearing process would not be found guilty or not guilty, but rather to have committed or not to have

committed a service infraction. Proof beyond all reasonable doubt seems to me to be an unnecessarily high bar in such a context.

Honourable senators, before concluding, I would be remiss if I did not address one of the main criticisms of Bill C-77, which is that it does not repeal the service offence of wilfully injuring oneself with intent to render oneself unfit for service. As our society has become more sensitive to mental health issues, including those mental health conditions that affect and afflict those in uniform, we ought be concerned that maintaining this offence in the National Defence Act could discourage people from coming forward and seeking help for fear that they may be punished for self-harm.

I agree with those who argue that this offence bears reconsidering when the National Defence Act as a whole is next up for review in 2021. That said, this issue is outside the scope of Bill C-77 and I will say no more about it at this time.

Honourable senators, I conclude where I began. Canada’s military justice system is a unique and necessary part of the larger Canadian legal mosaic. It contributes significantly to the ability of our Armed Forces to achieve its missions in Canada and around the world.

Bill C-77 represents a significant step forward towards modernizing and improving Canada’s military justice system. Although it does raise several concerns, some of which I have pointed out in my remarks today, I am confident that they will be examined carefully at committee and, overall, Bill C-77 is a good bill. I support it and would encourage you to do the same.

Honourable senators, thank you for your kind attention.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: Would the senator take a question?

Senator Gold: Of course.

Senator Boisvenu: As you know, I was very involved in developing the Canadian Victims Bill of Rights, which was adopted in 2015. The Ombudsman for Victims of Crime, who was just appointed by your government, noted a big flaw with respect to the armed forces. We studied Justice Deschamps’ review at the Standing Committee on National Defence, and we noted that one of the main complaints victims had about senior Canadian Armed Forces officers was the lack of information. I have read through this bill of rights. I also read the criticism made by the Ombudsman for Victims of Crime, Ms. Illingworth. She says that the biggest deficiency in the Victims Bill of Rights is the right to information.

• (1530)

She says that the right to information really depends on whether senior officers want to share the information. Nothing in the Victims Bill of Rights states that when a victim reports an offender, the Armed Forces are obligated to inform those involved. That is the only one of the four rights you listed where there is no legal obligation to inform the victims. Don’t you think

that's one of the deficiencies that should be corrected, and would you be open to specifically including that obligation in the declaration of rights for victims of service offences?

Senator Gold: Thank you for the question, senator. Indeed, I read the testimony. I am aware of the very legitimate concerns you just raised. We are receiving pertinent witnesses in committee, and they will clarify these issues. As a senator, I am always open to any change that seeks to improve a bill. That is our constitutional duty.

That being said, I asked the military representatives the same question in order to better understand the scope of the bill before agreeing to sponsor it. I was told that besides the declaration of victims rights, there is an entire process that ensures that information is provided to victims. We must approach the whole issue from a broader perspective. We can't just rely on the text of the declaration to determine the scope of the services provided to victims. I look forward to raising this matter in committee so it can be studied further.

Senator Boisvenu: Would the senator agree to answer another question?

Senator Gold: Gladly.

Senator Boisvenu: When Justice Deschamps appeared before the National Defence Committee, she said that she was very disappointed that her recommendations regarding victims of sexual assault in the Armed Forces hadn't all been implemented yet. In a way, the Armed Forces operate in a vacuum. There are two systems: the military system and the civilian system. It is often difficult for victims to obtain recognition of their right to be part of the civilian system, rather than the military system, which is often controlled by men. Don't you find it troubling that the ombudsman for victims of crime pointed out these major gaps in the bill, gaps that still have not been addressed in the other place? Is this a sign that the government is not open to improving this bill to ensure that victims of sexual assault in the Armed Forces are properly informed?

Senator Gold: Thank you for your question. I can't give you the answer you may be looking for. We will take a hard look at this issue as soon as possible in our debate at second reading, as we always do. We will do our best.

Senator Boisvenu: I have a second question, if you don't mind.

Senator Gold: With pleasure.

Senator Boisvenu: As a lawyer, now a senator, and sponsor of this bill, and since these shortcomings were pointed out in the other place, would you agree to move this amendment at the Legal and Constitutional Affairs Committee?

Senator Gold: I never practised law. I was a professor of law. As a professor, I always wait to hear from all the witnesses before discussing an issue and taking a position.

(On motion of Senator Martin, debate adjourned.)

[English]

ACCESSIBLE CANADA BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Munson, seconded by the Honourable Senator Dyck, for the second reading of Bill C-81, An Act to ensure a barrier-free Canada.

Hon. Thanh Hai Ngo: Honourable senators, it is my pleasure to speak at second reading of Bill C-81, an Act to ensure a barrier-free Canada. It is also a pleasure for me to speak on a bill shepherded by Senator Munson, our honourable colleague, who acts as an outstanding champion for more than a decade on issues related to disabilities, particularly for Canadians with autism.

I think we were all deeply touched by Timmy's story and the profound works you are completing in his spirit. I, too, believe this legislation has the potential to be part of the most significant advancement for disability rights in this country in over three decades. I understand this bill was introduced on the other side last June to promote equality of opportunity for Canadians with disabilities, who are valued citizens and contributors to our society.

This bill has taught me that there is a serious lack of understanding about Canadians with disabilities, particularly about the historical hardships they face simply because of their differences, such as institutionalization, sterilization and social isolation.

I have also learned up to this day that Canadians with disabilities continue to face hardships even though a disability is protected under Canada's human rights system, the Charter of Rights and Freedoms and as a signatory to United Nations Convention of the Rights of Persons with Disabilities.

Bill C-81, therefore, proposed a policy of transformation to change how Canada addresses accessibility by allowing us to become proactive instead of reactive for Canadians who do not want to be treated as a burden but as full, equal members of society. Once enacted, this bill will allow for the identification, removal and prevention of barriers that keep all Canadians from participating in society.

Many have spoken on this bill to explain how this legislation would enhance the legal framework to address the barriers to inclusion faced by millions of Canadians on a daily basis. I will avoid repeating the specific clauses of this bill. Those were well summarized by Senator Munson, which changes how we talk about disability and how barriers to accessibility continue to adversely impact Canadians with disabilities and their families.

My remarks will focus on the principles and some questions that should be addressed through debate. This bill seeks to transform how Canada addresses discrimination and ensures

equality for all Canadians through action that will guide Parliament, the Government of Canada and many other federally regulated sectors in offering accessible services to Canadians.

• (1540)

This bill will modernize our anti-discrimination law to become less reactive to advance the human rights of those with disabilities before the discrimination takes place. It would nimbly address the estimated 50 per cent of complaints to the Canadian Human Rights Commission, which are submitted on the basis of disability.

[*Translation*]

Honourable senators, if this bill is passed, federally regulated organizations will be required to identify, remove and prevent barriers to accessibility in six key sectors: the built environment, employment, information and communication technologies, the procurement of goods and services, delivery of programs and services, and transportation.

In fact, the accessible Canada act could significantly change how things are done in the federal public service and how the federal public service serves Canadians. The act could also improve the lives of federal employees with disabilities. As Canada's largest employer, the government needs to lead by example.

Honourable senators, there are still many unanswered questions around the timetable for the allocation of the \$290 million proposed in the bill. To date, neither the bill nor the minister have been clear about exactly how much of that funding will be used to create public service jobs. Meanwhile, nearly 12,000 people who responded to the survey of federal public servants indicated that they had a disability.

If Bill C-81 becomes one of the tools the government uses to systematically consider accessibility issues, the Government of Canada, as an employer and service provider, will have to show leadership and promote accessibility in order to support the private sector.

At second reading, we can only hope that, in pursuing its objectives, the bill will also extend to cover the Canadians who have waited so long for help, and that it will not be limited to federal public service employees.

If accessibility is seen as a universal priority, the bill should be revised to ensure that the government also provides adequate resources to First Nation governments, to enable them to meet the urgent needs that exist in too many Indigenous communities.

That's why I'm so eager to vote in favour of sending it to committee. I hope that during the committee study, we will learn more about the barriers that need to be eliminated, the rules and standards that will be changed, and the proposed timelines.

[Senator Ngo]

[*English*]

Honourable senators, we will also need to take a close look at how this bill will not only seek to help all Canadians with disabilities, but also their care givers, who experience higher costs and more economic barriers than people without disabilities.

We will need to know if this bill will help them deal with higher medical costs, other than basic necessities including transportation, utilities, accessible housing and adaptive clothing. We will need to ensure that the long-term goal of this bill goes beyond creating additional jobs in the public service. After all, the intent of this bill is to benefit all Canadians, especially Canadians with disabilities, through the progressive realization of a barrier-free Canada.

As I said earlier, I have much to learn about disabilities. This issue was made very clear by the Standing Senate Committee on Social Affairs, Science and Technology report tabled last June entitled *Breaking Down Barriers: A critical analysis of the Disability Tax Credit and the Registered Disability Savings Plan*, which included 16 recommendations to the government. This thorough report highlights that the estimated number of Canadians aged 15 and older living with severe or very severe disabilities exceeds 1.8 million. Thus, if Canada is to stop treating disabilities like an afterthought, then we need to ensure that the government lay out concrete and tangible ways in which it intends to include Canadians with disabilities as valuable citizens outside the government as well.

Honourable senators, according to the government, Bill C-81 has the historic potential to bring about incredible positive changes for those living with disabilities since Confederation. If passed, Bill C-81 could help to change the way the Government of Canada and organizations in the federal jurisdiction interacts with Canadians. A defined proposal for standard development of regulations, compliance and enforcement measures, the complaint process, the roles and responsibility for implementation, as it mainly applies to Parliament, the Government of Canada, the Crown corporations and federally regulated entities, including organizations in the transportation, telecommunications, broadcasting and banking sectors.

It deserves a closer look, especially when it comes to the financial breakdown. How exactly the government intends to spend the \$290 million proposed in this legislation over the next six years has created yet another bureaucratic institution. Honourable senators, politicians of all stripes want to help Canadians with disabilities. We agree that our understanding of disabilities and awareness must not focus on the specific cause of the impairment or the diagnosis of the disability, but rather on the barriers that get in the way of the full and meaningful participation of our citizens.

There is widespread support from the population over this bill, but some stakeholders raised that it does not go far enough. Some still have not been afforded the opportunity express their thoughts, while others have raised the need for more consultations. Affected groups have even stressed the disappointment in the tardiness of this government's promise, made in the 2015 Liberal platform. We all have a duty to listen to

them. Since a number of amendments were made to the bill while it was being debated in the House of Commons standing committee, which held public hearings on the bill in October.

I support that the government needs to take action on this file. I am proud to support this legislation at this stage. I look forward to the work that stands before this bill as it goes through debate and its committee stage before we can make a final decision to make sure this bill actually helps those in need and delivers on its promises to eliminate systematic barriers and deliver equality of opportunity to all Canadians living with disabilities. Thank you.

Hon. Mobina S. B. Jaffer: Honourable senators, I too rise to voice my support of Bill C-81, An Act to Ensure a Barrier Free Canada, also known as the Accessible Canada Bill.

Before I begin, I would like to acknowledge the work of our colleagues and the sponsor of Bill C-81, Senator Munson, for his ongoing courage and advocacy towards individuals with disabilities, such as autism spectrum disorder.

Senator Munson's leadership has led to the adoption of An Act respecting World Autism Awareness Day and of the Senate report *Pay now or pay later: autism families in crisis*. Senator Munson, you have made and continue to make your son Timothy very proud.

I would like to share Senator Munson's words when he said, and I quote, that:

. . . persons with disabilities want to be part of an active society, but every day, barriers prevent persons with disabilities from participating fully and equally in communities and workplaces.

The message that sends is, 'You don't fit in. There is no place for you. Step aside or stay at home.' It is clear that the need to change how barriers to accessibility are addressed in this country is long overdue.

• (1550)

Senator Munson, I could not agree more with you.

Honourable senators, as you may know, I have had many challenges in the last few months with short-term disability issues. This has really humbled me. Every time I approach to open a closed door, I look for a button I can press. Even in this beautifully newly renovated heritage building, main doors have buttons to open doors, but not all doors. I see our security trying to help me, but sometimes they are unable to do so since they cannot leave their posts. I often use my backside to open an extremely heavy door. My backside has become my door opener.

Honourable senators, I suggest you try to do this. It is challenging. What I have learned from the short-term mobility issue I have is that this is only a small example of all the barriers people with disabilities face. This is why this bill is so important. I cannot stress this enough.

While Bill C-81 outlines three main duties for all regulated entities such as accessibility plans, feedback tolls and progress reports, its purpose is to make our country barrier-free in areas under federal jurisdiction by removing and preventing barriers to accessibility.

The act to ensure a barrier-free Canada addresses environments such as buildings and public spaces, job opportunities and employment policies. Bill C-81 also addresses information and communication technologies, procurement of goods and services, delivering programs and services, transportation and communication.

Bill C-81, once it becomes an act, will be the first federal act to officially include episodic disability in its wording. Episodic disabilities are marked by fluctuating periods and degrees of wellness and disability. In addition, these periods of wellness and disability are unpredictable. Increasing numbers of Canadians are living with episodic disabilities, including multiple sclerosis, arthritis, cancer, HIV/AIDS, diabetes and different forms of mental illness.

Persons with disabilities face many challenges that perhaps we don't see at a service level. When we think of people with disabilities, we often forget to include housing. It is true that without an accessible home, people with disabilities are unable to work or participate in the community they wish so much to be part of.

Honourable senators, I would also like to take this opportunity to ask the federal government to promote accessibility across Canada by requiring recipients of federal public money not to perpetuate existing barriers or create new ones.

We are now discussing Bill C-81. Whether it is here at second reading, third reading or committee stage, you will hear what various persons with disabilities face to gain access to society.

I would like to share with you that as a young girl my father started a school in Uganda for hearing impaired children. I will never forget how it was to see young children coming from small villages who had never been able to express themselves. I watched them learn and grow. Once they graduated, they were expressive and were working to find their rightful place in society. All they wanted was to be able to contribute to their community. I still remember so vividly two twin girls at the school. I would like to share their stories with you.

Twin sisters Fatima and Shaleena both arrived at the school for hearing impaired children in Uganda at the age of nine. There were so quiet and reserved. Year after year, with the right tools and their will to learn, the twin sisters gained confidence. They became expressive and joyful. This made me realize that by providing only a few learning tools suited to someone's needs could change that person's life. It transforms an ignored member of society to a fulfilled member of society.

This is what we, as senators, are looking for. In life, we are all given challenges. Some of us are very lucky; we are full bodied. Others have challenges. At the end of the day, all of us in this chamber have the privilege and honour to make sure that all Canadians have access to tools that make all Canadians engaged citizens in our communities.

Bill C-81 is about helping all Canadians by providing the best tools to achieve their greatest potential despite their disabilities.

In conclusion, I wish to quote from the description of the United Nations Convention on the Rights of Persons with Disabilities found on their website:

The Convention . . . adopts a broad categorization of persons with disabilities and reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms. It clarifies and qualifies how all categories of rights apply to persons with disabilities and identifies areas where adaptations have to be made for persons with disabilities to effectively exercise their rights . . .

Honourable senators, it is our duty to promote both the equality and the empowerment of all members of our society. Persons with disabilities are also members of our society.

Disability is not a political or partisan issue; it is a human issue. Honourable senators, I ask you to support Bill C-81, An Act to Ensure a Barrier Free Canada, and to send this bill to committee as soon as possible. Thank you very much.

(On motion of Senator Omidvar, debate adjourned.)

[*Translation*]

THE SENATE

MOTION TO AFFECT QUESTION PERIOD ON FEBRUARY 26, 2019, WITHDRAWN

On Government Business, Motions, Order No. 247, by the Honourable Diane Bellemare:

Resuming debate on the motion of the Honourable Senator Bellemare, seconded by the Honourable Senator Harder, P.C.:

That, in order to allow the Senate to receive a Minister of the Crown during Question Period as authorized by the Senate on December 10, 2015, and notwithstanding rule 4-7, when the Senate sits on Tuesday, February 26, 2019, Question Period shall begin at 3:30 p.m., with any proceedings then before the Senate being interrupted until the end of Question Period, which shall last a maximum of 40 minutes;

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

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

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

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, pursuant to rule 5-10(1), I ask for leave of the Senate to withdraw Government Motion No. 247.

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

Hon. Senators: Agreed.

(Motion withdrawn.)

[*English*]

CONSTITUTION ACT, 1867

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Patterson, seconded by the Honourable Senator Enverga, for the second reading of Bill S-221, An Act to amend the Constitution Act, 1867 (Property qualifications of Senators).

Hon. Donald Neil Plett: Honourable senators, I would like to move the adjournment of this item.

The Hon. the Speaker: Since you have already done that, Senator Plett, you will need to seek leave to do so.

Is leave granted, honourable senators?

Hon. Senators: Agreed.

(On motion of Senator Plett, debate adjourned.)

(*At 4 p.m., pursuant to the order adopted by the Senate on February 4, 2016, the Senate adjourned until 1:30 p.m., tomorrow.*)

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