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OFFICIAL REPORT
(HANSARD)

Tuesday, April 30, 2019

The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Tuesday, April 30, 2019

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

Prayers.

[*Translation*]

SRI LANKA AND SAN DIEGO TRAGEDIES

The Hon. the Speaker: Honourable senators, I wish to take a moment to mark the horrific bombings in Sri Lanka on April 21.

Three Christian churches and three hotels were targeted in a series of coordinated bombings during Easter Sunday services that ultimately left 253 dead and over 500 injured.

I also wish to mark the senseless act of violence perpetrated on Saturday, April 27, near San Diego, California.

Shootings at the Chabad of Poway on the last day of Passover left one dead and three injured, including the congregation's rabbi.

We extend our sincere condolences to the Christian and Jewish communities and to all those affected by these tragedies. I now invite everyone to rise for a moment of silence in memory of the victims of these tragedies.

(*Honourable senators then stood in silent tribute.*)

ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

April 29th, 2019

Mr. Speaker,

I have the honour to inform you that the Right Honourable Julie Payette, Governor General of Canada, signified royal assent by written declaration to the bill listed in the Schedule to this letter on the 29th day of April, 2019, at 10:09 a.m.

Yours sincerely,

Assunta Di Lorenzo
Secretary to the Governor General and Herald Chancellor

The Honourable
The Speaker of the Senate
Ottawa

Bill Assented to Monday, April 29, 2019:

An Act to designate the month of April as Sikh Heritage Month (*Bill C-376, Chapter 5, 2019*)

[*English*]

SENATORS' STATEMENTS

LEETIA NOWDLUK-WISINTAINER

Hon. Dennis Glen Patterson: Honourable senators, I'm grateful to give thanks today to a loyal and much valued member of my Senate team, Leetia Nowdluk-Wisintainer, who has ably supported me in representing Nunavut since my appointment in 2009.

She is well qualified to aid in achieving fundamental raison d'être for the Senate of Canada, representing this remote region and Canada's minority Inuit population, as she does every day.

Leetia brings unique experiences to her duties as the executive assistant in my office. Her history is uniquely Inuk. Leetia grew up on the land in a remote outpost camp 182 kilometres from Nunavut's capital, where I first met her as a young teenage girl. No school, no electricity, no running water — a very harsh, challenging climate, at times cold, dark and remote from the amenities and comforts of civilization. She lived a true hunting and subsistence life.

Leetia grew up rich in education in the traditional ways of life. She knows what it is to sleep in an igloo, travel by dog team, hunt, gather and eat country food. She was snow-blind as a young girl. She knows how to read and write Inuktut, which has its own unique syllabics writing system. She can speak with unilingual elders. She knows Inuit values and traditions because she has lived them.

When her family moved to town, Leetia quickly made up for her lack of formal schooling with her eagerness to learn and improve herself. She gained valuable experience working for eight years doing research for MLAs in the Nunavut legislature. She has quickly and eagerly applied that knowledge to the workings of the Senate, where she continued to take French classes.

Growing up in Canada's newest territory, she still has valuable contacts and visibility. She has travelled widely in Nunavut and knows people everywhere. She also serves as the current president of Tungasuvvingat Inuit, an organization serving the Inuit diaspora here in Ottawa.

The last thing I want to say about this exceptional woman is her bright and sunny personality. Leetia smiles and makes us laugh in the office, even through stressful situations, and we're so often grateful for that.

I want to thank Leetia for being an indispensable source of knowledge about the Inuit and current events in Nunavut and Inuit Nunangat. She has been a very valued asset in my office and enhances the reputation and credibility of the Senate in all she does. Thank you.

WORLD CURLING CHAMPIONSHIPS 2019

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable colleagues, I have some good news to announce. I rise today to congratulate Canada's curling teams for their great success this past weekend at the world championships in Stavanger, Norway. Both Canada's senior men's and women's teams won gold medals, while the mixed doubles team brought home the silver medal for second place.

• (1410)

The senior women's team from Nutana Curling Club in Saskatoon, Saskatchewan, comprised of third Patty Hersikorn, second Brenda Goertzen, lead Anita Silvernagle, and led by skip Sherry Anderson, beat Denmark in the final game by a score of 10 to 1, ending the gold medal match after just six ends.

The senior men's gold medal final, on the other hand, was a squeaker. Skip Bryan Cochrane, third Ian Macaulay, second Morgan Currie and lead Ken Sullivan forced the game into an extra end, with the team from Ontario's Russell Curling Club — not far from Ottawa — finally beating the Scottish team 7 to 5 in extra ends.

For Canada's mixed doubles duo, Jocelyn Peterman of Winnipeg, Manitoba, and Brett Gallant of St. John's, Newfoundland, it all came down to the last rock in the final game. It was a hard-fought battle, but the Swedish team came out on top by a score of 6 to 5, the Canadian team winning the silver medal.

Honourable senators, Canada's curling athletes have once again done us proud on the world stage. This was, in fact, one of Canada's best showings in the world championships. Please join me in congratulating each and every member of Canada's teams on their success this weekend. We wish them continued success for the future.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Judith Kays, from the MS Society of Canada. She is joined by Chelsey Rogerson and Julia Stewart. They are the guests of the Honourable Senator Duffy.

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

Hon. Senators: Hear, hear!

NOTRE DAME CATHEDRAL—CENTRE BLOCK REHABILITATION

Hon. Patricia Bovey: Honourable senators, I comment today on one of the many devastating events of the last several weeks, the catastrophic fire at Notre Dame Cathedral.

First, however, my compassion and condolences go to all the victims of the recent international terrorist crises in churches, synagogues and mosques.

Paris's Notre Dame, as active parish, is an international icon and one of the world's most recognizable and visited heritage sites. We watched in horror as this 850-year-old building burned and the 19th century spire atop its 1163 foundations fell. The cathedral was under renovation at the time. Fortunately, the two north towers, the bells and the three most important rose windows were spared by a mere half hour, but the roof and much else was gone.

Luckily, the roof sculptures were removed the week before the fire and, thanks to the work of responders, much of the art was carried out while the fire raged.

Accolades are due to the firefighters and the way they used the many years of dedicated research on centuries of the building's construction to determine how and where to attack the flames.

In addition to sharing the shock and very real loss felt by Parisians, the French and those around the world, we must ask what we on Parliament Hill can learn from this horror as we commence upgrades to Centre Block.

First, as demonstrated with Notre Dame and recently with the Charles Rennie MacIntosh Glasgow School of Art, heritage buildings — key to understanding our past, our roots and, thus, our futures — are, in fact, in greatest peril during periods of renovation. We must heed that reality and make sure we have ongoing monitoring and surveillance throughout our project.

Second, again demonstrated by Notre Dame, is the importance of removing all the critically important artifacts and architectural embellishments at the outset. Some of ours have been moved. Others, like the war paintings in the Senate Chamber, are in progress. I am eager to learn the processes and timelines for what remains to be removed.

Third, also demonstrated by Notre Dame, was the importance of the detailed records of materials and renderings of the building's structure. I gather we don't have that level of detail for Centre Block's construction, which complicates our project. Appropriate care must be taken to gather the information needed.

Fourth is an emergency disaster plan ready for immediate implementation if needed. I understand such a plan is in place, one, I hope, with multiple alarms and means for action.

Our built heritage is critically important. Centre Block is an architectural gem that embraces our history and dreams and is recognized internationally. Let's ensure its renovation and preservation is done with the utmost of care. As Sir Winston Churchill said:

> We shape our buildings and thereafter they shape us.

NEWFOUNDLAND PRIDE

Hon. Fabian Manning: Honourable senators, today I'm pleased to present chapter 54 of "Telling Our Story."

Colleagues, many of you are aware of how proud I am to call Newfoundland and Labrador my home, and while I do believe I possess a great sense of humour and can joke around with the best of you, there are many times when I need to draw a line in the sand.

There are people from outside our province who often refer to those of us who come from the island portion of Newfoundland as Newfies instead of Newfoundlanders.

While opinions are evenly split even among our own people on this subject, I have found in my lifetime that the real message is not so much in the word or description, but the way a person expresses it. There are times when colleagues have referred to me as a Newfie and I feel that it has been in a jovial fashion with no ill intent. I have also experienced the word in what I would consider being offered in a very derogatory manner.

This situation has come to light once again during the past few days after the airing of an episode of the TV show "The Simpsons." One of the scenes in the show featured the words "stupid Newfie," followed by the character Ralph Wiggum bashing a stuffed seal with a club. I take great exception to this portrayal of the people of my province. Just like all Canadians, we have made mistakes in our lives that would fall within the category of stupid, but to label an entire population in such a mean and vicious way cannot go unaddressed.

When one thinks of Newfoundlanders and Labradorians, such as General Rick Hillier, who led our Canadian Forces with pride and distinction, that negative word does not come to mind.

When one thinks of Sergeant Thomas Ricketts, who was a Newfoundland WWI soldier and recipient of the Victoria Cross, the highest and most prestigious award for gallantry in the face of the enemy that can be awarded, that negative word does not come to mind.

When one thinks of Dr. Andrew Furey, an orthopaedic trauma surgeon and a Newfoundlander whose dedication to medicine and philanthropy led him to spearhead the non-profit organization Team Broken Earth to bring relief to the people devastated by the earthquake in Haiti in 2010, that negative word does not come to mind.

Think of Olympians such as Brad Gushue and Kaetlyn Osmond; entertainers such as Rick Mercer, Mary Walsh and Mark Critch; artists, actors and writers such as Chris and Mary Pratt, Gordon Pinsent, Allan Hawco, Rex Murphy, Maura Hanrahan and Cassie Brown; and who can forget Alan Doyle and his group Great Big Sea.

Friends, when I think of all these people and so many others that time does not allow me to mention today, that negative word does not come to mind.

I am a proud Newfoundlander and Labradorian. I am proud of the contribution that our people have made to our province, our wonderful country and, indeed, our world. We stand on the shoulders of these brave and courageous men and women who through hard work, much sacrifice and a built-in attribute to be kind and hospitable to other people, reflect the best our province and our country has to offer.

I echo and agree with the words of Newfoundland musician Bruce Moss, who said "The Simpsons" show is "morally bankrupt." And, by the way, Bruce Moss was offered USD 20,000 — nearly CAD 27,000 — by the producers of the show to use a song he wrote in 1982 as part of Sunday night's episode. He turned them down months ago and we are so proud of him for doing so. That wonderful song is fittingly called "The Islander," and I will finish my remarks with a verse from the song:

> I'm a Newfoundlander born and bred and I'll be one till I die.
> I'm proud to be an Islander and here's the reason why:
> I'm free as the wind and the waves that wash the sand.
> There's no place I would rather be than here in Newfoundland.

Let's try a little kindness. Thank you, colleagues.

• (1420)

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Dr. Christine Chambers, along with other representatives of Solutions for Kids in Pain. They are the guests of the Honourable Senator Deacon (*Nova Scotia*).

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

Hon. Senators: Hear, hear!

KNOWLEDGE MOBILIZATION

Hon. Colin Deacon: Honourable colleagues, I rise today to share an example of the sort of creativity, innovation and determination needed to reliably transform state-of-the-art knowledge into standard practice. This is called knowledge mobilization. It is surprisingly hard to do, and we need to get better at it because we can't afford to have our best ideas locked away in research papers or scientists' brains.

Canada is great at turning money into globally competitive ideas, but too often we fail to turn those ideas into money, exports and opportunities. When it does happen, it takes too long. Various estimates show that it takes about 17 years for research knowledge, particularly health research knowledge, to become standard practice. When it comes to our children, that's an entire generation missing out.

Canada is a global leader in pediatric pain research, but we weren't applying that knowledge for the benefit of kids, parents and clinicians. As a result, our kids were literally suffering unnecessarily.

But that all changed when Dr. Christine Chambers partnered with Erica Ehm. Dr. Chambers is the Canada Research Chair in Children's Pain and a Killam Professor of Pediatrics and Psychology & Neuroscience at Dalhousie University. Erica Ehm, of "Much Music" fame, is a pioneer in content marketing, digital publishing and community building.

These two entrepreneurial leaders from very different backgrounds disrupted traditional knowledge mobilization practices by engaging with parents on social media and empowering them with the evidence needed to make sure that clinicians closed the gap between state of the art and standard of care.

The #ItDoesntHaveToHurt initiative was an outside-of-the-box approach to knowledge mobilization, combining evidence, technology and storytelling to engage with Canadian parents about children's pain management. It provided parents with the state-of-the-art knowledge that they then delivered in turn to clinicians and, I expect, rather forcefully from time to time. #ItDoesntHaveToHurt generated 150 million impressions worldwide in just one year, won several awards and even caused a children's hospital server to crash under the load of parents accessing evidence-based resources.

The extraordinary success of this initiative demonstrates that we need to change how we reward those researchers who strive to find creative ways to apply their work. This level of determination and creativity should not be the exception. It must become the rule.

A new national knowledge mobilization network — Solutions for Kids in Pain, or SKIP — leverages this highly successful public-private partnership model. It is based at Dalhousie University and co-led by Children's Healthcare Canada. SKIP will continue to close the gap between current treatment practices and the very best solutions in children's pain management.

What Christine Chambers and Erica Ehm have achieved — now helped by a determined team that has accelerated their work — proves that we can do much more to unlock the endless opportunities that lie within Canadian research discoveries.

Representatives from SKIP have been on the Hill today to meet with parliamentarians. I encourage all honourable senators to drop by Room B-45 today here in the Senate of Canada Building, between 4 and 6 p.m., for a reception where you can meet this team that's demonstrating that we can rapidly mobilize knowledge and have a global impact if we build innovative partnerships.

Let's create the expectations and conditions necessary to close the gap between state of the art and the standard of care.

[*Translation*]

ROUTINE PROCEEDINGS

PARLIAMENTARY BUDGET OFFICER

REVISITING THE MIDDLE CLASS TAX CUT—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 *Revisiting the Middle Class Tax Cut*, pursuant to the *Parliament of Canada Act*, R.S.C. 1985, c. P-1, sbs. 79.2(2).

[*English*]

FISCAL AND DISTRIBUTIONAL ANALYSIS OF THE FEDERAL CARBON PRICING SYSTEM—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 *Fiscal and Distributional Analysis of the Federal Carbon Pricing System*, pursuant to the *Parliament of Canada Act*, R.S.C. 1985, c. P-1, sbs. 79.2(2).

[*Translation*]

COSTING THE BUDGET 2019 MEASURES—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 *Costing the Budget 2019 Measures*, pursuant to the *Parliament of Canada Act*, R.S.C. 1985, c. P-1, sbs. 79.2(2).

[*English*]

THE GOVERNMENT'S EXPENDITURE PLAN AND MAIN ESTIMATES FOR 2018-19—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 *The Government's Expenditure Plan and Main Estimates for 2019-20*, pursuant to the *Parliament of Canada Act*, R.S.C. 1985, c. P-1, sbs. 79.2(2).

COMMISSIONER OF LOBBYING

SPONSORED TRAVEL PROVIDED BY LOBBYISTS—REPORT ON INVESTIGATIONS TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the report on Investigations entitled *Sponsored travel provided by lobbyists*, pursuant to the *Lobbying Act*, R.S.C. 1985, c. 44 (4th Supp.), s. 10.4.

[*Translation*]

TREASURY BOARD

SUPPLEMENTARY INFORMATION REPORT: 2019-20 BUDGET IMPLEMENTATION VOTES—REPORT TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the report of the Treasury Board of Canada Secretariat entitled *Supplementary Information Report: 2019-20 Budget Implementation Votes*.

[*English*]

INDIGENOUS LANGUAGES BILL

SIXTEENTH REPORT OF ABORIGINAL PEOPLES COMMITTEE ON SUBJECT MATTER TABLED

Hon. Daniel Christmas: Honourable senators, on behalf of Senator Dyck, I have the honour to table, in both official languages, the sixteenth report of the Standing Senate Committee on Aboriginal Peoples entitled *The subject matter of Bill C-91, An Act respecting Indigenous languages.*

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

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

[*Translation*]

ACCESS TO INFORMATION ACT PRIVACY ACT

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

Hon. Serge Joyal: Honourable senators, I have the honour to present, in both official languages, the thirtieth report of the Standing Senate Committee on Legal and Constitutional Affairs, which deals with Bill C-58, An Act to amend the Access to Information Act and the Privacy Act and to make consequential amendments to other Acts.

(*For text of report, see today's* Journals of the Senate*, Appendix A, p. 4576-4631* .)

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

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

[*English*]

ETHICS AND CONFLICT OF INTEREST FOR SENATORS

FIFTH REPORT OF COMMITTEE—DEBATE ADJOURNED

Hon. A. Raynell Andreychuk,Chair of the Standing Committee on Ethics and Conflict of Interest for Senators, presented the following report:

Tuesday, April 30, 2019

The Standing Committee on Ethics and Conflict of Interest for Senators has the honour to present its

FIFTH REPORT

Your committee, which has taken into consideration the Senate Ethics Officer's *Inquiry Report under the Ethics and Conflict of Interest Code for Senators concerning Senator Lynn Beyak*, dated March 19, 2019, in accordance with section 49 of the *Ethics and Conflict of Interest Code for Senators*, herewith presents its report.

Respectfully submitted,

A. RAYNELL ANDREYCHUK
Chair

(*For text of report, see today's* Journals of the Senate*, Appendix B, p. 4632-4656.*)

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

Senator Andreychuk: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(f), I move that the report be adopted now.

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

Hon. Senators: Agreed.

The Hon. the Speaker: On debate, Senator Andreychuk.

Senator Andreychuk: Honourable senators, I rise today on behalf of the Standing Committee on Ethics and Conflict of Interest for Senators to speak to the fifth report of the committee related to the Senate Ethics Officer's inquiry regarding a report on Senator Lynn Beyak.

• (1430)

This report and the words I will speak are on behalf of all five members of the committee. On March 19, 2019, the Senate Ethics Officer provided the committee with his inquiry report concerning Senator Beyak. As chair of the committee, I tabled the report in the Senate that day, at which time it became public. The committee has considered the inquiry report of the Senate Ethics Officer and has exercised its responsibilities pursuant to section 49 of the Ethics and Conflict of Interest Code for Senators.

Our report and its recommendations are now before the Senate for final disposition of the matter. Before commenting on the committee's report, I want to acknowledge the commitment of my colleagues on the committee: Senator Joyal, deputy chair; and Senators Patterson, Sinclair, and Wetston. Pursuant to the obligation under the code to take the inquiry report into consideration promptly as circumstances permit, the committee met to plan its study on the afternoon of March 19, shortly after the inquiry report had been tabled in the Senate. From March 19 onward, the committee met, reflected and informed itself pursuant to our mandate under the Ethics and Conflict of Interest Code for Senators.

The Ethics and Conflict of Interest Code for Senators is an exercise of the Senate's parliamentary privilege which are the privileges, rights and immunities conferred on the Senate and its members, without which we could not effectively discharge our constitutional duties.

The code was adopted by the Senate in 2005. Before 2005, senators were governed by the rules of conduct found in legislation and in our rules. Senators were also generally expected to act in accordance with the trust and confidence placed in them when summoned to the Senate and dignity inherent to the service in public office. The code established standards and a transparent system by which questions related to the conduct of senators could be addressed. Since 2005, the code has been amended on four occasions: In 2008, 2012 and twice in 2014. These amendments were aimed each time at improving the code and at reasserting the commitment of the Senate and each individual senator to the highest standards of conduct.

The committee's study of the Senate ethics inquiry report is only one step of the code's enforcement process, which must be completed in its entirety before a senator found in breach of a code is sanctioned. In his inquiry report, the Senate Ethics Officer concluded that Senator Beyak had breached sections 7.1 and 7.2 of the code. 7.1 begins with subsection (1) which states:

> A Senator's conduct shall uphold the highest standards of dignity inherent to the position of Senator.

Subsection 7.1(2) states:

> A Senator shall refrain from acting in a way that could reflect adversely on the position of Senator or the institution of the Senate.

7.2 states:

> A Senator shall perform his or her parliamentary duties and functions with dignity, honour and integrity.

As I indicated earlier, the role of the committee is to recommend the appropriate remedial actions or sanctions based on the findings made by the Senate Ethics Officer. To reiterate, the breaches of the code found by the Senate Ethics Officer resulted from Senator Beyak posting five letters containing racist content on her Senate website. Accordingly, the recommendations of the committee contained in the committee's report relate only to those letters and Senator Beyak's breach of the code and not of the speech of Senator Beyak in the section.

I want to go back to the enforcement process so that it is understood by all senators. The first step is that the Senate Ethics Officer's preliminary review, which is conducted to assess whether a full inquiry is required to determine if the senator has breached the code.

The second step is the full inquiry of the Senate Ethics Officer, which culminates in an inquiry report to the committee with his findings. This report is tabled in the Senate for information only.

The third step is that the committee study the findings and report to the Senate. The final step is the consideration of the committee's report by the chamber for final disposition.

Honourable senators, we are now at that last step in the enforcement process, where the full Senate decides on the appropriate remedy and sanction, having the benefit of the Senate Ethics Officer's inquiry report, the committee's report and its recommendations.

Throughout the enforcement process, the senator whose conduct is under review is required to be notified of the process and of the alleged non-compliance. The senator who is the subject matter of the inquiry may make representations at each step of the enforcement process. Given the seriousness of an alleged breach of the code, the process must also be conducted as promptly as circumstances permit.

The committee has examined the process followed by the Senate Ethics Officer and concluded he has complied with all particulars, with all procedural and substantive requirements established under the code.

In January 2018, the Senate Ethics Officer received requests from several senators in respect of letters posted on Senator Beyak's website, noting four particular letters of concern. While

these letters followed a speech Senator Beyak delivered in the Senate referred to in the inquiry report of the Senate Ethics Officer, the SEO found that Senator Beyak's right to speak freely in the Senate chamber on matters of concern to her is governed by parliamentary privilege and no challenge was made to that right in this case.

However, the Senate Ethics Officer found that senators' websites are not protected by the free speech protection of parliamentary privilege. The Senate Ethics Officer conducted a preliminary review under the code and determined that an inquiry was warranted. During his inquiry, the Senate Ethics Officer examined 6,766 letters received by Senator Beyak and found that of these 2,389 were in support of her speech in the Senate, 4,282 were critical, and 95 were neutral.

Senator Beyak posted 129 of these letters on her website, of which the Senate Ethics Officer found five to be racist, though he found that none contained hate speech.

The Senate Ethics Officer determined that by posting these five racist letters on her website, Senator Beyak failed to uphold the highest standards of dignity inherent in the position of senator, acted in a way that could reflect adversely on the position of a senator or the institution of the Senate and performed a parliamentary function in a manner that was both undignified and dishonourable.

I'm going to repeat again, in his inquiry report, the Senate Ethics Officer concluded that Senator Beyak had breached sections 7.1 and 7.2, which I alluded to earlier. As I also indicated earlier, the role of the committee is to recommend the appropriate remedial measures or sanctions based on the findings made by the Senate Ethics Officer.

To reiterate, the breaches of the code found by the Senate Ethics Officer resulted from Senator Beyak posting five letters containing racist content on her Senate website. Accordingly, the recommendations of the committee contained in the committee's report relate only to those letters and Senator Beyak's breach of the code and not the speech of Senator Beyak in the Senate.

• (1440)

It should be noted again that the Senate Ethics Officer recommended three remedial measures to address Senator Beyak's breaches of the code. First, that Senator Beyak remove any letters from her website found to be in breach of the code. Second, that she makes a formal apology for posting the letters at issue and post the apology on her website. Third, that Senator Beyak successfully complete a course in cultural sensitivity, with an emphasis on Indigenous issues.

Senator Beyak initially agreed to the first remedial measure proposed by the Senate Ethics Officer but later retracted her agreement. However, she did not agree at any time to the two other recommendations or measures.

In accordance with the code, the committee afforded Senator Beyak the opportunity to be heard on multiple occasions to make representations to inform the committee's recommendations to the Senate of the appropriate remedial measures and sanctions. Senator Beyak was not always responsive to the committee's correspondence, despite repeated efforts by the clerk of the committee to arrange a date for her appearance before the committee. When Senator Beyak did not respond, her correspondence was to indicate that she required additional time to consider the inquiry report. The committee, therefore, twice delayed its study of Senator Beyak's case.

Senator Beyak did not appear before the committee but provided a written submission to the committee on April 9, 2019. The committee considered this submission in which Senator Beyak objected to certain conclusions of the Senate Ethics Officer in his inquiry report and that he did not afford her due process. Many of the issues she raised challenged the Senate Ethics Officer's findings, which are outside the scope of the committee's purview to review.

Once the inquiry report and Senator Beyak's submissions were considered, the committee turned its attention to identifying any appropriate remedial measures and sanctions. The committee felt that any appropriate measure or sanction to address Senator Beyak's comment must take into account the following: the seriousness of the breach and its impact on Senator Beyak's ability to continue to perform her parliamentary duties and functions; the effect that the breach had on other senators and on the respect, dignity and integrity of the Senate as an institution; and public confidence and trust in the Senate.

As parliamentarians, senators hold a unique public office, one that requires them to confront racism without reservation so as to ensure the integrity of the institution. The Senate, as a House of Parliament, must defend the principle that all persons are equal in law and in dignity. The suitability of a senator to remain in the legislature is linked to the recognition and respect of this principle. Senators hold a duty to promote such core principles and values of our democratic system. This is particularly so, given the Senate's traditional role in acting on behalf of groups under-represented in the House of Commons. As expressed by the Supreme Court of Canada:

> Over time, the Senate also came to represent various groups that were under-represented in the House of Commons. It served as a forum for ethnic, gender, religious, linguistic, and Aboriginal groups that did not always have a meaningful opportunity to present their views through the popular democratic process.

The case is Reference re Senate Reform, 2014, Supreme Court of Canada, paragraph 16.

There is a collective responsibility for all senators to ensure that letters containing racist content are removed from Senator Beyak's website —

The Hon. the Speaker: Sorry, Senator Andreychuk, your time has expired. Are you asking for more time?

Senator Andreychuk: I am asking for leave.

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

Hon. Senators: Agreed.

Senator Andreychuk: Thank you. Ensuring the integrity of the institution requires nothing less. As detailed in the report, the committee is particularly troubled by Senator Beyak's failure to recognize, or a decision not to acknowledge, that the content of the letters in question is racist. The committee is also troubled that Senator Beyak appears unwilling or unable to recognize the harm that it caused through the dissemination of racist material and concerned with Senator Beyak's unwillingness to accept that her conduct is directly contrary to the code and the fundamental principles of our constitutional order.

Senators must accept the fact that they are recipients of the public's trust and that important constitutional responsibilities are entrusted to them. While they are afforded certain rights and privileges by virtue of holding public office, there are important limitations and restrictions on these rights and privileges that must be recognized and respected.

Further, the public imposes a considerable degree of responsibility and accountability on senators. This includes responsibility to recognize the harm caused by racism and to accept that racism in all forms is unacceptable.

The committee is concerned that Senator Beyak appears unwilling to accept and abide by the rules of Parliament that places obligations on all parliamentarians. Her lack of responsiveness to the committee, coupled with her ambivalence or unwillingness to accept the remedial measures recommended by the Senate Ethics Officer, have led the committee to believe that Senator Beyak does not understand or accept the parliamentary rules that apply to all senators.

In delaying work of the Senate Ethics Officer and the committee, Senator Beyak does not meet the committee's expectations of how senators should conduct themselves in respect of an enforcement process under the code. Senator Beyak's actions fall short of what is expected of all of us in this chamber, of all senators.

The committee therefore recommends, number one, that unless Senator Beyak has removed from her website the five letters that the Senate Ethics Officer has identified as containing racist content, the Senate administration be directed to immediately remove the letters.

Recommendation 2, that Senator Lynn Beyak be suspended for the duration of the current Parliament, until such time as this suspension is rescinded pursuant to rule 5-5(i) and that such a suspension shall have the following conditions:

(a) Senator Beyak, while under suspension, shall not receive any remuneration or reimbursement of expenses from the Senate, including any sessional or living allowance;

(b) Senator Beyak's right to the use of Senate resources, including funds, goods, services, premises, moving and transportation, travel and telecommunications expenses, shall be suspended for the duration of her suspension;

(c) Senator Beyak shall not receive any other benefit from the Senate during the duration of her suspension;

(d) notwithstanding paragraphs (a), (b), and (c), during the period of her suspension, Senator Beyak shall have normal access to Senate resources necessary to continue life, health and dental insurance coverage;

That the Standing Committee on Internal Economy, Budgets and Administration take any action it considers appropriate pertaining to the management of the office and the personnel of Senator Beyak during the duration of the suspension.

Recommendation 3, that within 30 days of the adoption of this report, Senator Beyak attend, at her own expense, educational programs related to racism towards Indigenous peoples in Canada and the history of Crown-Indigenous relations that are pre-approved by the Senate Ethics Officer. And that the Senate Ethics Officer monitor Senator Beyak's participation in the educational programs mentioned above and report within 15 days of completing them to the committee with respect to Senator Beyak's attendance and performance at educational programs.

And that the committee cause this report of the Senate Ethics Officer to be posted on its website upon receipt.

• (1450)

Recommendation 4: That within 30 days of the adoption of this report, Senator Beyak be provided a briefing by the Clerk of the Senate regarding her role and responsibility as a senator, including relevant rights, rules and privileges — limitations thereupon. Such briefing may be provided by conference call or by video call at the senator's expense.

Recommendation 5: That Senator Beyak apologize to the Senate in writing through a letter addressed to all senators and deposited with the Clerk of the Senate, and who will cause such letter: (a) to be published in the *Journals of the Senate* either (i) on the next sitting day after the apology is received, or (ii) for the last sitting day if received between the adjournment of the Senate or the prorogation or dissolution of Parliament; and (b) to be made publicly available on an appropriate portion of the Senate's website.

Colleagues, the committee is aware that the time remaining in this parliamentary session is limited and that, by convention, any suspension ordered by the Senate ceases to have effect at the end of this session. While the committee sincerely hopes that Senator Beyak will swiftly comply with the terms of her suspension, failure to do so will be a matter for the Senate in the next Parliament to address. The committee is of the opinion that failure to comply with the intent of the Senate's decision in this matter, even if any order of the Senate ceases to have effect by reason of dissolution or prorogation, would constitute a continuing breach of the code. The Senate in the Forty-third Parliament would be well within its authority to review the matter, and it is imperative that this situation be reassessed shortly after Parliament reconvenes to determine if any further action is necessary.

As honourable senators may be aware, the committee is in the process of examining and reviewing the code, as required by the *Ethics and Conflict of Interest Code for Senators*. The committee is canvassing appropriate amendments to strengthen the enforcement process and will report to the Senate in due course.

Thank you, Your Honour and colleagues.

The Hon. the Speaker: Honourable senators, pursuant to rule 12-30(2), a decision cannot be taken on this report at this time. Unless any other senator wishes to adjourn the matter, the matter is deemed adjourned until the next sitting of the Senate.

Is it agreed, honourable senators?

Hon. Senators: Agreed.

(Pursuant to rule 12-30(2), further debate on the motion was adjourned until the next sitting.)

[*Translation*]

CRIMINAL CODE

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-417, An Act to amend the Criminal Code (disclosure of information by jurors).

(Bill read first time.)

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

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

CANADA-CHINA LEGISLATIVE ASSOCIATION

CO-CHAIRS' ANNUAL VISIT TO JAPAN, OCTOBER 21-25, 2018—REPORT TABLED

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-China Legislative Association respecting the Co-Chairs' annual visit to China, held in Beijing, People's Republic of China, from October 21 to 25, 2018.

PARLIAMENTARY MISSION TO CHINA, JANUARY 7-11, 2019—REPORT TABLED

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-China Legislative Association respecting its Parliamentary Mission to China, held in Shanghai, Suzhou, Shenzhen and Hong Kong, People's Republic of China, from January 7 to 11, 2019.

CANADA-JAPAN INTER-PARLIAMENTARY GROUP
CANADA-CHINA LEGISLATIVE ASSOCIATION

GENERAL ASSEMBLY OF THE ASSOCIATION OF SOUTHEAST ASIAN NATIONS INTER-PARLIAMENTARY ASSEMBLY, SEPTEMBER 3-7, 2018—REPORT TABLED

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-China Legislative Association and the Canada-Japan Inter-Parliamentary Group respecting its participation at the 39th general assembly of the ASEAN Inter-Parliamentary Assembly, held in Singapore, Republic of Singapore, from September 3 to 7, 2018.

ANNUAL MEETING OF THE ASIA-PACIFIC PARLIAMENTARY FORUM, JANUARY 14-17, 2019—REPORT TABLED

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-China Legislative Association and the Canada-Japan Inter-Parliamentary Group, respecting its participation at the 27th annual meeting of the Asia-Pacific Parliamentary Forum, held in Siem Reap, Cambodia, from January 14 to 17, 2019.

[*English*]

FISHERIES AND OCEANS

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

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

> That the Standing Senate Committee on Fisheries and Oceans have the power to meet, in order to continue its study of Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence, on Tuesday, May 7, 2019, from 5 p.m. to 9 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Serge Joyal: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(a), I move:

> That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to meet on Wednesday, May 1, 2019, at 3:15 p.m., even though the Senate may then be sitting, and that the application of rule 12-18(1) be suspended in relation thereto.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to.)

QUESTION PERIOD

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, pursuant to the motion adopted in this chamber Thursday, April 11, 2019, Question Period will take place at 3:30 p.m.

[*Translation*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table the answers to the following oral questions:

Response to the oral question asked in the Senate on December 13, 2018 by the Honourable Senator Boisvenu, concerning the Book of Remembrance.

Response to the oral question asked in the Senate on February 19, 2019 by the Honourable Senator Lankin, P.C., concerning the Prime Minister's Office.

Response to the oral question asked in the Senate on February 27, 2019 by the Honourable Senator Housakos, concerning the Champlain Bridge.

Response to the oral question asked in the Senate on February 27, 2019 by the Honourable Senator Dyck, concerning the *Indian Act* – elimination of sex-based discrimination.

Response to the oral question asked in the Senate on February 27, 2019 by the Honourable Senator McPhedran, concerning the *Indian Act* – elimination of sex-based discrimination.

Response to the oral question asked in the Senate on February 27, 2019 by the Honourable Senator Pate, concerning the *Indian Act* – elimination of sex-based discrimination.

CANADIAN HERITAGE

BOOK OF REMEMBRANCE

(*Response to question raised by the Honourable Pierre-Hugues Boisvenu on December 13, 2018*)

Veterans Affairs Canada

Veterans Affairs Canada maintains the seven Books of Remembrance commemorating the lives of more than 118,000 Canadians who, since Confederation, have made the ultimate sacrifice while serving our country in uniform. An eighth *Book of Remembrance: War of 1812*, which contains the names of those who fell in service during the War of 1812, has also been created to be displayed in the Peace Tower's Memorial Chamber along with the other seven Books. While Centre Block is closed for renovations, all eight Books of Remembrance, including the *Book of Remembrance: War of 1812*, are now on display for public viewing in a specially created Room of Remembrance within the West Block of Parliament.

PRIME MINISTER'S OFFICE

SNC-LAVALIN—FORMER MINISTER OF JUSTICE AND ATTORNEY GENERAL OF CANADA—FORMER PRINCIPAL SECRETARY TO THE PRIME MINISTER

(*Response to question raised by the Honourable Frances Lankin on February 19, 2019*)

Department of Justice

The Government has been clear from the outset that it has been working hard to provide the utmost transparency in this matter, without jeopardizing the two active court cases related thereto.

As stated by the former Minister of Justice and Attorney General, this is an issue which is complex and layered, and required consideration of the Government's interest in transparency, while protecting the rule of law and administration of justice in relation to ongoing litigation.

After careful study, the Government announced a waiver that is intended to fully sweep away obstacles; the waiver addresses cabinet confidentiality, solicitor-client privilege and any other duty of confidentiality to the extent that they apply. This should remove any doubt as to the ability of any person who engaged in discussions with the former Minister on this matter to fully participate in the committee process.

The waiver pertains to the former Minister and anyone who directly took part in discussions with her on this matter during the entire period in which she was the Attorney General.

The integrity of judicial proceedings is a priority for the Government. This waiver does not cover any information shared by the Director of Public Prosecutions with the former Minister. This information is protected.

TRANSPORT

SAMUEL DE CHAMPLAIN BRIDGE

(*Response to question raised by the Honourable Leo Housakos on February 27, 2019*)

The contract is being applied in all aspects of the Samuel De Champlain Bridge Corridor Project. More specifically, all payments made to Signature on the Saint Lawrence were payments to which it was entitled as per the contract. Penalties are also applied in accordance with the terms of the contract, which foresees their application for delays that are the responsibility of the Signature on the Saint Lawrence.

On the issue of the implementation of a toll-free bridge, it is a standard practice in contract management not to discuss on-going commercial discussions. Once an agreement is reached, information about the agreement will be communicated in a timely and transparent manner, as we have done since the beginning of the project.

Tolls will not be charged on the Samuel De Champlain Bridge as it is a replacement for an existing untolled bridge that has reached the end of its useful life.

INDIGENOUS AND NORTHERN AFFAIRS

INDIAN ACT—ELIMINATION OF SEX-BASED DISCRIMINATION

(*Response to question raised by the Honourable Lillian Eva Dyck on February 27, 2019*)

The collaborative process was designed to seek input from First Nations, Indigenous groups, and impacted individuals on a range of First Nation registration and citizenship issues, including how best to implement the removal the 1951 cut-off from *Indian Act* registration.

In the context of the 1951 cut-off, the Government is working collaboratively with its partners to develop an implementation plan to eliminate or mitigate any challenges or unintended consequences of bringing the clause removing the cut-off into force. This includes identifying any additional measures or resources required to do this right. That is the context of the survey and it is just one element of the collaborative process, which also includes community consultations, regional events, expert panels and discussion papers.

The consultations regarding the 1951 cut-off are not about whether or not to remove it, but about the development of an implementation plan. The survey, which is now closed, was used as a tool to support the development of that plan.

(*Response to question raised by the Honourable Marilou McPhedran on February 27, 2019*)

The Government of Canada takes its international obligations seriously, and is closely reviewing the Committee's decision and recommendations. Canada will be responding to the United Nations' Human Rights Committee within the established time period, which is before July 11, 2019.

Gender equality is a fundamental human right, and that is why our government eliminated sex-based inequities in Indian registration dating back to 1951 through Bill S-3.

The Government is currently working collaboratively with its partners to develop an implementation plan to bring into force the remaining provisions of Bill S-3 which will remove the 1951 cut-off and eliminate all sex-based inequities in Indian registration dating back to 1869. This plan will focus on identifying the additional resources required and ensuring any unintended consequences are mitigated. That is the context of the survey and it is just one element of the collaborative process, which also includes community consultations, regional events, expert panels and discussion papers.

The Government remains committed to removing the 1951 cut-off and will be tabling an update to Parliament regarding a path forward by June 12, 2019.

(*Response to question raised by the Honourable Kim Pate on February 27, 2019*)

The Government takes its international obligations seriously and is closely reviewing the United Nations Human Rights Committee's decision. Gender equality is a fundamental human right, and that is why the Government finally eliminated sex-based inequities from the *Indian Act* through Bill S-3 in December 2017. Amendments eliminating sex-based inequities back to the creation of the modern registry in 1951 have already been implemented. Once in force, the amendments for the removal of the 1951 cut-off will fix sex-based inequities all the way back to 1869.

The current consultations are not about whether or not to bring the clause removing the 1951 cut-off into force, but about the development of a simultaneous implementation plan. We are working collaboratively with our partners to

ensure any unintended consequences are eliminated or mitigated, including identifying additional measures or resources required to do this right.

A further update on the path forward will be tabled in Parliament by June 12th of this year.

• (1500)

[*English*]

ORDERS OF THE DAY

OCEANS ACT
CANADA PETROLEUM RESOURCES ACT

BILL TO AMEND—THIRD READING—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Bovey, seconded by the Honourable Senator Omidvar, for the third reading of Bill C-55, An Act to amend the Oceans Act and the Canada Petroleum Resources Act, as amended.

Hon. Rose-May Poirier: Honourable senators, I rise here today to speak at third reading on Bill C-55, An Act to amend the Oceans Act and the Canada Petroleum Resources Act. I would like to take the opportunity to thank all the witnesses who appeared during our study with the Fisheries Committee as well as those who submitted written briefs. They were invaluable in our discussions and understanding of Bill C-55 and of its possible consequences, especially for the witnesses, who are on the frontline and out on the water, our fishermen.

Fisheries, honourable senators, are a unique sector of employment. On one hand, the fishermen exploit a resource to be consumed to generate jobs, economy and prosperity for their families and communities. On the other hand, the fishermen want to protect and conserve the resource for economic purposes on the short and medium term. But also, and mostly, because the fishermen care for the species, the water and the environment in the long-term.

To be a fisherman, I believe your first love is that of the open water, and its abundance of resources, not only out of love, but out of care for it.

I open with a quick statement on fishermen and their love for the ocean because they are the ones on the water. Like a witness said last week on another issue: "We are the eyes of the water."

The first point I would like to make with Bill C-55 is a very important step of listening to our fishermen. In my experience, governments of all stripes and colours need to do a better job to put the fish harvesters' concerns to a higher priority and to have a better collaboration.

Being from Saint-Louis de Kent in New Brunswick, where fisheries are the major employer, and not only a source of income for our region, but also a source of pride, I have heard too often how little the fishermen are listened to. It is one thing to be consulted, but if the consultations are not well done or barely used in the decision-making process, it does not help the relationship between the fishermen and the government.

That brings me, honourable senators, to Bill C-55. As a reminder for the honourable colleagues of this chamber, the objective of Bill C-55 is to reach domestic and international marine conservation targets of protecting 5 per cent of Canada's marine and coastal areas by 2017, and 10 per cent by 2020. To achieve the famous 10 per cent by 2020, the government proposed to fast track a marine protected area, an MPA, by installing an interim protection process.

The first issue I would like to discuss, honourable senators, is one we heard on a number of occasions from the people on the water. Everyone involved in the fisheries share as a common goal to conserve and preserve the resources. That was clear and evident throughout the study. The main issue when it comes to conservation was on the approach and methods; using the right conservation tool for the right conservation objective. When the wrong tool is being used, it is, most of the time, the fishermen who pay the price.

From the beginning of the study, we clearly saw the lack of confidence fishermen and different associations have with DFO when it comes to the MPAs. It focused around DFO's ability and/or willingness to consult effectively and to properly consider the socio-economic impact of an MPA. Some witnesses said DFO's capability to properly do a socio-economic impact was very weak.

We also heard from other witnesses where he said DFO simply refused to do the socio-economic impact because the time and cost of collecting the data would put them outside the arbitrary timelines they had already decided on.

There is not only a socio-economic impact, but also there is a cultural impact for many Indigenous communities. For example, Mr. Ken Paul spoke of the absence of transfer of culture and traditional activities from generation to generation:

> There is also a cultural aspect. I am from the Atlantic region. We don't really have healthy salmon stocks any more. For example, I have pictures of my grandfather with 30-pound Atlantic salmon. I've never seen that in my lifetime. What I'm missing in my lifetime and what my kids are missing is that transference of traditional activities and the ability to provide for the community and to provide for elders.

These are major concerns, honourable senators. When Mr. Paul talked about the transfer of the traditional activities, the transfer of culture, being from a coastal community, it really hit home.

Everybody around the table agrees on protecting the ocean. If it's not the right way, with the right tool, it deeply affects our communities. As an Acadian, I know how culture is rooted in our fisheries.

The second issue with Bill C-55 would be on the freezing of the footprints for 12 months. If someone was fishing in the area the 12 months before, you get to operate on an interim basis while science is being done. Not all fisheries are seasonal. Some are based on a cycle. As Ms. Christina Burridge said from the B.C. Seafood Alliance:

> The geoduck or sea cucumbers on our coast are fished once every three years for conservation reasons. Other fisheries must not take place in a particular year because of environmental conditions, water quality or other harvesting limitations. They shouldn't be automatically excluded from being able to operate during the interim period just because no fishing took place in the previous 12 months. We would like to see a longer time frame of three years or even six years, but three years for sure.

Not only on the type of fisheries but also on the migration of the fish. Fish tend to migrate from one area to another. With climate change and the water temperature varying, fish could migrate from one area that is not an MPA to an MPA. As it is currently in the bill, witnesses were concerned that the freezing of the footprint to 12 months would be too rigid. For example, Mr. Keith Sullivan, President of the Fish Food and Allied Workers, agreed:

> Another area I didn't concentrate on in the opening remarks was around freezing of the footprint. As we know, fish move and patterns are different. There are lots of reasons why a harvester wouldn't operate in a given area for a year. There are too many reasons to list right now. To freeze that footprint in the year before needs some consideration. Some flexibility and common sense needs to be looked at as well. Freezing that footprint of the year before could be a problem area, particularly for fishing activities.

Although the 12 months covers a lot of the fisheries, it excludes some cycle-based fisheries. In these instances, if the officials said cycle-based fisheries would be protected with the licensing regime, clearly that message has either not reached the people it concerns or did not reassure them. Although my amendment at the committee was defeated, it is important to put on record the fishermen and their associations' concerns.

Finally, an important question was asked on the purpose of this bill. Everyone agreed we need to protect our oceans and resources, but done the right way. The concern was raised on the perception of the government being motivated to attain the artificial goal of 10 per cent instead of doing proper conservation. Some witnesses, like Carey Bonnell, Vice-President of the Ocean Choice International brought forward we are on track to attain the 10 per cent. I quote:

> The stability of access challenges caused by MPAs is deeply concerning and could grow more acute. Canada is on track to meet the United Nations Secretariat of the Convention on Biological Diversity's target of 10 per cent of marine protected areas by 2020, not without considerable pain for fishing communities.

The gravity of the importance was not taken lightly by the members of this committee as well as by the witnesses. When faced with the five-year limit of an MPA, the short timeline to do all the necessary work was a concern. Generally, an MPA takes seven to 10 years for the proper scientific study, the consultations and all other necessary work to take place. Trying to fit all of that in a five-year window worries the stakeholders on what impact it will have on their activities and livelihoods but also how effective will these MPAs be for the proper conservation in harmony with the ocean and lessen the impact of the coastal communities vitality?

• (1510)

I reiterate the willingness of the witnesses to propose solutions to the government to amend the legislation in a way it would not affect the overachieving goal of the conservation. They wanted to work within the legislation as a partner in a collaborative manner to attain the right balance of a socio-economic and cultural impact for their respective communities, in addition to effective conservation. It speaks volumes on their seriousness to be effective partners and collaborators with the government.

A parallel I would like to address, honourable senators, is with the recent situation in my home Province of New Brunswick regarding the protection of the North-Atlantic right whale. Consultation with stakeholders was key subject of discussions and concerns during our study of this bill, because they are at the heart of the relationships between the fishermen and government officials of DFO. As some of you may know, restrictions were placed during their fishing season, mainly on the dynamic and static zones closures. During the process leading up to the zone closures, lobster fishermen felt they weren't properly consulted. They wanted to be a partner with the government in the common goal of protecting the North-Atlantic right whale. They had solutions of their own, which would have been a middle ground and have minimum impact on their daily operation while also contributing to protecting the whale. Unfortunately, the government decided to have a unilateral approach and went with a decision that has caused stress, anxiety and uncertainty for these families and communities for several months.

All of this could have been avoided with proper consultation and closer collaboration. But on that issue, with the North-Atlantic right whale, I have to say the new minister's handling of the issue seems more open to working with the fishermen compared to last year. Hopefully, we will not see a repeat of the situation this year.

Furthermore, we also heard concerns there were provisions for compensation for oil and gas licences lost due to the process but none for the fisheries. In my view, this is unfair to the fisheries sector. Again, it brings to me the relationship between the fish harvesters and the government. How could we move toward a better collaborative relationship? Why is the government covering the losses for the oil sector and not the fisheries sector? No one wants to assume it was done in bad faith, but the impression is certainly there.

Finally, as all of you know by now, the bill came back amended, with strong amendments proposed by Senators Patterson and McInnis. They were done in spirit of the bill and would make the legislation stronger. As Senator Bovey, the sponsor of the bill, previously stated in her third-reading speech, two amendments were adopted, one by Senator Patterson, which was adopted with two abstentions, and one by Senator McInnis, which was adopted with two nays. I supported these two amendments at committee, because we had heard these particular issues as the main concern for our witnesses.

I respect Senator Bovey's position of not fully supporting the amendments. I would ask this chamber, my fellow honourable senators, to trust the tremendous work done by the Fisheries Committee members who participated in the study on Bill C-55.

Like I said earlier, the fisheries are unique. It's one of those areas where you almost have to live it to understand it. When the government comes in to make modifications to how communities live their lives, it will have a profound impact. That's what MPAs do: They bring a lot of uncertainty for everyone involved. The government defends its position by saying, "No, no. We will consult," but like we have heard so often, they don't. The government has one goal in mind and will go through any means to get it. By adding these amendments, we are helping the communities and ensuring the government does its work fully and properly. I hope the government in the other place will give the amendments the proper attention and seriousness they deserve.

To conclude, honourable senators, the motivations of all these concerns were threefold. First was the uncertainty for the fish harvesters around the consultation process, how effective it would be and to what extent the government will listen. Second was the feeling of rushing legislation to obtain an arbitrary and political goal of 10 per cent by 2020. Third was the overall impact of interim MPAs on their daily operations, their livelihoods and communities.

As Mr. Keith Sullivan, President of the Fish Food and Allied Workers Union, said so well during our committee meetings, "It's not the idea of protecting these areas that are of concern for the fish harvesters, but to get it right." That is the question I've been asking myself the whole time we've been studying this bill. Are we achieving the right balance for the harvesters? Are the MPAs, described as a huge hammer, the only tool to protect the oceans? Is Bill C-55 the right answer to our shared goal —

The Hon. the Speaker pro tempore: Senator, your time has expired.

Senator Poirier: May I have five more minutes?

The Hon. the Speaker pro tempore: Are honourable senators in agreement?

Hon. Senators: Agreed.

Senator Poirier: Thank you.

Is Bill C-55 the right answer to our shared goal of marine conservation, or is it just being used as a means to attain a target? I leave you with these questions, honourable senators. I, frankly, do not have the answers, but they should always be at the forefront of our questions when we discuss conservation measures for our oceans. Thank you.

(On motion of Senator Gold, debate adjourned.)

[*Translation*]

BILL TO AMEND CERTAIN ACTS AND REGULATIONS IN RELATION TO FIREARMS

TWENTY-FIRST REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Boniface, seconded by the Honourable Senator Bovey, for the adoption of the twenty-first report of the Standing Senate Committee on National Security and Defence (*Bill C-71, An Act to amend certain Acts and Regulations in relation to firearms, with amendments and observations*), presented in the Senate on April 10, 2019.

Hon. Marc Gold: Honourable senators, I rise today to speak to the report of the Standing Senate Committee on National Security and Defence on Bill C-71.

I'm a member of the committee that studied the bill and I'll be voting against the report, but not because the committee broke any rules. On the contrary, the committee's process was open and fair and respected the rules to the letter.

I will be voting against the report because, as I understand the rules and principles governing my constitutional duty as a senator, it would be inappropriate to accept a report that tears apart a government bill, which follows through on electoral promises and was supported by credible evidence presented in committee.

The Liberal Party electoral platform devoted an entire page to the issue of firearms, and several legislative commitments were made. The first three commitments read as follows, and I quote:

> We will repeal changes made by Bill C-42 that allow restricted and prohibited weapons to be freely transported without a permit, and we will put decision-making about weapons restrictions back in the hands of police, not politicians.

The platform also indicates that:

> We will require enhanced background checks for anyone seeking to purchase a handgun or other restricted firearm.

These weren't vague promises; they were very specific. They were the very core of Bill C-71, its raison d'être. Then all three were carefully removed during the review process.

Honourable senators, although my remarks will mainly focus on the background checks, they could also apply to the other provisions of the bill that were deleted.

The committee heard several witnesses. Some strongly supported background checks covering a person's entire life, while others were vehemently opposed. In my opinion, the witnesses in favour of the bill were more credible because of their expertise and the quality of the research on which they based their evidence. However, there will always be someone to testify in support of any point of view, and I don't plan to dispute the credibility of the witnesses who spoke out against this bill. I also don't plan to pit experts against each other on the Senate floor. Here's my point. Highly credible witnesses clearly demonstrated that the government's policy to legislate background checks is legitimate.

• (1520)

Let's now look at the main criticisms against adopting lifetime background checks. The first one is that these checks could punish people for mistakes they made when they were younger or for long periods of struggling with depression or another mental illness. Similarly, some say that these checks would unfairly penalize Indigenous Canadians, either because they are overrepresented in the justice system and could have criminal records, or because they may have been misdiagnosed as having a mental illness earlier in their life.

With respect to the first point, Public Safety Canada officials clearly explained that the factors included in a background check, such as a criminal record check or violence associated with mental illness, are, indeed, taken into account, but this doesn't mean that the individual would be prohibited from ever obtaining a firearms licence. The director general of policing policy said, and I quote:

> The discretion remains with the Chief Firearms Officer to consider the circumstances under which an incident happened in someone's life, the severity of the circumstances, the time that has elapsed, and whether on balance, given those considerations, the person represents a threat to public safety if they were to own a firearms licence.

The same principle applies to Indigenous applicants. All circumstances are taken into account. Criminal pasts and mental illness diagnoses are not irredeemable. Furthermore, as the minister explained to the committee, Bill C-71 maintains the existing Aboriginal Peoples of Canada Adaptations Regulations (Firearms), which state that if an Indigenous person applies for a licence or an authorization to transport and the chief firearms officer expresses concern, the applicant may provide a recommendation from an elder in support of the application.

[Senator Gold]

[*English*]

A second and more broadly based criticism was that lifetime background checks will do nothing to curb gun violence in Canada, because, after all, criminals and street gangs don't apply for gun licences. They obtain their guns illegally.

This is part of a more general narrative that we heard repeatedly at committee and in this chamber, that the world is divided neatly into two camps, criminals on the one hand and law-abiding gun owners on the other, and that Bill C-71 does nothing to attack the real problem of gun violence in Canada.

Honourable senators, I addressed this false dichotomy in my second reading speech and I shall not repeat what I said then at this point. What I do want to underline today is simply this: The committee heard very credible, indeed compelling, evidence that clearly established otherwise.

First, and I won't repeat the statistics, but the evidence clearly establishes that the problem of death and injury by firearms is not exclusively a problem tied to street gangs or handguns in our urban centres.

The committee also heard from several witnesses that the lifetime background checks in Bill C-71 are likely to reduce domestic violence. This is because incidents of domestic violence can occur over a long period of time. As Lise Martin of Women's Shelters Canada stated:

> Prior violence and crime is a strong predictor of future violence.

And as Professor Jooyoung Lee stated:

> . . . we know from a pretty robust literature in criminology and health research that violent behaviour and mental health issues don't cluster into neat five-year intervals. These can be lifelong issues, and CFOs ought to have access to this information when determining whether a person should own a firearm.

Let us be clear. The problem is not that people who own guns are more likely to use violence against their intimate partners or children. As Dr. Amanda Dale stated:

> The problem is the presence of a gun in an escalating domestic violence situation. . . . It is a deadly tool. It kills you quickly. If you have it ready to hand when a situation is escalating, it's more likely to result in homicide . . . .

The same is true with respect to the use of firearms in suicide. Here the evidence was equally compelling.

First, the committee heard expert testimony that a previous suicide attempt, even further back than the past five years, is a positive predictor for a suicide attempt in the future. As Professor Brian Mishara testified, lifetime background checks "can prevent the risk of suicide deaths."

Second, although using a firearm is not the most common way in which people try to take their own lives, it is, sadly, the most effective. In the words of Jérôme Gaudreault of l'Association québécoise de prévention du suicide, a "firearm is an extremely lethal means that rarely affords a suicidal individual a second chance."

[*Translation*]

There's another criticism of the background checks I'd like to talk about, something our colleague, Senator Boisvenu, raised a number of times in committee. Referring to major backlogs in several provinces and territories, he asked witnesses to acknowledge that lifetime background checks would only exacerbate the delays in some parts of the country.

Some witnesses countered that the problem has more to do with resources. For example, Minister Goodale testified that the issue would be dealt with through the estimates process, which would, and I quote:

> . . . provid[e] funding to the RCMP to make sure they have the funds necessary to do the job they are being asked to do.

Other witnesses rejected the premise itself. As Dr. Natasha Saunders stated, and I quote:

> Just because there is a delay or a backlog doesn't mean it shouldn't happen. It doesn't mean those people shouldn't be checked.

Honourable senators, so far I've argued that the report removes provisions in the bill that fulfill electoral promises despite credible evidence in favour of those provisions being provided to the committee.

Now I would like to tell you why I'll be voting against the report.

[*English*]

In his speech, Senator Pratte stated that there was nothing extraordinary about the Senate rejecting a committee report. Indeed, the *Rules of the Senate* are very clear that a committee report represents recommendations to the Senate as a whole and that the chamber is free to accept or reject the report. Indeed, we have rejected committee reports on numerous occasions in the past.

For example, during the previous Parliament, the Senate rejected the report of the Standing Senate Committee on Social Affairs, Science and Technology, which had significantly amended Bill C-36, An Act respecting the safety of consumer products. In her speech, Senator Martin argued that the report would significantly weaken the legislation because the committee had put the interests of an industry ahead of the interests of the health and safety of Canadians, and that, and I quote, "defeats the main purpose of the bill."

A few months earlier, the Senate rejected the report of the Standing Senate Committee on Legal and Constitutional Affairs that had amended provisions of Bill C-25 to limit credit for time spent in pre-sentencing custody. In debate, Senator John Wallace said this:

> The reason I find myself and others not able to support the amendments is that they will effectively undercut and negate the purpose and objectives that underlie Bill C-25 . . . .

I could go on, but there is no point in multiplying examples. You may think I exaggerate when I say that the report cuts the heart out of the bill, or to use a fishing image, guts the bill.

Senator Plett: Very democratically, though.

Senator Gold: But you cannot deny that the report so weakens the bill as to defeat its main purpose and objective. That is the standard the Senate applied to reject committee reports in the past, and that is the same standard I applied when I reached my conclusion to vote against this report.

• (1530)

The Hon. the Speaker: Unfortunately, we now have to interrupt you, senator, and go to Question Period.

QUESTION PERIOD

Pursuant to the order adopted by the Senate on December 10, 2015, to receive a Minister of the Crown, the Honourable Seamus O'Regan, Minister of Indigenous Services, appeared before honourable senators during Question Period.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, today we have with us for Question Period the Honourable Seamus O'Regan, P.C., M.P., Minister of Indigenous Services.

On behalf of all senators, welcome.

MINISTRY OF INDIGENOUS SERVICES

ECONOMIC DEVELOPMENT—JOB CREATION

Hon. Donald Neil Plett: Welcome, minister.

Minister, I note your mandate letter from the Prime Minister includes a directive to promote economic development and create jobs for Indigenous peoples, and yet your government is repeatedly doing the exact opposite.

Let me quote from what Bruce Dumont, Former President of the Métis Nation British Columbia and Member of the Steward Group for the Northern Gateway Project, told the Senate Transport Committee about your government's track record for economic development for Indigenous peoples. He said:

> Collectively, we stood to benefit directly from a minimum of $2 billion from Northern Gateway and long-term economic, business and education opportunities. That all ended when the Prime Minister announced in November 2016, without any consultation with our communities, the dismissal of the application for Northern Gateway, after it had already been approved two and a half years earlier. We were profoundly shocked and disappointed by this decision. Some communities invested their own money in businesses to support construction, and individuals went back to school to train for jobs on the project that would allow them to stay in their own communities. Many community leaders who invested time to make the project a reality had their efforts wasted.

Minister, my question is simple, and I hope you can answer it for this chamber: Why does your government claim, on the one hand, that it wants to promote economic development for Indigenous peoples, and then, on the other hand, destroy the very projects they have invested in?

Hon. Seamus O'Regan, P.C., M.P., Minister of Indigenous Services: I thank the honourable senator for his question. Indeed, I thank all senators for having me back, albeit in a different portfolio than when I was here last as Minister of Veterans Affairs.

First, economic development and economic development projects are as particular as the Indigenous person or group that you're dealing with. I think we run into trouble when we make sweeping judgments about all Indigenous groups. They are as diverse as any group of people in this country and diverse, indeed, within their own communities.

There is no question that all of them, like us, seek a better future for their children and a better future for their families. Some of them choose to do that through robust economic development. For instance, if you look at the number of Indigenous groups that have signed on for the TMX pipeline and those that are against it, it's roughly 40-something to 40-something amongst those directly affected by the TMX pipeline. So they have debates amongst themselves about the merits of economic development.

I will say this: Our government has fought extremely hard to work with Indigenous groups for two reasons. First, because it is the right thing to do. Second — and I make this argument all the time at home in Newfoundland and Labrador where I work very hard to find that balance between our offshore oil and gas industry and Indigenous groups — is stability. Business wants stability, as they should. They should have some certainty, especially when billions of dollars are involved in things like pipelines or in oil and gas projects. Wherever we can develop and find that certainty, we need to.

We were extremely hampered in Newfoundland and Labrador by the environmental assessment legislation, CEAA 2012, that was passed by the previous government. It has caused nothing but chaos and confusion in the oil and gas industry at home for us.

We have, in a very concerted way, attempted to find ways in which Indigenous people are brought into the process so that we can finally get and retain the certainty that we need, they need and certainly business needs.

The Hon. the Speaker: Sorry, senator.

Senator Plett: Your Honour, my questions are on behalf of the leader.

The Hon. the Speaker: Senator Plett, it hasn't been noted here, but you can go ahead. You have one supplementary.

Senator Plett: Minister, with respect, you're three years into a majority government. Blaming a previous government is a bit disingenuous.

What your government says and does rarely line up. You claim you want economic development for Indigenous peoples, and yet your actions say the exact opposite.

Again, Mr. Dumont told the Transport Committee that Bill C-48 is going to have a devastating impact on Indigenous economic development. He said:

> Now we are dealing with Bill C-48, the tanker moratorium, which will ensure we never benefit from economic development and a new pipeline that would bring to our communities. . . . We are intent on taking control of our livelihoods and asserting our rights, but the federal government keeps putting up barriers, preventing us from leveraging our lands and our resources for economic and social benefit.

Minister, in your role as Minister of Indigenous Services, have you taken the time to make sure the Prime Minister is aware of how destructive this bill will be for the economic development aspirations of the Indigenous peoples he is saying he is trying to protect?

Mr. O'Regan: Your Honour, I understand the senator's point about three years being long enough, but I can assure him an incredible amount of damage can be done in 10 years, and we're still cleaning up a lot of that mess.

I can certainly speak, as former Minister of Veterans Affairs, about the atrocious record of the previous government on veteran issues. But I will say, on issues regarding Indigenous peoples and again talking about the issue of stability, it's something that I'm very familiar with, with Newfoundland and Labrador's oil and gas industry. For instance, under CEAA 2012, the previous environmental assessment legislation, every time an exploratory well is drilled off of our coasts, there has to be a separate and thorough environmental assessment, and if another exploratory well is drilled only a few kilometres away but in the same region with exactly the same environmental circumstances, then another environmental assessment.

Honourable senators, this requires, if you can believe this, then going back to Indigenous groups in fact in New Brunswick, even though these exploratory wells may be drilled 300 kilometres east of St. John's. Because the salmon that swim out that way, close to where these exploratory wells are being drilled, also go back to where they are harvested by Indigenous peoples in New Brunswick. Even some of the Indigenous peoples are exacerbated having to go through this each and every time there is an exploratory well.

So we have looked at ways in which we could do regional assessments and ensure we only have to do that once for a region. That provides stability for the industry and honours the rights of Indigenous peoples who are directly affected. We are finally bringing some common sense to what was otherwise an incredibly messy way of going about things.

OFFSHORE PETROLEUM DEVELOPMENT

Hon. David M. Wells: Thank you, Minister O'Regan, for appearing again. You tempt me to speak on the environmental aspect you just spoke about. I know it very well, and it's not the mess that you recall.

My question is on the Laurentian Channel Marine Protected Area.

As minister representing Newfoundland and Labrador in cabinet, you heard your colleague Minister Wilkinson last week designate the Laurentian Channel as a marine protected area, effectively cutting off all industrial economic activity that could happen in that area, despite for 500 years fishermen and fisherwomen actively harvesting in that area. This essentially cuts off what might be a future pipeline bringing Newfoundland and Labrador's stranded gas — not oil — in the offshore to markets in northeast New England.

Because I have only one opportunity to ask this, I will ask my second question. The Laurentian Channel, by the way, minister, has no special seamounts or special coral, anything different from where offshore drilling and production is taking place in the North Atlantic.

• (1540)

How was the Laurentian Channel designated? This was first brought forward in 2006, where it was rejected by the Harper government, you will recall. Why is the Laurentian Channel now all of a sudden a special area requiring protection, when it's no different than the undersea substrate in the rest of the Grand Banks? And why has the federal government, minister, encroached on the negotiated and legislated jurisdiction of the Canada-Newfoundland and Labrador Offshore Petroleum Board?

Hon. Seamus O'Regan, P.C., M.P., Minister of Indigenous Services: First of all, with regard to the Laurentian Channel, an agreement was made between the province and the federal government, when seeking out marine protected areas, this would be a suitable candidate for particular circumstances due to its ecosystem.

It's also important to note that this agreement was made under the purview of the C-NLOPB. I should add that it was only a month ago that we reached a Hibernia Dividend Backed Annuity Agreement between the Government of Canada and the Government of Newfoundland and Labrador. This is under the auspices of the Atlantic Accord, which is a bilateral and binding accord between two governments, dating back to the 1980s. It ensures that Newfoundland and Labrador's offshore resources are treated as if they were on land. Importantly for the members of this chamber, it basically means the province gets 100 per cent of the royalties, as if it were Alberta, which was an important and game-changing accord for the future of our province.

Indeed, as an aside, in order to ensure that Newfoundland and Labrador remained the principal beneficiary of its offshore, we were able to take, as a guaranteed revenue return from the Government of Canada's shares in Hibernia, $2.5 million through the provincial government. That's very important.

What is more important to the senator's question is that we were able to deepen and affirm the bilateral nature of the Atlantic Accord to ensure that when it comes to offshore oil and gas, this is truly a bilateral relationship. When things happen, such as the designation of an MPA — or in this instance as well, the opening up of the Northeast Slope for further exploration — it is done in conjunction with the Government of Newfoundland and Labrador.

The Hon. the Speaker: Honourable senators, before proceeding to the next senator, I would remind honourable senators that we have asked that senators limit their questions to just one, because there is a long list of senators who wish to ask questions of the minister.

I would also caution senators that the ministers who appear are answering questions normally pertaining to their portfolios, in this case, Indigenous affairs. If the minister wants to go beyond that and answer other questions, that's entirely up to the minister.

INDIAN ACT

Hon. Serge Joyal: I will stick to your portfolio, Mr. Minister. One of the foremost objectives of the government in relation to Aboriginal peoples is to establish a government-to-government or nation-to-government-to-nation relationship. It will never be possible to achieve that if the Indian Act is not abolished. You know that, up to this day, the Indian Act has held the Aboriginal peoples of Canada under odious colonial control. This was one of the key recommendations in the report of the Truth and Reconciliation Commission.

Your letter of mandate reads that you are called upon to support the Minister of Crown-Indigenous Relations to "modernize our institutional structure and governance so that First Nations, Inuit and Métis Peoples can build capacity that supports implementation of their vision of self-determination."

Mr. Minister, since holding this portfolio, what have you initiated to ensure we will reach the objective of abolishing the Indian Act before the end of this government?

Hon. Seamus O'Regan, P.C., M.P., Minister of Indigenous Services: With all due respect, senator, I would say that I — perhaps not initiated — but certainly further entrenched one very meaningful thing, namely, dissolving the Department of Indian and Northern Affairs Canada. That was done precisely to accelerate the work of moving First Nations out from under the Indian Act, and in fact to get rid of it entirely.

I am only the second Minister of Indigenous Services Canada, and I work closely alongside the Minister of Crown-Indigenous Relations, the Honourable Carolyn Bennett. We continue to work, on a nation-to-nation basis, on priorities and solutions to address legacy issues such as the Indian Act. We also deal with national Indigenous organizations.

I can point to child and family services, which is addressed in Bill C-92. That was co-developed with national Indigenous organizations. It is groundbreaking, both in the way we went about developing this legislation and also the legislation itself. For the first time, this will recognize and affirm an inherent right that First Nations, Metis, and Inuit groups have over their child and family services. I very much look forward to making sure it gets passed, with this chamber's cooperation.

PARTNERSHIP MODELS

Hon. Mary Coyle: Welcome back to the Senate, Minister O'Regan.

As a member of the Senate Committee on Aboriginal Peoples and the Special Senate Committee on the Arctic, of course I'm interested in Bill C-92. However, my question to you today is related to process. You've just alluded to it yourself.

We know that the government is committed to collaboration and that the relationship with Indigenous peoples is of utmost importance. We hear a lot about a nation-to-nation relationship, which you just mentioned. We hear about consultation, engagement, and even the co-development of legislation, as you've mentioned in the case of Bill C-92. However, we also hear concerns from Indigenous peoples and organizations regarding the meaningfulness of these processes.

Last year we heard about this with Bill C-45, the cannabis legislation, and more recently with the development of the Arctic Policy Framework, and now with Bills C-91 and C-92. Again referring to your mandate letter, it asks you to work with the Privy Council Office's Central Innovation Hub to co-create new and meaningful partnership models with Indigenous communities.

Minister, could you speak to us on the progress of these partnership models and also provide us with any examples? Thank you.

Hon. Seamus O'Regan, P.C., M.P., Minister of Indigenous Services: I thank the honourable senator. A few weeks ago I stood side by side with the Assembly of First Nations National Chief Perry Bellegarde, Inuit Tapiriit Kanatami President Natan Obed, and Métis National Council President Clément Chartier, marking the introduction of Bill C-92 in the House of Commons. The National Chief noted that this was groundbreaking. President Chartier said the legislation is a result of a direct relationship, a co-development between the three national representatives of Indigenous peoples nations in our respective constituencies. President Obed said we are encouraged by the work that has happened in the process to develop Bill C-92 and that First Nations, Inuit and Metis positions were incorporated into the bill.

With Bill C-92, we have come to an agreement on three overriding principles — principles that I think many of you would probably share. The first is that the rights of the child come first and foremost. Second, when it comes to Indigenous people, their culture, tradition, and language are essential elements to a child's health. Third, the dignity of a child and of a family must be upheld when dealing with, for lack of a better word, the system.

These are absolutely essential and are principles that we worked on with them. In effect, these principles provide federal protections that will allow individual Indigenous communities and groups to come up with their own solutions. In keeping with those principles, they will be able to come up with their own solutions. This is incredibly important. We will be very busy if and when this legislation is passed; we will be busy working with provinces and with those communities whose rights we recognize and affirm in order for them to be able to develop their own systems.

What's truly groundbreaking about this is that if we are unable to come to an agreement after 12 months, after good-faith negotiations with provinces, then the legislation that is passed by those First Nations, Inuit or Metis communities reigns supreme. This is a first for our country. This recognizes and affirms jurisdiction, power and responsibility that they already have, and this is in direct response to the Truth and Reconciliation Commission's Call to Action 4.

• (1550)

DENNIS FRANKLIN CROMARTY HIGH SCHOOL

Hon. Marilou McPhedran: Minister O'Regan, welcome. Thank you for being here this afternoon. It's regrettable that you've had to give some answers amid some tittering and muttering. We can usually do better than that.

I'd like to ask a question about progress in housing students at the all-Aboriginal Dennis Franklin Cromarty High School, known as the DFC, in Thunder Bay. You've been travelling a lot as part of your mandate but you have not yet been able to visit DFC. You will recall, though, that six of the seven Indigenous students whose deaths are described in Tanya Talaga's acclaimed book *Seven Fallen Feathers* were DFC students. Those deaths were the subject of a coroner's inquest that, almost three years ago, recommended safe, affordable housing for students who must leave their homes to go to high school in Thunder Bay.

Minister, your department funded a feasibility study to determine options for new DFC educational facilities including a new student residence. That study is expected this spring. Once you have the feasibility study, what is a realistic timeline for announcing tentative estimates for funding? And, Minister, can you involve DFC students directly in the planning in some way?

Hon. Seamus O'Regan, P.C., M.P., Minister of Indigenous Services: I thank the honourable senator for the question. I would acknowledge that it was my predecessor who had the pleasure to welcome students from DFC here to Parliament Hill. She was touched by the stories and aspirations shared by the students including their desire for a new school and, indeed, for student accommodation. We are committed to being a champion for these students. We have encouraged partners to ensure the students' perspectives are reflected in the feasibility study which, as the honourable senator acknowledged, is ongoing. We look forward to working with them to complete the study. We will lay out the best path forward for educational facilities and that will best meet the needs of Indigenous students in the city. Certainly, everything that we have been doing and everything that has been initiated under my tenure was attempted in conjunction with those Indigenous peoples who are directly involved. We will continue their co-development style of management.

CHILD AND FAMILY SERVICES

Hon. Dennis Glen Patterson: Minister O'Regan, during your speech in the other place on Bill C-92, you lauded the co-development which you called "an intensive period of engagement" initiated by your department and your predecessor. However, during our committee's pre-study of the bill, we've heard time and time again that your government has cut out key players from the drafting of this bill and that it therefore is not a reflection of what stakeholders requested. We heard Manitoba Grand Chief Arlen Dumas say in a recent interview: It pains me to say that I would have to abandon this legislation as is.

Just this morning we heard again from the Honourable Elisapee Sheutiapik, Nunavut Minister for Family Services, who described the last-minute tabling of the bill with them at an FPT meeting in January as a briefing, not an engagement. She was even told the bill had to be passed quickly before the election.

Your government continues to engage with ITK, Inuit Tapiriit Kanatami, which is an advocacy organization; it is not a rights-bearing organization like NTI, Nunavut Tunngavik Inc., with whom the federal government is required to engage on social policy initiatives under Article 32 of the constitutionally protected Nunavut Land Claims Agreement.

So my question with this background is: Would you be open to looking at significant amendments to address the concerns surrounding funding implementation and so forth that have been brought forward by witnesses we've heard, like Grand Chief Dumas and Minister Sheutiapik?

Hon. Seamus O'Regan, P.C., M.P., Minister of Indigenous Services: Honourable senators, I appreciate those questions. I would say that we've had some 65 engagement sessions with some 2,000 participants on our consultations. I met with Grand Chief Dumas only four days ago in Winnipeg. I spoke in front of the Assembly of Manitoba Chiefs. Indeed, what I said to them I say to you. There is much room for the legislation they are proposing, which is their Bring Our Children Home Bill. There is much room for that and for the legislation coming from other First Nations and Inuit and Metis within Bill C-92.

That is indeed the point. We will enable them with these guiding principles and with an understanding that we are really looking at preventive care. We're looking at prenatal care and we're looking at the rights of the child, first and foremost, along with the essential nature of culture, tradition and language and the dignity of families and children.

Within that paradigm and framework, there's not only room for Indigenous legislation, but we encourage it. We want it. We want them to assert that which is theirs and that which we recognize and affirm to be theirs.

Having said that, in the course of deliberations, of course, we would entertain the amendments we are receiving.

[*Translation*]

PAYMENT TO CONSULTANT

Hon. Jean-Guy Dagenais: Minister, you spent $12.8 million to build houses for members of the Cat Lake First Nation in northern Ontario and thereby address major safety concerns. However, we've learned that a consultant by the name of Gerald Paulin will pocket 10 per cent of that money for the work he did on this file. That questionable commission is enough to build a number of houses in a community like Cat Lake. Can you tell us what this consultant did for your department on this file to justify a $1.28-million commission? Did you know that this man donated to the Liberal Party of Canada in the past? Since you said that the money would be used exclusively for construction, can you guarantee that this consultant will not be paid through some other scheme and that there will be no cover-ups?

[*English*]

Hon. Seamus O'Regan, P.C., M.P., Minister of Indigenous Services: I can assure the honourable senator that the dollars intended for housing go to housing. That was an erroneous story and I can assure him that all the money dedicated to housing is going to housing. When I was in Thunder Bay, I negotiated the agreement with the community of Cat Lake and with Nishnawbe Aski Nation and with the Assembly of First Nations. I can assure you he was not part of the equation.

There are, unfortunately, many such situations but Cat Lake's situation was particularly egregious. It was important that I met with them and their community leadership. I have attempted to reach Cat Lake, myself, but in this instance for reasons of weather I wasn't able to get up there. As someone who grew up in Labrador, I'm used to getting socked in by weather when trying to get to more remote parts of the country.

What I didn't have growing up in Labrador but which we do have now is video conferencing. We've been able to do an awful lot of work using that method. We signed a final memorandum of agreement using that video technology on March 14. That will provide an investment of $12.8 million which will go only to housing repairs, renovations and construction.

INCOME INSTABILITY

Hon. Kim Pate: Thank you, minister, for being here again. Bill C-92 was developed following legally binding decisions by the Canadian Human Rights Tribunal ordering the federal government to cease its discriminatory practices against Indigenous children and to provide a guarantee of funding that complies with substantive equality and a needs-based approach.

As you mentioned earlier, while it seeks to affirm the rights of First Nations to assume jurisdiction, Bill C-92 provides no guaranteed funding and only a non-binding call for funding in the preamble. Statistics show 30.4 per cent of Indigenous children live in poverty — twice as many as non-Indigenous children. Economist Dr. Evelyn Forget notes that income instability can have negative effects on a person's mental and physical health and on educational attainment and life opportunities and that Indigenous peoples stand to gain from a guaranteed livable income.

Minister, will you agree to amend the text of this bill to provide a guarantee of funding that complies with the repeated orders of the Canadian Human Rights Tribunal, the CHRT? Will you commit to exploring the option of a guaranteed livable income to help address the underlying factors of the increasing numbers of apprehensions of Indigenous children?

Hon. Seamus O'Regan, P.C., M.P., Minister of Indigenous Services: I thank the honourable senator. First of all, of course, we abide by all of the CHRT orders as they're given. We paid actuals, which is a very important point to make.

In regard to Bill C-92, I would say we have over the course of the past three and a half years more than doubled the amount of money we give to child and family services, upwards of $1.2 billion as it is right now. In the interim time I've challenged provinces to begin negotiations with Indigenous groups who are interested in exercising their present authorities and responsibilities for child and family services in keeping with those principles as I outlined them before, which is that the child comes first and foremost, that culture, tradition and language are essential to the well-being of that child, and that their dignity is upheld both for the child and family when dealing with the system.

• (1600)

We have shown, as good partners, that not only will we provide stable and predictable funding, but in almost all cases increased funding. Having said that, we are certainly open to further suggestions.

FORCED STERILIZATION

Hon. Yvonne Boyer: Welcome again, Minister O'Regan. As Minister of Indigenous Services Canada whose mandate, among other objectives, is to improve health care services for Indigenous peoples, what steps has the ministry taken to investigate and stop coerced and forced sterilization of Indigenous women in Canada, particularly when the last reported case of an Indigenous woman was in December of 2018, and especially after the United Nations Committee Against Torture recognized coerced and forced sterilization as an act of torture, also in December 2018?

Hon. Seamus O'Regan, P.C., M.P., Minister of Indigenous Services: First of all, senator, thank you very much for that question. Forced and coerced sterilization is a violation of human rights. It is deeply troubling that this could happen in our country. We know that addressing this requires collaboration with all orders of government, which is why Health Canada has initiated a federal-provincial-territorial working group to improve cultural safety and health systems. We will continue to work to ensure access to safe and culturally appropriate health services for all Indigenous women.

Let me add that Health Canada, by establishing an advisory committee on Indigenous women's health and well-being, informs my department on current and emerging issues, including sexual and reproductive health. Officials are meeting with this advisory committee today. I look forward to hearing the outcome of that meeting.

CANNABIS EXCISE TAX

Hon. Paul E. McIntyre: Welcome to the Senate, minister. As you know, the Indigenous communities are not getting a share of the excise tax to cover costs related to the impact of marijuana legalization. Many Indigenous communities are now dealing with pressures on their services, as are other communities in Canada, such as policing costs.

As you may remember, minister, last year the First Nations Tax Commission proposed that the First Nations Fiscal Management Act be amended to provide for a First Nation lawmaking power to levy a cannabis excise tax on its reserve lands. This proposal was supported by our Standing Senate Committee on Aboriginal Peoples, but it was rejected by your government.

Minister, could you please tell us what discussions, if any, are currently under way regarding marijuana excise tax revenue sharing with Indigenous communities?

Hon. Seamus O'Regan, P.C., M.P., Minister of Indigenous Services: Senator, we will continue to work on addressing some of the concerns that you've highlighted that also, as you said, came from the Standing Senate Committee on Aboriginal Peoples. There are several things I would say that are also involved, including identifying the needs of mental health and addiction and ensuring culturally appropriate public health materials on cannabis use, in facilitating Indigenous participation in this market.

The legalization of cannabis is not an event; it is an ongoing process. That is why we are focused on building a long-term partnership with those Indigenous communities that are affected. We will continue to work with them on their concerns and address them. Thank you.

KASHECHEWAN RELOCATION

Hon. Murray Sinclair: Minister, at noon today you may have noticed that there were a number of community members from Kashechewan First Nation holding a rally on Parliament Hill to ask the government to keep its commitment to relocate the community to safer ground.

Kashechewan First Nation was established in 1957 when the Canadian government forcibly relocated Cree families to what everyone knew then was a floodplain. For the last 17 years, members of this isolated northern Ontario community needed to be airlifted to other cities hundreds of miles away due to the recurring flooding of the nearby Albany River. If you think about that for a minute, you need to recognize the disruption and trauma this causes for families whose lives are put on hold while they wait for the flood waters to recede. Sometimes they are away from their homes for a month or more. This means children can't go to school during that time, people cannot conduct and participate in their ceremonies; their lives are completely disrupted. That's in addition, of course, to the impact upon the ongoing water quality crisis that has numerous people, including children within the community, experiencing unexplained rashes and lesions. This could not happen to any other group of people in Canada in the year 2019.

Just today, in talking about the proposed evacuation of a nearby village in Ottawa, I heard the CBC refer to it as a humanitarian crisis. The people of Kashechewan have been experiencing a humanitarian crisis on a regular basis.

The Canadian government has an obligation to fulfill its commitments to them. These promises have been broken time and again. In 2005, the Martin government committed to relocating the community, but the move was cancelled under the Harper government. A new agreement was signed in 2017 under Prime Minister Trudeau, but we have yet to see any real commitment to protect the children of Kashechewan. Now we see in the 2019 federal budget there is no money allocated specifically for this move.

Minister O'Regan, can you please explain how the government will ensure that a plan with the appropriate funds is in place to see this relocation happens soon?

Hon. Seamus O'Regan, P.C., M.P., Minister of Indigenous Services: Thank you, senator. Earlier this morning I had a very good meeting with Chief Friday, as well as Regional Chief Archibald and Grand Chief Fiddler. We have affirmed a course of action we are already in the midst of.

First and foremost, we remain completely committed to the relocation of Kashechewan. We need to do a certain number of things in order to get there, and there was an understanding amongst all parties, as we met this morning, that these things need to be achieved.

I made a phone call last night to my colleague in the Ontario government. We need to secure the land which they have identified, the so-called site 5, area 5. Once we secure that land legally — and the Ontario government has given me every assurance that we will get that done as quickly as possible, and I take the minister at his word; we have a very good relationship — then we need to build a road to that land in order to get supplies there. We have begun the process of tendering the contract to build that road.

Third, we need to work with the community to determine what the new community will look like. One of the most important dimensions of that is a demographic survey so we know exactly which people intend to move, not only from Kashechewan but also from Fort Albany. These are decisions which need to be made by families.

We are presently committing about $30 million to dike repairs. I assured Chief Friday that just because we are looking after the short-term needs and safety of his community does not take away from our commitment to the move for Kashechewan whatsoever. We have $4.5 million dedicated to the other initiatives I outlined. We remain committed to that move.

CHILD AND FAMILY SERVICES

Hon. Mary Jane McCallum: Thank you for being here today, minister. As the Standing Senate Committee on Aboriginal Peoples has already heard from a number of groups from different provinces and territories, there is a prevalent concern that this legislation would disrupt and negate the progress and experience that they have each accomplished in their own regions.

• (1610)

In the interests of upholding and maintaining the good work done by these regions, would the government be supportive of an amendment that would exempt a province or territory from this legislation? I'm speaking about Manitoba, which has had a difficult time forming a positive relationship and moving forward with the provincial government.

There have been recent instances where provinces and territories have pushed back against the federal government when they feel it has encroached into their provincial jurisdiction. A prime example of this would be the current situation surrounding the carbon tax. There is concern that this type of jurisdictional challenge would result from this bill.

Hon. Seamus O'Regan, P.C., M.P., Minister of Indigenous Services: Senator, the Government of Canada has the authority to regulate on child and family services based on section 91(24). That's our constitutional power regarding Indians and lands reserved for Indians. The *Daniels* decision confirms that all three groups — and by the three, I mean First Nations, Inuit and Metis — are section 35 rights holders.

We have no intention of absolving any province of their rights or duties here, although I do understand the concerns of many. Certainly, not only have I spent time with the Assembly of

Manitoba Chiefs, but following that I spent two very difficult hours — I'll be honest — with Cree women and elders in Manitoba.

As the senator acknowledged, they have had a very difficult relationship with their provincial government, one that is long and historic. I would simply say that under Bill C-92, should any Indigenous community wish to exercise its rights over child and family services, we have one year to sit down with them. In this case, it would be the Government of Manitoba and ourselves, as I have assured them.

What some of these women have expressed to me is that even one year of talking to their provincial government is too long, but I said that we have to make best efforts and we all need to work together. Provinces certainly do have a certain level of expertise when it comes to child and family services, but I will be very blunt: the legislation, as it is, gives everyone one year, and after one year of good faith negotiations, if an agreement cannot be reached, then the legislation of that First Nation is upheld. That is what makes this particularly groundbreaking and historic legislation, and one that I stand by.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, the time for Question Period has expired. I know all senators will want to join me in thanking Minister O'Regan for being with us today. Thank you, minister.

ORDERS OF THE DAY

BILL TO AMEND CERTAIN ACTS AND REGULATIONS IN RELATION TO FIREARMS

TWENTY-FIRST REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Boniface, seconded by the Honourable Senator Bovey, for the adoption of the twenty-first report of the Standing Senate Committee on National Security and Defence (*Bill C-71, An Act to amend certain Acts and Regulations in relation to firearms, with amendments and observations*), presented in the Senate on April 10, 2019.

Hon. Marc Gold: Honourable senators, you will recall that I was describing and explaining the reasons why I am planning to vote against the report of the committee on Bill C-71. I explained that the bill, as we received it from the other place, contained a number of provisions that implemented very specific legislative proposals; indeed, the three top legislative proposals detailed in the Liberal Party platform.

I further shared with you my view that, despite evidence and testimony to the contrary, as there always is, there was strong and compelling evidence that supported the provisions in Bill C-71 that provided for lifetime background checks before someone could obtain a permit.

I then shared with you two of the many precedents whereby we in the Senate voted to reject a committee report, notwithstanding that the report was done in good faith and by the books, as this one indeed was. But as other senators before me have affirmed, when a report weakens the bill so as to defeat its main purpose and objective, then it is fitting and proper that the Senate reject the report, as it did on a number of occasions in the previous Parliament.

So I now arrive at the conclusion of my remarks, and I'd like to explain to you the basis upon which I will be voting against this report.

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

Senator Gold: Yes.

The Hon. the Speaker: Honourable senators, is leave granted for five minutes?

Hon. Senators: Agreed.

Senator Gold: In reaching the decision to vote against this report, I am not relying upon the so-called Salisbury convention. First, I'm not convinced that this is properly part of the Canadian constitution, given the differences between our Parliament and that in the United Kingdom.

Second, a convention is a rule that applies in an all-or-nothing fashion, and I believe that would run counter to our autonomy as senators to amend or reject legislation where circumstances so require.

But I am relying on a principle, a principle that I believe lies at the core of our responsibilities as senators. It's a principle that's captured in Sir John A. Macdonald's oft-cited dictum that the Senate should never set itself in opposition against the deliberate and understood wishes of the people, and it follows, logically and compellingly, from the Senate's role as a complementary legislative body.

So let's call this the principle of senatorial self-restraint. Unlike a rule, this principle does not necessarily determine the decision one way or the other. Instead, it must be weighed with all other relevant considerations, including our role to ensure fair treatment of vulnerable minorities and to protect regional interests.

This leads me to ask the same questions of this report that I would ask whenever I have to decide whether to support or oppose a government bill, especially one that implements specific electoral campaign promises, because to accept this report is, as others before me have stated, for all intents and purposes, to reject the most important and central aspects of Bill C-71.

I won't repeat what I said earlier that legislating lifetime background checks is a legitimate policy choice amply supported by the evidence at committee. But because I believe my responsibilities as a senator go further than that, I am required to answer the following questions before I decide how to vote: Does Bill C-71 unfairly affect and impact a vulnerable minority? Honourable senators, it clearly does not.

Does Bill C-71 infringe upon the constitutional rights of Canadians? It does not, for as our Supreme Court has stated on several occasions, Canadians, unlike Americans, do not have a constitutional right to bear arms.

Does Bill C-71 unfairly burden one region over another? It does not.

Honourable senators, I can find no good reason to refuse to give effect to the policy choices in Bill C-71, policy choices that the government spelled out in great detail in their electoral platform. Accordingly, I can find no principled reason to accept this report.

Indeed, quite the contrary. Our rules, our precedents and our principles persuade me that it is fitting and proper that we reject the report and restore Bill C-71 as it was when we approved it at second reading.

This is why I will be voting against the report, and this is why I would encourage honourable senators to do the same.

Thank you for your kind attention.

The Hon. the Speaker: Would you take a question, Senator Gold?

Senator Gold: Yes.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: Senator Gold, since you quoted me in your speech, I will respond immediately. When I asked the witnesses in committee about five-year background checks versus lifetime background checks, I was referring to the backlog of 5,000 cases in 2017 in British Columbia, Yukon and Saskatchewan.

When I asked the question about whether lifetime background checks would reduce delays, I did not get as clear of an answer as you just gave. However, the answer that I found the most vague was given when I asked about what would happen if background checks had to be done on patients who are 60 years of age and, rather than doing them for a period of five years, they were done for a period of 60 years, or for a lifetime. This would include medical and psychiatric background checks. The doctor replied that such checks would be nearly impossible to do considering how much people move and other factors.

• (1620)

My question, then, is as follows. What is the time frame involved when a police force asks a psychiatrist for a patient evaluation? How long does it usually take these days for a police force to get the information so that weapons can be taken away?

[*English*]

The Hon. the Speaker: Senator Gold, your time has expired again. Are you asking for another five minutes to answer the question?

Senator Gold: Yes.

Hon. Senators: Agreed.

Senator Plett: Only that question.

The Hon. the Speaker: Just to answer the question. Is it agreed, honourable senators?

Hon. Senators: Agreed.

[*Translation*]

Senator Gold: I thank the honourable senator for his question. We heard the answers to these questions regarding time frames on a number of occasions. I must admit, the time frames are troubling, no matter the reason.

That being said, I found the minister's testimony convincing when he said it was a question of resources and then promised to provide the necessary resources to ensure the work is done correctly. Second, as several witnesses also indicated, it's a question of principle. If we can get the necessary resources in place, in the appropriate circumstances, we could save lives. In the end, I was satisfied with that answer so I feel comfortable supporting the government in its efforts to legislate in that regard.

(On motion of Senator Housakos, debate adjourned.)

NATIONAL DEFENCE ACT

BILL TO AMEND—SECOND READING

On the Order:

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

Hon. Pierre-Hugues Boisvenu: Honourable senators, it is an immense pleasure for me to rise today as the critic for Bill C-77, An Act to amend the National Defence Act and to make related and consequential amendments to other Acts.

As you know, in 2015 I had the honour, as co-author and sponsor of Bill C-32, of getting the Canadian victims bill of rights passed. The Canadian victims bill of rights is based on four pillars, four key categories of rights: the right to information, the right to participation, the right to protection, and the right to restitution. Bill C-77 is in part modelled on the Canadian victims bill of rights. However, what Bill C-77 proposes is not adapted to the realities of victims in a military justice system, which is different from the civilian justice system.

Dear colleagues, the military plays a fundamental role in the protection of our democracy. All too often, as we have seen over the past four years, military members and veterans are neglected. That is especially the case for victims of crime who worked or are currently working in the Canadian Armed Forces as military personnel or civilians assigned to the Department of National Defence. According to recent estimates by the Auditor General of Canada, the Department of National Defence and the armed forces employ some 66,000 regular forces and 22,400 civilian members. It is clear that these people deserve a of victims' rights framework tailored to their reality, which I would say is very complex. This population is often made up of young people in their twenties who live in an environment where everyone knows one another and who are deployed around the world. Issues such as rank and hierarchy and even working conditions have an enormous impact on the reality of the complainants and victims. The circumstances are such that a victim may be constantly in the presence of an offender. All of this can make it very difficult for victims as they go through the military justice system. Furthermore, the inherent differences in the military system are likely to exacerbate victims' trauma.

For some context, I should also talk about the sexual assault scandals that have rocked the Canadian Armed Forces in recent years. In March 2015, former Supreme Court Justice, the Honourable Marie Deschamps, presented a report on her investigation, which contained some devastating findings and her recommendations. The report was entitled *External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces*. Unfortunately her mandate did not cover the legal system.

One of the main differences in this system also has to do with the Code of Service Discipline, featuring in Part III of the National Defence Act, which I will discuss a bit later. However, all of these points do not justify adopting minimum rights for victims of crime.

What does Bill C-77 propose and why does it fail to properly address victims of crime?

First of all, Bill C-77 proposes to include a declaration of victims' rights in the National Defence Act, and not a victims bill of rights. Specifically, the bill proposes adding a new section entitled "Declaration of Victims Rights" to the Code of Service Discipline in Part III of the National Defence Act. The Liberal government no longer uses the term "victims' bill of rights", which I think is unfortunate, because the term "declaration" does not send a strong message to victims to tell them that they have rights, that they are important. It also creates confusion with victims' statements, called "déclarations" in French, which are used in criminal proceedings in many provinces in Canada. As I said earlier, I think this shows a lack of recognition for our military personnel.

In addition, the National Defence Act continues to use the term "contrevenant" in French, and not "délinquant", to refer to criminals. The French version of the National Defence Act does not use the term "délinquant", which is the term used throughout the Criminal Code. As I see it, and I think for victims, this trivializes a serious act committed against a victim. A "contrevenant" is someone who fails to comply with a regulation, not someone who commits a crime.

I also noticed that the National Defence Act now contains a definition of the term "victim" that is similar to the one set out in the Criminal Code. That is an improvement since the definition also refers to the physical or emotional harm and property damage a victim may experience.

The National Defence Act will also be amended to add the notion of "acting on a victim's behalf". That is a good thing. Furthermore, as I mentioned earlier, Bill C-77 incorporates into the National Defence Act four categories of rights: the right to information, protection, participation and restitution.

With regard to the right to information, the Federal Ombudsman for Victims of Crime was very clear and very critical of Bill C-77's weaknesses. She pointed out that the bill contains major flaws and troubling gaps. One victims' group called It's Just 700, which provides support to sexual trauma survivors, also pointed out problems with this bill.

[*English*]

> In an interview with The Canadian Press, [the ombudsman said that] one of the main deficiencies is that the declaration does not require military police, prosecutors and others to inform victims of their rights.
>
> "That's a huge gap," Illingworth said. "People who are highly traumatized, who have just had an experience with violence, just even deciding what is the next step that they want to take is really difficult."
>
> ". . . It's just a statement of some good intentions that we have, but we're not actually changing any of the systems for victims."

[*Translation*]

That is what Ms. Illingworth said.

What is more, it is very troubling that the Federal Ombudsman for Victims of Crime was not consulted when this bill was drafted. That is very troubling indeed.

• (1630)

Under the Canadian Victims Bill of Rights, the provinces assume much of the responsibility related to the right to information. Bill C-77 proposes a few timid measures that do not meet the federal government's obligations to our troops.

[*English*]

The federal auditor general warned last fall that the military has failed to properly support victims of sexual misconduct, with military police often failing to provide information about services or updates on these cases.

[*Translation*]

In his fifth report to Parliament released in the fall of 2018, the Auditor General of Canada stated that he was also concerned about the lack of training of specialized personnel such as military chaplains and health care providers in providing assistance to victims.

Bill C-77 creates the position of victim's liaison officer, who will be the point of contact between the various key players in the military justice system, mainly the Crown, judges and victims. Under proposed subsection 71.16(1) of the bill, the services of the victim's liaison officer are only provided at the request of the victim. This is a serious shortcoming in the measures to reach out to victims, who are often traumatized, in order to offer help and direct them to the resources they need. We run the risk of letting many victims fend for themselves. Assistance should be offered automatically and proactively. The victim could ask for help, but if they are not aware of what is available how would they do so?

Ms. Marie-Claude Gagnon, a victim and former reservist, told the House of Commons committee the following:

> As stated by a member of my group, victims aren't likely to know to request a victim liaison officer . . .

A victim should not be deprived of the right to ask for the assistance of a liaison officer due to operational reasons. Every victim, and not just those who ask, have the right and need to understand how military offences are reported, prosecuted and dealt with under the Code of Service Discipline. It is my understanding that the victim's liaison officer would also help them obtain the information they request and to which they are entitled.

However, there are no provisions to ensure that these liaison officers have the necessary training to be up to the job.

International Affairs fellow with the Council on Foreign Relations and member of the Canadian Global Affairs Institute, Lindsay Rodman, said the following, and I quote:

> This is a laudable step for the Canadian Armed Forces as it works to take on the pernicious problem of sexual assault in the military. However, having served in the U.S. military when the United States was struggling with legislation to help tackle the same problem, I wonder whether this bill goes far enough.

This is an important and relevant comment.

Ms. Rodman also stated the following in a newspaper article:

> In the United States, having Victim Liaison Officers did not work; we had to give victims their own attorney.
>
> There is significant litigation in U.S. military courts of appeal trying to sort out when and how the Victims' Legal Counsels can speak in court on behalf of their clients. But, the system continues to work and the feedback from victims has been overwhelmingly positive.

In his 2017-18 report, the Judge Advocate General also directed the Military Justice Division to generate options to provide legal advice to victims and survivors of sexual assault in the Canadian Armed Forces in an effort to significantly enhance the level of support available to them. This approach to support victims should be considered in discussions on this bill.

Victims deserve to have their safety and privacy, as well as the safety and privacy of loved ones, taken into account at all stages of the military justice process, including before, during and after a complaint is made. Victims must be protected from intimidation and retaliation.

The bill authorizes military judges to issue some court orders in order to protect vulnerable participants within the military justice system. For example, judges can issue non-disclosure orders or publication bans, and they can stop the accused from cross-examining a witness. These orders are not in the existing National Defence Act.

When it comes to fear of injury or damage, proposed subsection 147.6(1) ensures that an information may be laid before a military judge by any victim who fears that a person who is subject to the Code of Service Discipline will cause physical or emotional harm to the victim, to the victim's spouse, to a person who is cohabiting with the victim in a conjugal relationship, having so cohabited for a period of at least one year, or to the victim's child. It seems this provision is limited to conjugal relationships of at least one year. I think we need to take a closer look at that because it would create two classes of victims.

What is more, proposed section 183.1 gives military judges limited power to help victims and witnesses testify. On application of the Crown prosecutor, when a witness is under the age of 18 years or has a mental or physical disability, or on application of such a witness, a support person of the witness' choice may be permitted to be present and to be close to the witness while the witness testifies.

However, I find it troubling that military judges cannot apply that basic rule if they are of the opinion that it would "interfere with the proper administration of military justice".

I also noted proposed subsection 183.2(1), which states, and I quote:

> In proceedings against an accused person in respect of a service offence, a military judge or, if the court martial has been convened, the military judge assigned to preside at the court martial shall, on application of the prosecutor in respect of a witness who is under the age of 18 years or who is able to communicate evidence but may have difficulty doing so by reason of a mental or physical disability, or on application of such a witness, order that the witness testify outside the courtroom or behind a screen or other device that would allow the witness not to see the accused person, unless the military judge is of the opinion that the order would interfere with the proper administration of military justice.

Here too, these are discretionary rights, not statutory rights

> **183.3(1)** In proceedings against an accused person in respect of a service offence, a military judge or, if the court martial has been convened, the military judge assigned to preside at the court martial shall, on application of the prosecutor in respect of a witness who is under the age of 18 years, or on application of such a witness, order that the accused person not personally cross-examine the witness, unless the military judge is of the opinion that the proper administration of military justice requires the accused person to personally conduct the cross-examination.

Here again, this is a discretionary right, not a statutory right.

> **(2)** In proceedings against an accused person in respect of an offence punishable under section 130 that is an offence under section 264 (criminal harassment), 271 (sexual assault), 272 (sexual assault with a weapon, threats to a third party or causing bodily harm) or 273 (aggravated sexual assault) of the Criminal Code, a military judge shall, on application of the prosecutor in respect of a witness who is a victim, or on application of such a witness, order that the accused person not personally cross-examine the witness . . .

However, it goes on to say "unless the military judge is of the opinion that the proper administration of military justice requires [it]." Once again, there is some discretion in the application of the law. I think we need to look at how this measure compares to the one in the Criminal Code.

Proposed subsection 183.4(1) deals with orders meant to protect the identity of a witness, which is new in the National Defence Act. At first blush, I consider this to be a positive development. It states:

> In proceedings against an accused person in respect of a service offence, a military judge or, if the court martial has been convened, the military judge assigned to preside at the court martial may, on application of the prosecutor in respect of a witness, or on application of a witness, make an order directing that any information that could identify the witness not be disclosed in the course of the proceedings, if the military judge is of the opinion that the order is in the interest of the proper administration of military justice.

The bill deals with victims' statements and essentially the right to participate. It provides several ways for victims to present a statement to the court martial, which is a good thing.

The bill also provides for the presentation of impact statements by the community, called the military community, which describe the loss and harm to the community following an offence, and the presentation of the military impact statement describing the harm to discipline, efficiency or morale of the Canadian Armed Forces as a result of the offence.

On this last point, I am keeping a close eye on the possible interpretations of the concepts of "community," "military impact" and "harm to discipline, efficiency or morale of the Canadian Armed Forces."

With respect to the right to restitution, proposed subsection 203.81(1) states, and I quote:

> A court martial that imposes a sentence on an offender or directs that an offender be discharged absolutely shall consider making a restitution order under section 203.9.

• (1640)

Furthermore, the court martial is required to inquire of the prosecutor whether reasonable steps were taken to provide the victims with an opportunity to indicate whether they are seeking restitution for their losses and damages. This is an improvement, and I want to acknowledge that.

All of these provisions would be governed by a complaints mechanism. The bill would give victims of service offences the right to file a complaint for an infringement or denial of any of their rights under the new division. Furthermore, the new legislation affords victims of service offences the right to make a complaint should they feel that any of their rights under the declaration have been infringed or denied. In addition, the Ombudsman for Victims of Crime suggests introducing a formal appeal mechanism for violations of victims' rights. Bill C-77 would also amend the military justice process. This is a very important part of the bill. This bill is described by the government as a way to simplify military discipline at the unit level.

Bill C-77 would change summary trials to summary hearings. It is a transition to a summary hearing mechanism. At this second reading stage of the bill, I believe this change may help improve the structure of the disciplinary system, which is different from the court martial system.

The Canadian Bar Association notes that "this major overhaul of the military justice system has not been the subject of a . . . review." That is why the CBA recommends that the transition to summary hearings contemplated in Bill C-77 be deferred and that Parliament undertake a comprehensive study of the Canadian military justice system and proposed reforms to the existing summary trial system. In its brief to the House of Commons, the Canadian Bar Association recommends against adopting these changes. In the brief, the Canadian Bar Association warns legislators and recommends, and I quote, that "this particular reform be deferred until Parliament undertakes a comprehensive study."

We also have to wonder how such a system might work without an appeal mechanism. Note that in 2017-18, there were 596 summary trials and 62 courts martial. These numbers were taken from the 2017-18 annual report of the Judge Advocate General. The summary trial process would be replaced by a non-penal, non-criminal summary hearing process limited in jurisdiction to a new class of service infractions, to be defined in regulations. Disciplinary offences, as we were told.

The Supreme Court of Canada will soon be ruling in the Landry case, which has to do with the jurisdiction of courts martial over service offences in the context of the right to a trial by jury.

Last fall, a military appeals court ruled that the inability of soldiers, sailors and aircrew to elect trial by jury for serious crimes, meaning crimes punishable by five years or more in prison under the military justice system, amounts to a violation of the Charter of Rights and Freedoms.

The Supreme Court heard the appeal in March and has not yet rendered its decision. Given that we are debating this bill while an important Supreme Court decision is pending, we recommend suspending debate at this time.

I would also like to quote from the Barreau du Québec's brief:

> . . . the Barreau du Québec questions why this system of protection and rights granted to victims would only apply to service offences and not to service infractions. If infractions can involve victims, then logically and for the sake of consistency, these victims should have the same rights.

In all my years as a senator, and in my role as co-founder of the Murdered or Missing Persons' Families Association, I have always advocated the importance of a Canadian victims bill of rights. We have an opportunity to strengthen victims' rights. I am counting on the support of all my colleagues to improve this bill.

I will close by saying that there is a problem with this bill that was just recently discovered. The problem is that the Canadian Armed Forces deals with civilians and military personnel. Any kind of support for military personnel would fall under the jurisdiction of the federal government and thus the armed forces. However, support for civilians would fall under provincial jurisdiction. Let's say that, right now in Canada, four provinces do not offer victim services, four offer good services, and the other four offer more or less acceptable services. Victims of sexual assault, for example, whether they are civilians or serve in the military, would depend on their province to get the help they need. However, military personnel would get help from the federal government, which offers the same quality of service from one province to another, regardless of where the soldier is located. If the victim is a civilian, he or she would not have the same rights or access to the same services. In my opinion, that sparks a very important debate that we should have in this chamber on the reciprocity of support offered to victims in Canada. It is completely unacceptable that there is a difference in the services offered to victims in Canada in 2019. This bill clearly illustrates this major weakness, since military victims receive much better treatment and, in some cases, the system fails civilian victims of the armed forces who are sexually assaulted. I think that is completely unacceptable. Thank you.

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

Some Hon. Senators: On division.

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

REFERRED TO COMMITTEE

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

(On motion of Senator Gold, bill referred to the Standing Senate Committee on National Security and Defence.)

[*English*]

• (1650)

NATIONAL LOCAL FOOD DAY BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Cormier, seconded by the Honourable Senator Hartling, for the second reading of Bill C-281, An Act to establish a National Local Food Day.

Hon. Victor Oh: Honourable senators, I rise today to speak to the second reading of Bill S-281, an Act to establish National Local Food Day.

I would like to begin by acknowledging Senator Cormier for sponsoring this bill in the Senate. Thanks to Member of Parliament Wayne Stetski for proposing it.

As a member of the Standing Senate Committee on Agriculture and Forestry for the past six years, I strongly support the initiative of promoting Canadian agriculture and the Canadian agri-food sector. During our most recent fact-finding mission in southern Ontario, we had the pleasure of visiting several local farms and research centres. As some honourable senators may know, I was quite proud to have made my first livestock friend at a University of Guelph Dairy Research Facility in Elora. This mission was a great reminder that these farms fit our families and are vital to local economies. Whether we speak of Maritime potatoes; strawberries and peaches grown in southern Ontario; Quebec's maple syrup; wheat and soybeans from the Prairies; or B.C. blueberries and grapes, local farms are the backbone of communities from coast to coast.

Local farmers not only grow fruits, vegetables and raise livestock, they sustain the country's food industry, which employs 2.3 million Canadians. This is precisely why supporting our local farmers and agriculture producers is so very important. According to Agriculture and Agri-Food Canada, Canadian agriculture and the agri-food sector contributed roughly $114 billion to the national economies in 2017, representing nearly 7 per cent of total GDP.

Unfortunately, this sector is facing serious challenges. In Ontario, the average age of a farmer is over 55 years old. The reality is that many operations lack a succession plan. During our Agriculture Committee travel and consultations, we repeatedly heard concerns of labour shortages and lack of processing facilities.

Furthermore, Canadian farms are now facing greater financial stress, as the Liberal carbon tax will increase the cost of crop production on this already-fragile industry.

The reality is these challenges compound ever-present financial pressures faced by farmers in our communities. Retaining our farming industry is essential to maintaining our national food sovereignty. Part of preamble of this bill states:

> . . . Canada's national sovereignty is dependent on the safety and security of our food supply;

It is important to note that, as Bill C-281 is being debated here in the Senate, farmers right across the country are grappling with the implication of international trade deals, international political disputes and government policy changes. Concessions made by the current Canadian government in the USMCA deal allow foreign producers greater access to our local markets. This means Canadian producers will face additional competition right here at home.

Honourable colleagues, many of you may still remember the challenge we faced in 2003 when borders were shut down to Canadian beef. Does anyone remember how Canadians responded? We countered by inviting all Canadians to barbecue on Saturday of the August long weekend in solidarity with our producers. This outreach developed into Food Day Canada. It was a national commemoration of local food across the country.

As noted by Senator Black, Food Day Canada is widely recognized across the country. With 2019 marking the sixteenth annual celebration, there is no doubt that commemorative days help bring awareness to important issues. They provide yearly forums for discussions, and allow schools, businesses and governments alike to engage on important issues.

However, as critic of this bill, I find it necessary to address what is being omitted.

While I applaud the efforts of promoting the importance of local farmers and food production, I believe that having a second day on the calendar dedicated to food awareness isn't doing enough. Rather, I believe that we should focus our efforts on actions.

First, as news of the recent day reminded us, we have significant market access difficulties caused by the Liberal government's mismanagement of global relationships. The canola crisis is the most recent example, as is market access problems in India. The sector needs leadership from this government.

The consequences of these lost export opportunities are being felt in farming homes and communities across the country. Beyond this immediate action, there is much more we need to do as a country to educate Canadians — but clearly our young people — about our agriculture sector. For example, we must be vocal in our appreciation for fresh local food. Something is far too often taken for granted. Learn to cook local and seasonal foods, and put Canada on the menu, as Anita Stewart, Food Laureate for the University of Guelph and founder of Food Day Canada, has said:

We must encourage our families and friends to eat and shop more locally grown and produced food. Pack our lunches with regional and seasonal foods. Teach our children the value of fresh food, and remind them that fruits and vegetables don't magically appear at the grocery store. Promote community balance and involve our young people in them, thus planting a seed of interest in farming in our younger generation.

To support them, governments must help relieve the high levels of capital expenditure required for young people, inspiring them to start farms. Measures must also be considered to address challenges faced by immigrant farmers.

I remember meeting a group of immigrants who had successful first careers with diverse professional backgrounds but decided to embrace agriculture as their second career here in Canada. These second career farmers had an average of three to four years' experience in agriculture and were based mostly in Ontario, Quebec, Saskatchewan and B.C. In just four years, their numbers increased by five times. They had a wide variety of products, including fruits, vegetables, honey, pulses, grains, greenhouse produce, seeds, farm equipment sales and service, crop and feed supplements and more. These new farmers were young, eager and equipped with social tools and business knowledge. They were a prime example of initiative and success in a struggling field. They deserve our attention and support.

• (1700)

I believe that actions speak louder than words. In the case of Canadian farmers, we must do more than to declare another national food day to ensure their survival and prosperity. They are struggling. This has a direct effect on all of us.

I understand the intent of this bill is to strengthen the relationship between Canadian agriculture producers and Canadian consumers. However, the bill ought to do more. It should not only raise awareness about the contributions of Canadian food producers to our economy and health, but also provide us with opportunities to support local farmers who do the difficult and under-appreciated work of growing the food we put on our dinner table and feed our families. Thank you.

Hon. René Cormier: Would the senator take a question?

Senator Oh: Yes.

Senator Cormier: Thank you for your speech and for the good information that you gave us about the actions that must be done in Canada to make sure that our local producers and products are well known here, and can also be exported outside Canada.

My question for you is, don't you think that day is a first step? It's a first step to help Canadians be more aware of all the production and the work that the producers are doing for our local food industries. It could be a good starting day to raise the awareness of Canadians around those issues and concerning the exportation of our local products.

Senator Oh: Thank you, senator, for the question. I totally agree with what you say. You and I can sit down together and iron it out. Thank you.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Cormier, bill referred to the Standing Senate Committee on Agriculture and Forestry.)

FROZEN ASSETS REPURPOSING BILL

SECOND READING—DEBATE CONTINUED

Leave having been given to revert to Other Business, Senate Public Bills, Second Reading, Order No. 9:

On the Order:

> Resuming debate on the motion of the Honourable Senator Omidvar, seconded by the Honourable Senator Gold, for the second reading of Bill S-259, An Act respecting the repurposing of certain seized, frozen or sequestrated assets.

Hon. Kim Pate: Honourable senators, I rise today in support of Bill S-259, An Act respecting the repurposing of certain seized, frozen or sequestrated assets. I wish to begin by acknowledging and thanking Senator Omidvar for her work as sponsor of the bill and the World Refugee Council for its call to action to transform the global refugee system.

If passed, Bill S-259 would allow Canada to more effectively redress human rights violations by foreign officials who try to safeguard ill-gotten gains in Canada. While Canadian law already allows seizure of such assets, Bill S-259 would create the option of re-purposing them to benefit those who have been marginalized and victimized.

Honourable senators, when it comes to the global refugee system, and most particularly when it comes to sexual and gender-based violence, it is clear that accountability is in short supply. Voices of displaced people, especially women, girls and people with diverse sexual orientations and gender identities, are too often ignored. The World Refugee Council reports that more than half of the world's refugees and internally displaced people are women and girls who are too often viewed solely as victims and excluded from decision-making processes and leadership opportunities.

In addition to their ongoing vulnerability to sexual and gender-based violence before, during and in the aftermath of their displacement, women play a crucial role in keeping their communities and families together through crises.

Sexual and gender-based violence is endemic in refugee situations, most particularly because of the increased marginalization that results from displacement, lack of resources, uncertain legal status and social isolation. As those working with and on behalf of victims of violence in Canada know, those who seek to sexually exploit women and children target those who are most at risk by factors such as race, disability, class and impoverished circumstances.

Stigmatization, as well as targeting for trafficking, forced marriage and domestic violence are also far too common in situations of displacement. These types of constant threats founded on pre-existing gender inequalities increase violence against women and violence on the basis of sexual orientation during displacement. Just as we see with violence against women domestically, gender-specific crimes against humanity, including sexual assault and exploitation, forced pregnancy and forced sterilization, are often particularly difficult to prosecute as crimes against humanity.

There is clearly an urgent need to ensure that international justice mechanisms uphold human rights for all and respond to these systemic violations against the displaced. In this regard, Bill S-259 is a step in the right direction. As Senator Omidvar outlined by providing an independent and transparent process for the confiscation and repurposing of foreign assets, this bill could help eliminate the apparent assumption that foreign officials can use Canada as a safe haven for their illegitimate gains.

The Attorney General, acting on behalf of the Government of Canada and based on reliable facts and reputable sources, could apply to the court for a ruling to confiscate and repurpose assets obtained as part of illegitimate actions. While ensuring due process in a public forum such as by giving notice, hearing witnesses, weighing evidence, including from representatives of the foreign official or entity, and making decisions based on evidence, this depoliticized measure would, for the first time, permit Canadian courts to repurpose assets in order to better support those victimized by international human rights abuses.

The resulting remedial options might include sending resources to a neighbouring country that is managing an influx of refugees, the UNHCR or another non-governmental organization to help address the needs of those displaced. When we allow dictators, human rights abusers and kleptocrats — governments with corrupt leaders — to shelter their assets in Canada we become complicit in their actions. Canada has presented itself internationally as a human rights leader. In order to live up to that reputation, we must uphold the rights of those who are most at risk, both abroad and at home.

As we work to redress the legacy of colonialism and oppression within our own borders, this bill provides us with an opportunity to insist on the protection of human rights internationally. We must promote transparency and accountability, and dismantle and remedy the systemic inequalities, injustice and discrimination in the global refugee system. It is time to recast the system to protect those who are fleeing danger, assist host countries, alleviate fears, hold leaders to account and re-establish international cooperation.

• (1710)

I support this bill in its aims to ensure that Canada does its part in building a more fair and just global refugee system. Thank you. *Meegwetch*.

(On motion of Senator Housakos, debate adjourned.)

CANADA REVENUE AGENCY ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Terry M. Mercer (Deputy Leader of the Senate Liberals) moved second reading of Bill C-316, An Act to amend the Canada Revenue Agency Act (organ donors).

He said: Honourable senators, I rise today to speak on Bill C-316, An Act to amend the Canada Revenue Agency Act (organ donors), introduced in the other place by M.P. Len Webber from Calgary Confederation.

April 21 to 27 is known as National Organ and Tissue Donation Awareness Week in Canada to raise awareness about the critical need for more donors across the country. It has morphed into a month-long campaign and for good reason.

You will all recall that on April 6, 2018, 16 young people were killed and 13 injured in the Humboldt Broncos bus crash. According to Canadian Blood Services, there were 99,742 registrations in that April alone following the crash and the news that one of the victims of the tragic accident, Logan Boulet, signed a donor card after his twenty-first birthday weeks before the crash. He ended up saving six lives.

Honourable senators, in the wake of tragedy there is always hope. This bill proposes a very simple, effective method to increase the size of the organ donor and tissue donor base here in Canada:

One, use the annual tax form to ask Canadians if they would like to become a registered organ and tissue donor. Two, if they consent to have this information passed to their provincial government for addition to their existing registries.

It augments the provincial practices in place to collect information, namely from online registries, driver's licences and health care cards. This bill is modelled on the successful inclusion on the tax form of the question asking Canadians if they want Elections Canada to be kept informed of their current information.

Many of us here most often will ask how much will this cost. Surprisingly, I can give you a firm answer: $4 million. In fact, it was already planned for in the Fall Economic Statement: Government response to Bill C-316 regarding increased organ donations. On page 105, 2019-20 fiscal year budget, there is $4 million funding for the Canada Revenue Agency to collect individual consents to share personal information with provinces and territories for the purpose of receiving further information on becoming an organ donor.

Funds have already been allocated in anticipation of this bill's passage. That shows how much support there is for this legislation.

There has also been strong support from all members of the House of Commons. They quickly passed this private member's bill.

It is our job to pass the bill next, but does that mean we should just pass it? No. We must do our due diligence and study the bill in committee. We must hear what senators' concerns are, if any, and we must follow the legislative process. This does not mean, however, that we need to prolong it.

There are some very important reasons why, honourable senators, that time is of the essence. One donor can save up to eight lives through organ donation and enhance the lives of up to 75 people through the gift of tissue. This is especially important because more than 4,500 Canadians are waiting for a transplant. Ninety per cent of Canadians support organ donation, yet only 25 per cent of us are registered to donate. That makes us one of the lowest in the industrialized world for organ donation rates. Let's try to fix that.

Earlier this month, my home province of Nova Scotia became — and I believe it's the first jurisdiction in North America to do so, to allow for presumed consent for organ donation, which could increase rates by as much as 50 per cent. We will wait to see what happens, but it is very encouraging.

In fact, I remember when I was executive director of the Nova Scotia Kidney Foundation — it seems like a zillion years ago — we lobbied the Government of Nova Scotia of the day to include organ donation registration on driver's licences. They agreed to do that. I would like to thank Senator Thomas McInnis who at the time was the provincial Minister of Transportation who made it happen for us after he agreed. It was terrific. It shows we can work together. It doesn't matter that we're of different political stripes.

Honourable senators, these are all tools with a means to an end - more organ and tissue donors. That is a good thing, a very good thing. A multipronged approach to actively save lives is always a good thing.

I look forward to the debate on this bill and to the committee hearings where we will hear just how important organ donation is and what this bill can do to save lives.

I am told by the sponsor of the legislation that in order to have the option the bill proposes, we need to ensure that we try to pass this legislation soon so it can be included in next year's tax packages. Canada Revenue Agency has said if this bill is not passed before the summer recess, we will not see the question on the 2019 tax returns, and this important initiative will be delayed another full year.

I would like to thank MP Len Webber for his excellent effort in getting this bill through its stages to this point. We would like to highlight again that all parties from the other place support this bill.

In my history as executive director of the Kidney Foundation, I had the pleasure and honour to meet many organ donor recipients, and I also had the pleasure to meet a lot of people still waiting.

I remember one young man from Nova Scotia who was from Cape Breton. His mother had donated a kidney. It eventually failed. His father donated a kidney. It eventually failed. His sister donated a kidney, and it eventually failed. Finally, he did receive a kidney from an accident victim, and it lasted quite a while, and he went on to lead a reasonably productive life.

These are people who just want to get on with their lives. They have energy. They want to do things, and by the luck of the draw they have this disability that prevents them from doing and contributing.

We have so many people who are dying from various causes, whether they be accidental or through other means. Their organs are going in the ground when they could be saving lives and helping people have productive lives and families that could stay together.

It was my pleasure when I was executive director of the Kidney Foundation to meet so many of these people. It was always heartbreaking when time ran out.

The interesting thing about it is when we had the organ donor card added to the driver's licence in Nova Scotia, that was a very important breakthrough. Around the same time, Nova Scotia, like all other provinces, brought in mandatory seat belts. It was good news and bad news. The good news was it was saving the lives of people in car accidents. The bad news was that there weren't more people dying in car accidents, providing more potential donors of organs. It's more important that people say to themselves and to their families, "I want to be an organ donor when the time comes."

• (1720)

I've told my family that. My family has told me what they want to do if it's their time.

Honourable senators, what an honour it would be to see this option on the 2019 tax return. What an honour it would be for more Canadians to show their willingness to save the lives of those who are waiting for transplants.

Thank you, honourable senators.

Hon. Ratna Omidvar: Senator Mercer, I appreciate very much you taking on this important piece of legislation. Like many others, we all have members in our —

The Hon. the Speaker pro tempore: Would you like to ask a question?

Senator Omidvar: I'm going to adjourn. I'm just warming up, Your Honour. I want to say to Senator Mercer that he is urging us to pass this bill very quickly, and I believe in timely passage, good reflection, debate and decision. That process should apply not only to this bill, urgent as it is, but to all other items on the Order Paper.

In that sentiment, Your Honour, I move adjournment of the debate.

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

Hon. Senators: Agreed.

(On motion of Senator Omidvar, debate adjourned.)

[*Translation*]

DEPARTMENT OF PUBLIC WORKS AND GOVERNMENT SERVICES ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Omidvar, seconded by the Honourable Senator Gold, for the second reading of Bill C-344, An Act to amend the Department of Public Works and Government Services Act (community benefit).

Hon. Lucie Moncion: Honourable senators, I rise today to speak to you about Bill C-344, An Act to amend the Department of Public Works and Government Services Act with respect to community benefit.

I will begin by stating that I support this bill and that I am in favour of a federal contracting strategy that takes into consideration socio-economic factors and Canadian communities across the country.

My comments will be twofold. First, I will summarize the main points of the bill and highlight that it is straightforward and non-binding. Second, I will provide concrete examples that show that when a government spends money wisely, everyone wins, both communities and proponents.

[*English*]

Bill C-344 amends the process of awarding federal contracts from a socio-economic contract from sustainable development for communities. Specifically, the bill gives the discretion to the minister to require that submissions to federal government infrastructure projects contain information on the local benefits that their work will generate.

[*Translation*]

The bill defines community benefit as a social, economic or environmental benefit that a community derives from a construction, maintenance or repair project, including job creation and training opportunities, improvement of public space and any other specific benefit identified by the community.

The legal framework proposed in this bill is neither binding nor restrictive with respect to the powers of the Minister of Public Works and Government Services. The proposed amendment to section 20 of the Department of Public Works and Government Services Act is modest but is nevertheless likely to have a noticeable positive impact on the well-being of communities.

[*English*]

The bill provides an opportunity for the government to invest in local talent and counter the labour shortage announced upstream. It also ensures that the wealth of federal markets is distributed in a more equitable way.

To illustrate this, I will share with you some of the successes associated with the project to rebuild four electric dams on the Mattagami River in northern Ontario.

[*Translation*]

Bill C-344 would prioritize community benefit agreements in federal contracts. The department's discretionary power under section 20 would make it a leader in implementing such agreements. Ultimately, community benefit agreements would enable communities to reap their fair share of the federal government's infrastructure investments and help create a more egalitarian society. It's clear that the federal government must consider the well-being of the people who will be most directly affected by infrastructure projects in their community.

[*English*]

This brings me to my second point. One of the unique attributes of community benefit agreements is that they provide tangible and measurable results. Moreover, the benefits of taking into account the socio-economic interests of communities and the considerations of sustainable development in the procurement strategies of a governance body have been repeatedly demonstrated.

[*Translation*]

It has been established that awarding contracts based on community benefits is linked to lower poverty, increased economic development, access to affordable housing, and the achievement of sustainable development objectives, which explains why several jurisdictions are already taking this direction. Five Canadian provinces, namely Nova Scotia, Quebec, Ontario, Manitoba and British Columbia, have already incorporated socio-economic objectives into their procurement procedures by either amending their legislation or changing their policies and practices. For example, the Government of Ontario adopted the Infrastructure for Jobs and Prosperity Act, 2015, and the City of Toronto adopted a social procurement policy and program. At the federal government level, the Procurement Strategy for Aboriginal Business or PSAB routinely reserves business opportunities to encourage Aboriginal businesses to participate in the federal procurement process. Since 1996, this federal program has awarded Aboriginal businesses more than 100,000 contracts worth more than $3.3 billion. I just want to take a moment to talk about existing initiatives that have produced the positive results that Bill C-344 is looking for.

[*English*]

In Vancouver's Downtown Eastside, a community benefits agreement was entered into by the City of Vancouver and a private contractor to relocate and expand an urban resort and casino. The result? Over 20 per cent of the construction labour is hired locally, an estimated $75 million is spent in the local economy, and $1.5 million in wages is paid to over 500 local employees. Overall, the project is estimated to create a minimum of 180 jobs or $8.5 million in wages for the community residents.

In northern Ontario, $2.6 billion was invested in the Lower Mattagami Project, which consisted of the redeveloping of four existing hydro stations on the Mattagami River. For this project to be successful, there needed to be agreements reached between stakeholders to make this a win-win for all.

First, a partnership agreement with the Amisk-oo-Skow was reached where the Moose Cree First Nation has a 25 per cent equity stake in the project.

Second, the Moose Cree businesses were awarded over $300 million worth of subcontracts. At peak construction, 1,800 people worked on the project, including over 250 First Nations and Metis workers.

Third, there was a training program put in place where workers were able to receive classroom and on-the-job training. This joint undertaking involved contractors, the building trades unions, the federal government and the Ontario Ministry of Training, Colleges and Universities. Directly linked to entry level and advanced level career opportunities for local employers, this program was provided to the members of Moose Cree, Taykwa Tagamou Nation, Moocreebec and Metis people of lower Moose River Basin.

Nearly 70 apprentices achieved registration in civil stages of the construction of the project, including carpenters, chefs, labourers, heavy equipment and crane operators, and iron workers, which will ensure there are skilled trades workers for the length of the project and for future infrastructure projects.

[*Translation*]

The Mattagami River project was not governed by Ontario's Infrastructure for Jobs and Prosperity Act, 2015. However, the project was designed to take into account local community needs in education, employment and long-term prosperity and to counter the labour shortage upstream.

• (1730)

The Vancouver casino and Mattagami River examples neatly illustrate the comments I made at the beginning of my speech, when I said that when a government spends money wisely, everyone wins, both communities and developers. Multiple sectors reap the community benefits generated by these agreements, especially with respect to job creation, apprenticeships, construction of affordable housing, and education. In addition, these agreements can benefit members of demographic groups who are under-represented in skilled trades, like women and Indigenous peoples.

[*English*]

As a result, local impact agreements in the allocation of federal projects create socio-economic openings for communities, as well as environmental impacts. These agreements lay the foundation for a partnership between communities and promoters. In this sense, Bill C-344 looks at the vitality and sustainability of our communities.

[*Translation*]

In conclusion, although we can try to measure the success of these initiatives from a strictly financial perspective, the overall return on investment for a federal infrastructure project that takes community benefits into account greatly surpasses what is financially quantifiable. Whether we are talking about giving a job opportunity to someone who would not otherwise have gotten it or promoting sustainable development for generations to come, a dollar invested in an infrastructure project that takes community benefits into account works much harder and goes much further than a dollar invested in an infrastructure project that does not take the community into account.

[*English*]

But again, the bill gives meaning to Canadian federalism by putting forward the relevance and importance of the federal government to consider the specificities and needs of the regions. This is a way to promote a more equal society and the upstream benefits of equitable distribution of business opportunities in Canada, rather than observing the widening of inequalities after the fact, with all the problems this entails for our society.

[*Translation*]

The federal government should act as a leader on this, and Bill C-344 is a first step in that direction. I urge my colleagues to study Bill C-344 in committee from a forward-thinking perspective and to listen to the needs of our communities.

Thank you for your attention.

(On motion of Senator Bellemare, debate adjourned.)

[*English*]

CRIMINAL CODE

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Frances Lankin moved second reading of Bill C-375, An Act to amend the Criminal Code (presentence report).

She said: Honourable senators, Bill C-375 is an act to amend the Criminal Code. It deals with pre-sentence reports by probation officers. I will go into a bit of detail to explain that.

First, I want to thank the mover of this bill in the House of Commons, M.P. Majid Jowhari from the riding of Richmond Hill. I want to say how impressed I am by the passion and personal interest he brings to the suggestions within this bill.

This bill addresses pre-sentence reports written by probation officers. I want for a moment to provide you with the current provision of the Criminal Code. This is in section 721, which is entitled "Report by probation officer":

> (a) the offender's age, maturity, character, behaviour, attitude and willingness to make amends;
>
> (b) subject to section 119(2) of the Youth Criminal Justice Act, the history of previous dispositions under the Young Offenders Act, chapter Y-1 of the Revised Statutes of Canada, 1985, the history of previous sentences under the Youth Criminal Justice Act, and of previous findings of guilt under this Act and any other Act of Parliament;
>
> (c) the history of any alternative measures to be used to deal with the offender, and the offender's response to those measures; and
>
> (d) any matter required, by any regulation made under subsection (2), to be included in the report.

In reading that out, the first subsection (a), as I indicated, is that the court must take into consideration the offender's age, maturity, character, behaviour, attitude and willingness to make amends. This bill would amend that provision by adding (a.1), and it would add to the list of "must consider" requirements that any aspect of the offender's mental condition that is relevant for sentencing purposes, as well as any mental health services or support, be available to the offender.

I want to step back for a moment. It's fairly simple, just one clause, but there's a history as to why this arises. This bill seeks to address the intersectionality between mental health and incarceration. Many of us — I would say most of us — probably have been touched by mental health issues within our families and among our friends, communities, and potentially ourselves. We know somebody who has struggled with the condition, the illness, the stigma, our ability to speak about it as individuals who are suffering, and the way society has dealt with it over the years. Fortunately that is changing. We still have a long way to go, but it is changing.

There were times, before the pre-modern conceptions we have today, but in the pre-modern time, when madness was talked about. Someone in my office indicated that this is littered about the works of Shakespeare, for instance.

There has been a history of state-led rise of bio-politics — which is often called bio-power — leading to bio-policies. We can think of periods of institutionalization for sterilization. A range of those sorts of responses have taken place over time, as well as certain kinds of intrusive therapeutic interventions.

Eventually there was the development of psychiatry, psychology and psychoanalysis. We are developing other coping mechanisms to deal with traumas — certainly traumas in the last century — and now of modern warfare and violence in our communities, homes and religious institutions.

Today there is a variety of mental health services, though certainly not enough, I would add. There is a controversial dominance of pharmaceuticals. Many lives are abandoned to poverty. Many individuals with mental illness are criminalized.

This simple amendment doesn't arise out of nowhere. There is a long history of complex responses of society to mental illness. We have a history of branding and rebranding, of controlling and ignoring, of helping and hurting people's mental conditions.

There are a number of initiatives, bills, et cetera that question our generation in terms of what our legacy will be vis-à-vis issues around mental illness and getting effective help and treatment for people who are suffering.

When I talk about criminalization, the statistics are rather shocking. Let me begin by reporting from the Centre for Addiction and Mental Health, CAMH, which states that mental illness rates are about four to seven times more common in prison than in the general community. Elizabeth Fry states that a majority of incarcerated women today have some form of mental health issue or trauma. Correctional Services Canada has reported that over five fiscal years, from 2011-12 to 2015-16, there was an average of 58 deaths in custody per year. Just over half of them are from natural causes; however, of those that are not from natural causes, the most common type of non-natural death is, in fact, suicide.

• (1740)

This bill attempts to make a small step to help address both the recognition of mental illness conditions and to look at treatment, programming, supports and/or I think, in a broader reform sense that I'm going to speak to in a moment, the need for us to look to alternatives to incarceration.

There is very clearly an overlap between mental health issues and incarceration. It is a big overlap. We will be dealing with another bill, Bill C-83, which deals with the issue of administrative segregation or solitary confinement. There are many problematic areas of that bill that centre on this issue of mental illness and how people are going to receive supports or, rather, not receive supports and be left in isolated conditions, which will only compound the trauma and the mental illness.

I'll make a couple of references to Bill C-83 because this is just, as I said, one step forward, but it has to be looked at in the context of the bigger reforms.

What does the bill attempt to achieve? It would create a nationwide consistent approach to reporting and addressing mental health concerns to the court. The pre-sentence report of a probation officer meets with the offender, the individual who's been charged and then convicted, and it's going to sentencing. They will meet with members of family, community and any contacts that they have had. It will vary depending on the individual, the circumstances, the probation officer and the approach within any given province.

I speak to this from the perspective of a former probation officer. I'd like to be flattered and think that was the main reason the MP approached me to sponsor this. The real reason is the first senator he approached declined the opportunity. I'm second in line, but proud to be doing this.

It would codify a practice that already exists in some provinces, but not all. I think that's an issue. I know in Ontario it is a matter of practice. I've written such pre-sentence reports myself. I know that in Nova Scotia and B.C., there are similar approaches, but not in all provinces and I don't have a complete list here.

I would say that for senators whose province does not have a consistent approach, the whole issue from a Charter perspective of equality of treatment of people with mental health is, again, addressed through this. We can think of the number of speeches that we've heard from colleagues here about the lack of resources in certain parts of our country and what that means for equality of treatment. Here, within the justice system, the equality of treatment is something that we need to protect, promote and ensure. I would say there's a regional perspective and a regional role for senators in looking at this.

When I agreed to be the sponsor of this bill in the Senate, of course, we reached out to do our own consultations. I can say that the intent of this bill was very strongly supported by the probation officers, their association and their leadership, and by CAMH, but everybody talked about the broader issues of reform that are required to make this a successful contribution to the administration of justice. You could write a report that gives a background of mental health conditions and recommendations for

programming, or even the fact that there is no programming available. That could meet the needs or the words of the bill but not take it any further. We have to look at the broader reform.

Under the current system that we have, and, again, we'll be talking about this under Bill C-83, the stigma of having a mental health condition can actually lead you to be identified and treated differently, to be seen as a harm to one's health or others in the institution and lead to segregation.

In fact, I gave you stats about incarceration rates of people with mental conditions and mental health illnesses. While I don't have the evidence to back this up, and I would hope we would hear some of this at committee. In fact, in segregation, the percentages are even higher in terms of those inmates who are placed in solitary confinement, which is now called segregation and will soon be called something different if Bill C-83 goes through. They are basically isolated for the majority of hours of the day and without sufficient access to supports, programming and human contact. That is only going to make the situation worse, as I think most people would intuitively understand, but the evidence supports that.

Let me talk about the broader reforms, because in discussions and in consultation, we've also worked with the MP to talk about some of the issues that we may be able to address through amendments. We are working with his office on some amendments and options to bring forward to committee consideration after we've heard testimony at committee. We've also been working with Senator Pate and her office and calling on the great depth of knowledge and experience that she has with respect to incarceration of vulnerable populations.

Many of these people, as I said, end up in segregation or get classified to maximum security because of having been identified, and are not necessarily being referred to alternative programs of support or ensuring that there are adequate programs of support and treatment within the institution that they are being referred to.

Many times we're seeing that these are the people who have the greatest need. If in administrative segregation — which is currently 24 hours a day and, maybe, soon to be 22 hours a day; I don't know if I have those hours right — they are alone and isolated with, perhaps, only the guards bringing them a meal and a health care professional checking on them once a day, and not necessarily a mental health analysis or mental health treatment. How does that help when we see the reality that people with mental health conditions often end up with the least access to programming supports?

There have been occasions where it's been noted that certain judges who are trying to be helpful, if the sentencing is around two years less a day or there's some variability, may even bump the sentence just to get a person into a federal institution because there is a mistaken belief that there are more resources there than in the provincial institutions.

Another problem that I'm working on is PTSD and moral injury. I think one of the things we've learned is how often this can be misdiagnosed with tragic results. In this case, people get diagnosed as having antisocial or borderline personality disorder, which is, perhaps, believed to be less treatable than we know PTSD and moral injury to be, which can be successfully treated with the right supports. Those are often in the community. There's a wonderful program called Project Trauma Support just outside of Ottawa that I encourage you to go and visit. There are phenomenal results, mostly with first responders, military, police and others, but more broadly as well.

The concern that identifying mental illness, if we don't address some of the other things in broader reform, can be stigmatizing is one we have to keep in mind with respect to all the bills coming forward.

What are we going to do to help those with mental health issues to avoid criminalization from the very beginning? What's the preventive approach? There's a dramatic need for more resources, long-term transition plans and addressing the deepening crisis that we see with a growing number of people suffering from mental trauma of various sorts that results in conditions and illnesses.

There have been a number of recommendations. As I said, we are working with the MP's office and with the advice from Senator Pate's knowledge in developing some options that we will bring forward when this is referred to committee, which I hope it will be.

There's a question of requiring not just the inclusion of mental health inflow in the report, but that the court must consider mental health programs. We don't just tell them what programs are available, but we set out a requirement that there is a consideration of the appropriate treatment which may be an alternative to incarceration. In many cases, I would assess that probably is true.

• (1750)

I have to say, before I was a probation officer — and I moved to that from being a jail guard — there were a number of times we said to each other, "This is not a place for sick people. This is not where you're going to get treatment and help." We need to divert these people to the right resources, whether they are hospital resources or community-based resources, and there are a range of alternatives.

Some of these broader reforms are likely beyond the scope of this bill, but they're needed to redirect or bridge — as Senator Pate has called it — these individuals towards community treatment solutions.

We can take inspiration from the Youth Criminal Justice Act which demands alternatives be considered when mental health issues are at play. Other considerations are looking at issues around consent to include this information and/or individuals' rights on protection of privacy. We need to understand that.

We need to give consideration to a recommendation made to us requiring judges give reasons for choosing incarceration over other treatments, and, of course, exempting mandatory minimums in the cases where people have mental health issues and conditions that led to the crime.

We've heard concerns about the bill from a basic position of support and wanting to get the recognition of mental illness and the right treatment options and alternatives to incarceration and alternatives to maximum security classifications or segregation when those have become, it would appear, default situations. We will bring forward those kinds of options. It will play a role in being able to question witnesses as they come forward around these issues.

We are working with the Member of Parliament for Richmond Hill in a non-partisan way, and we think there are very serious issues that directly affect countless Canadians and they merit the Senate's attention.

In wrapping up, I want to return to the MP for Richmond Hill who brought forward this bill. He spoke to me about personal experiences, family and other people he knew who did not have the right kind of supports, who ended up in the criminalized institutional setting, who failed to get the supports needed at that time and who cycled downward in the nature of their mental illness. If we start at the beginning, some of this is preventable.

At second reading, I support this bill in principle. I acknowledge there are some areas we will want to hear from people about and perhaps address through amendments at committee. I urge honourable senators to keep in mind how this is related to broader reform issues and government legislation such as Bill C-83. Thank you very much.

(On motion of Senator Housakos, debate adjourned.)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRTY-EIGHTH REPORT OF COMMITTEE—DEBATE

The Senate proceeded to consideration of the thirty-eighth report of the Standing Committee on Internal Economy, Budgets and Administration, entitled *Process for recommendation – Clerk of the Senate and Clerk of the Parliaments*, presented in the Senate on March 21, 2019.

Hon. Sabi Marwah moved the adoption of the report.

He said: Honourable senators, on December 6, 2018, the Senate requested that CIBA recommend a process by which the Senate could submit to the Governor-in-Council its recommendation on the nomination of a person or list of persons with the skills and capacities required for the position of Clerk of the Senate and Clerk of the Parliaments.

The committee considered this matter and has recommended that the members of the steering committee of CIBA, in collaboration with the Speaker of the Senate, conduct a selection process, with the assistance of an executive firm, following which the name of one candidate or a list of candidates is submitted by the Senate to the Governor-in-Council for consideration. Thank you.

Hon. Peter Harder (Government Representative in the Senate): Will the honourable senator accept a question?

The Hon. the Speaker pro tempore: Senator Marwah, will you take a question?

Senator Marwah: Yes.

Senator Harder: Senator Marwah, I have a couple of questions. As you indicated in your eloquent speech, the employment of the Clerk of the Senate is governed by legislation. The relevant legislation, as senators will know, is section 130 of the Public Service Employment Act, which provides for the appointment of the Clerk made by the Governor-in-Council, and Governor-in-Council appointments are made by the Governor General on the advice of the Queen's Privy Council, which the senator will know is cabinet. Under the Interpretation Act, the Governor-in-Council has other rights with respect to the appointment of said personnel, including termination.

My question is whether the committee sought legal opinions on this proposal, given that the proposal raises serious legal issues?

Senator Marwah: Thank you, senator, for the question. The issue was raised whether we should call witnesses such as members of the Privy Council or, in fact, the previous Clerk of the Senate or get legal opinions in that regard. But it was the will of the committee not to do so.

Senator Harder: I have a second question.

In response to your answer and given the importance of this issue, I will seek to have a legal opinion and provide that to the Senate when I speak to the motion.

Again, as you related, this is a position that doesn't only affect the Senate but also as Clerk of the Parliaments speaks to the role in relationship to the other chamber. Again, I wonder if the Senate committee conducted any consultation with respect to the work of the Clerk of the Senate's role as Clerk of the Parliaments and in consultation with others outside of the Senate on this matter.

Senator Marwah: Thank you, senator, for that question.

As I mentioned, it was the will of the committee not to hear witnesses whether from the Privy Council or the previous Clerk of the Senate or seek legal advice. We felt the issue would be debated in this chamber when I'm sure all those issues would be brought to bear or brought forward for the advice of all the senators.

Senator Harder: Thank you.

Hon. Leo Housakos (Acting Deputy Leader of the Opposition): Thank you, honourable colleagues.

I'm pleased to rise on this motion which I moved and seconded with the cooperation of Senator Saint-Germain.

I moved this motion in the spirit of independence of the Senate, and clearly not necessarily the independence as viewed by the current Prime Minister, but the innate independence which, of course, this chamber has. We have that independence by virtue of the fact that we're appointed to this chamber until

the age of 75, and we have the independence as legislators to do as we think is fit on behalf of the regions and the constituencies that we represent.

The Clerk of the Senate and the Clerk of the Parliaments is an individual, of course, which gives advice as the chief Clerk of this institution, to the Speaker and to the leadership and all senators. Of course the tradition has been by legislation and the Parliament of Canada Act that it is an order-in-council, and it has been the tradition in this place that the Clerk is appointed on the advice and decision of Privy Council and the Prime Minister —

[*Translation*]

• (1800)

The Hon. the Speaker: I am sorry to interrupt you, Senator Housakos, but it being six o'clock, pursuant to rule 3-3(1), I'm required to leave the chair until eight o'clock, unless there is unanimous consent that we not see the clock. Is it agreed, honourable senators, that we not see the clock?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

[*English*]

The Hon. the Speaker pro tempore: I hear a "no," so we will reconvene at 8 p.m.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

• (2000)

THIRTY-EIGHTH REPORT OF COMMITTEE—
DEBATE ADJOURNED

On the Order:

> Resuming debate on the motion of the Honourable Senator Marwah, seconded by the Honourable Senator Day, for the adoption of the thirty-eighth report of the Standing Committee on Internal Economy, Budgets and Administration, entitled *Process for recommendation – Clerk of the Senate and Clerk of the Parliaments*, presented in the Senate on March 21, 2019.

Hon. Leo Housakos (Acting Deputy Leader of the Opposition): Honourable colleagues, I do intend to be brief on this issue, given the fact that I've always assumed that there was some consensus on this motion, which has clear objectives to do nothing other than to reinforce the independence of this institution.

The spirit of independence is the basis in which this motion was tabled both by myself and Senator Saint-Germain.

There is nothing more important, of course, than the role of the Clerk of the Senate and Clerk of the Parliaments in this institution, a position that serves in supporting the Speaker in his work in the Speaker's office and supporting leadership in all caucuses and all senators in our work here. The role of the Clerk of the Senate and Clerk of the Parliaments is a role where he is at the service of this institution, an institution that is part and parcel of our parliamentary system. We all recognize that, traditionally, it has been the Privy Council and the Prime Minister's Office that has appointed the Clerk of the Senate and Clerk of the Parliaments, but it doesn't necessarily make it right.

We have, over the last few years, evolved and tried to work very hard in making the place transparent and accountable, and I believe this motion, if it does anything, it basically serves to give an added value to the actual role itself and to have the Clerk of the Senate and the Clerk of the Parliaments appreciate his independence rather than be beholden by the person by whom he had to be interviewed and signed off on.

Now, the Government Leader, of course, after the remarks of the chair of Internal Economy, asked a question with regard to the legality of this initiative and asked him a question in terms of what this chamber has done to see if it meets legal standards. At the end of the day, this is a chamber of Parliament. We make laws in this country. We make legislation in this country. It's not the executive branch that dictates to this chamber laws and legislation.

Furthermore, I also want to correct and point out to the Government Leader that the Clerk of the Senate is the Clerk of the Senate, and he has the title the Clerk of the Parliaments, but he doesn't have any administrative role with the House of Commons. Of course, the term, Senator Harder, Clerk of the Parliaments, implies the duration of the Parliament because, of course, this is the upper chamber that opens a new Parliament and closes an old Parliament. That's why he has that title. In no way, shape or form does the Clerk of the Senate in any way infringe upon the responsibilities of the Clerk of the House of Commons in an administrative fashion.

I believe that this is the sage thing for us to do. We're going to have a vetting process in place approved by Internal Economy, taking into consideration, of course, the role of the Speaker and having his involvement in the process.

For me, we're not so preoccupied by the process itself. It's more the symbolism, which I think will help to give complete independence without any inkling of a doubt to the position and role.

And Government Leader, with all due respect, if the Prime Minister of Canada can accept advice from independent vetting bodies to name senators, he can certainly take the advice of the upper chamber of Parliament when it comes to recommending names for a role that serves exclusively this Parliament. In no shape, way or form is the Clerk of the Senate an instrument of the executive branch.

For all those reasons, I think it's only one small step towards a continued process of independence. I also want to point out to the Government Leader that we're in no hurry to get this done. We've gone through the process and it seems like the process might take a few months longer. By the end of the day, it might not even be a problem for your government to deal with. It's probably to be a problem for a future government to deal with. I can tell you, Senator Harder, the position I have vis-à-vis the

important independence of this role today in opposition is the same position I held when I served another role in a previous government, and it will be the same position that I will keep and maintain when a new government is sworn in in the fall.

I really don't have much more to add than that. I hope that this chamber will unanimously support this motion. I think it makes a lot of sense. And we can continue to go forward. Thank you.

Hon. Pierrette Ringuette: Will Senator Housakos take a few questions?

Senator Housakos: Yes.

Senator Ringuette: Senator Housakos, on issues like this one, you would usually refer to the mother of Parliaments in the U.K., the House of Lords and so forth. Has the committee done any research with regard to the House of Lords and how they move about with the Clerk of the House of Lords?

Senator Housakos: I don't believe there was ever a requirement for that. No one brought that issue up. There was unanimous support for this motion, as you remember, when it was tabled in the chamber and sent to Internal Economy. Again, I'm the number one proponent of respecting the process and procedures of the Westminster model. We're based on it, but we're not beholden to it if this chamber decides unanimously to change a process that gives this chamber more independence.

Furthermore, we all recognize that there is executive strength in the Westminster model. There is the government side and the opposition side, and those roles have been designed for a reason, but in this particular instance, I don't see how the Clerk of the Parliaments in any shape, way or form, as I said earlier, is an instrument of government. It doesn't have any impact on the government. We currently have a prime minister who has blotted the whole principle of independence. He says he has named independent senators. I don't see what the problem is. It's not even taking a step further. In naming the chief servant of this institution who serves senators, being chosen and vetted by senators, what would be the problem?

Senator Ringuette: Senator Housakos, the principle that we have on Parliament Hill with regard to the clerk of either house is no different from its application at the provincial level. For instance, in New Brunswick, the government in council appoints the Clerk of the Legislative Assembly. Have you looked at what the legislative assemblies are doing?

We need to do some research before moving forward. It seems that not a lot of research has been done.

In response to provincial legislatures, if you find that the process you're proposing or agreeing with in this chamber, then would you send a letter to Jason Kenney to say that his new government should ask the Legislative Assembly of Alberta to select their own clerk?

• (2010)

Senator Housakos: Senator Ringuette, this chamber is supreme. Every independent Parliament across this country is supreme. It's not for you and I to dictate to Premier Kenney. It's not for you and I to dictate to the House of Commons, but it is for you and I to decide what this chamber does.

I don't need to do research to recognize how the Westminster model operates in this country. We also don't need research to understand that in the Westminster model, coast to coast to coast, there is a government and opposition. This chamber has decided to embrace this new experiment —

Senator Ringuette: We don't have an opposition.

Senator Housakos: If I may finish, senator, this chamber has decided to experiment with independent caucus groups. We've taken that decision. We've accepted to have independent senators serve in this chamber and given the role and the place that, in the Westminster model, hasn't existed. Based on your question and your premise, we should also have some in-depth research to find out if this experiment that we've embarked on over the last two years actually fits any other provincial legislature and, of course, the Westminster model and the House of Lords. If it doesn't, I guess we shouldn't be moving forward with some of the reform changes Prime Minister Trudeau has imposed on this chamber. But we are malleable. We are open to suggestions. We are open to making the place as transparent and as accountable as possible. In this particular instance, having this chamber independently choose its clerk, it just fits in within the principle of accountability and transparency, which I'm sure you support.

Hon. Terry M. Mercer (Deputy Leader of the Senate Liberals): I move adjournment of the debate in the name of Senator Day.

The Hon. the Speaker: Just a moment, please.

Senator Housakos, will you take another question?

Senator Housakos: Absolutely.

[*Translation*]

Hon. Renée Dupuis: Senator, I want to better understand what is being proposed in the report of Internal Economy. If I understand correctly, it is proposing that the Senate submit to the Governor in Council its recommendation on the nomination for the position of Clerk, in collaboration with the Speaker. Do I also understand correctly that this does not change the Public Service Employment Act, which states in section 130 that the Governor in Council appoints the Clerk of the Senate?

Senator Housakos: This has no bearing on the act. In the end, it is the Prime Minister who has the final say. The process we want to bring in aims to give these powers to the Internal Economy Committee and the Selection Committee, and as far as I know, a representative from the Speaker's office, which is

entirely reasonable given that the Clerk of the Senate works closely with the Speaker. It's as simple as that, and it has no bearing on the existing legislation.

(On motion of Senator Mercer, for Senator Day, debate adjourned.)

[*English*]

THE SENATE

MOTION CONCERNING INFRASTRUCTURE OF NEWFOUNDLAND AND LABRADOR—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Doyle, seconded by the Honourable Senator Tannas:
>
> That the Senate encourage the Government of Canada to work with the Government of Newfoundland and Labrador, the only province whose major population centres are not physically linked to the mainland of Canada, to evaluate the possibility of building a tunnel connecting the Island of Newfoundland to Labrador and the Quebec North Shore, in an effort to facilitate greater economic development in Canada's Northeast, and to further strengthen national unity, including the possibility of using funding from the infrastructure program for this work; and
>
> That a message be sent to the House of Commons to acquaint that house with the above.

Hon. Ratna Omidvar: This item is on day 14. I'm not quite ready to speak on this. Therefore, I move the adjournment of the debate in my name for the balance of my time.

(On motion of Senator Omidvar, debate adjourned.)

LEGAL AND CONSTITUTIONAL AFFAIRS

MOTION TO AUTHORIZE COMMITTEE TO STUDY CERTAIN MATTERS RELATING TO THE FORMER MINISTER OF JUSTICE AND ATTORNEY GENERAL OF CANADA AND TO CALL WITNESSES—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Plett, seconded by the Honourable Senator Wells:
>
> That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the serious and disturbing allegations that persons in the Office of the Prime Minister attempted to exert pressure on the former Minister of Justice and Attorney General of Canada, the Honourable Jody Wilson-Raybould, P.C., M.P., and to interfere with her independence, thereby potentially undermining the integrity of the administration of justice;
>
> That, as part of this study, and without limiting the committee's right to invite other witnesses as it may decide, the committee invite the Honourable Jody Wilson-Raybould, P.C., M.P.;
>
> That the committee submit its final report no later than June 15, 2019; and
>
> That the committee retain all powers necessary to publicize its findings until 180 days after tabling the final report.

Hon. Pierrette Ringuette: Honourable senators, I move the adjournment of the motion in my name.

(On motion of Senator Ringuette, debate adjourned.)

[*Translation*]

BANK OF CANADA ACT

INQUIRY—DEBATE ADJOURNED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate) rose pursuant to notice of February 21, 2019:

> That she will call the attention of the Senate to the need to review the *Bank of Canada Act* and to extend its mandate.

She said: Honourable senators, this evening I wish to ask the following question: Do we need to broaden the mandate of the Bank of Canada to pursue the objective of full and productive employment, as is the case in the United States, Australia and just recently New Zealand? This question may seem odd at first, but let me explain why I'm raising it and why I want to convince you that it is important.

I will first explain the context for this inquiry and then briefly talk about the fundamental reasons for broadening the Bank of Canada's mandate.

[*English*]

Let me begin with the contextual reasons for this inquiry. Some of you may know that the Bank of Canada Act received Royal Assent July 3, 1934, and has not yet been substantially revised to account for the major changes in the economy over more than 85 years when 30 per cent of the labour force was working in the agricultural sector.

[*Translation*]

Furthermore, no section of the act specifies the Bank of Canada's mandate. The act primarily includes provisions on management, as well as a preamble that explains why the central bank was created. The preamble states the following:

> WHEREAS it is desirable to establish a central bank in Canada to regulate credit and currency in the best interests of the economic life of the nation, to control and protect the external value of the national monetary unit and to mitigate

by its influence fluctuations in the general level of production, trade, prices and employment, so far as may be possible within the scope of monetary action, and generally to promote the economic and financial welfare of Canada;

THEREFORE, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts [the Bank of Canada Act]

[*English*]

This preamble is very large in scope but has not the power of law. In the rest of the law, it's managerial issues that are taken care of.

[*Translation*]

In the beginning, the Bank of Canada was focused on protecting the external value of the Canadian dollar, protecting the financial security of our institutions, promoting growth and carrying out the objectives set out in the preamble. Over time, and especially in the 1970s, monetary policy became focused on price stability.

• (2020)

Some of you will no doubt remember the aggressive monetarist strategy to fight inflation adopted between 1976 and 1990, which kept interest rates extremely high. At the time, it was not uncommon to see mortgage rates of 20 per cent. What is more, the unemployment rate in Canada was about 10 per cent and the youth unemployment rate was almost 20 per cent in the 1980s.

During the 1990s, although the Bank of Canada Act remained unchanged, price stability became the Bank of Canada's official mandate. Since 1991, the bank has been signing five-year agreements with the Government of Canada that set out an inflation target to guide monetary policy. The most recent agreement signed in 2016 will have to be renewed in 2021. Under this agreement, the bank conducts its activities in a way to target the annual rate of inflation at two per cent, the midpoint of a one to three per cent target range. In practice, the Bank of Canada uses the key interest rate to stimulate or slow economic activity in order to achieve an average rate of inflation of two per cent. As you know, the bank announces its key interest rate on a set date, eight times a year.

That being said, I repeat that the act does not mention the primary objective of the monetary policy or the five-year agreement between the Bank of Canada and the government, nor does it specify transparency obligations that would explain how and why the central bank fixes the key interest rate.

Things are very different in other countries.

[Senator Bellemare]

[*English*]

Since 1977, the United States Federal Reserve Act specifies:

Section 2A. Monetary policy objectives

The Board of Governors of the Federal Reserve System and the Federal Open Market Committee shall maintain long run growth of the monetary and credit aggregates commensurate with the economy's long run potential to increase production, so as to promote effectively the goals of maximum employment, stable prices, and moderate long-term interest rates.

[*Translation*]

U.S. monetary policy pursues what economists call a dual mandate. It promotes stable prices on the one hand and full or maximum employment on the other.

Australia's Reserve Bank Act stipulates that the central bank must pursue a dual objective: full employment and price stability. Recently, in late 2018, the mandate of New Zealand's central bank was revised to include maximum employment.

These countries have also incorporated transparency obligations into their legislation.

It was in this legislative context that, in May 2018, at the behest of Professor Mario Seccareccia, more than 60 Canadian economists sent a letter to the Minister of Finance, Bill Morneau, asking him to amend the Canada Bank Act in order to broaden its mandate to pursue full and productive employment. These economists also asked the Minister of Finance to add a provision in the act imposing transparency obligations on the bank. The letter was signed by Ph.D.s in economics from every Canadian province, mostly eminent professors and researchers. I don't have the time to name all of them but I'd like to point out that those who signed the letter included Pierre Fortin, who we know very well in Quebec, Mathieu Dufour, also from Quebec, Andrew Sharpe, John Smithin and Brenda Spotton Visano, from Ontario, and many others from all the provinces. I mention these experts because they all sought to reach out to the Minister of Finance and others.

That is the context for this inquiry. Now, what about the substance of the issue?

[*English*]

First, colleagues, the mandate of the Bank of Canada is not a theoretical question. The conduct of monetary policy affects the wallets of every Canadian, those in debt or those with a mortgage, as well as those who are saving for retirement or living on a fixed income. For example, a homeowner with a mortgage of $280,000 would see his or her monthly payments increase by about $150 following a rate increase of one percentage point.

[*Translation*]

Monetary policy also influences our overall economic prosperity and our collective wealth. Indeed, an abrupt increase in the key interest rate can slow the economy and cause job losses. Some research done in 2010 by Kimberley Beaton, a former researcher at the Bank of Canada, found that a one percentage point increase in the unemployment rate comes with a 2.6 per cent decline in the GDP. In 2018, that percentage was equal to $57.8 billion. That's a lot of money lost, and lost forever.

[*English*]

The second reason is inflation is not the problem it used to be 40 years ago when it was considered by central banks to be the number one enemy.

[*Translation*]

Indeed, there are no longer accelerating price increases. Price increases tend to be in the one per cent to three per cent range, which is the preferred range. In the first quarter of 2019, for example, the inflation rate measured by the consumer price index was 1.7 per cent, so under two per cent.

In short, more and more economists believe that the economic reality of the past few years suggests that inflation dynamics are quite different today than they were in the past. Salary inflation no longer poses the same threat it did in the 1970s and 1980s. These days, a country can maintain very low unemployment rates without inflation increasing or accelerating.

On January 4, 2019, through the Internet, I was able to watch some of the debates and sessions held in Atlanta as part of the annual meeting of the American Economic Association. Two former presidents of the U.S. Federal Reserve, Janet Yellen and Ben Bernanke, and the current president, Jerome H. Powell, indicated that the correlation between the unemployment rate, salary increases and price increases is much weaker today than was once believed. In other words, the tradeoff between inflation and full employment is no longer seen as a problem, as it was between 1975 and 1990.

[*English*]

The third reason why we should consider a change in the mandate is Canada, like most countries, is now facing new risks, and monetary policy can help face those risks.

[*Translation*]

What are these new risks that the monetary policy must consider?

First, as we are now seeing, climate change and the will to reduce greenhouse gas emissions will force people to change their consumption patterns and potentially create unprecedented population movements that will require major investments. According to Mark Carney, former Governor of the Bank of Canada and current Governor of the Bank of England, climate change also threatens the stability of the financial system and requires massive private sector investments.

Technological changes and the advent of artificial intelligence will have a considerable impact on the labour market. According to various studies, including the Royal Bank's "Humans Wanted" study, over the next 10 years, the advent of artificial intelligence will redefine the configuration of tasks of almost 50 per cent of jobs, which means one job in two. The workforce will have to adapt to these changes. Individuals and businesses will have to make massive investments in skills development.

• (2030)

The aging population will increase public spending and create labour shortages. That is another risk factor that calls for setting a target for growth. The rise of protectionism and the ensuing tariff wars might also make it tremendously challenging for businesses to remain competitive.

Increased income inequality is another risk factor that is clearly a social scourge. As Professor Seccareccia demonstrated, monetary policy can contribute to containing or exacerbating these inequalities. From 1976 to 2008, labour shares of the national income continued to decline, while real interest rates surpassed productivity growth.

Many of these risks and uncertainties can lead to instability and higher prices. A monetary policy that only seeks to stabilize prices by raising the key interest rate as soon as the consumer price index increases beyond the target is liable to slow down the economy. When the economy slows down, businesses invest less, which prevents Canada from being able to adapt and cope with all the challenges it is facing.

The Hon. the Speaker: I'm sorry, senator, but your time has expired. Would you like five more minutes?

Senator Bellemare: Yes, please.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Bellemare: Thank you, Mr. Speaker.

[*English*]

In our present time, monetary policy that exclusively targets inflation is not enough.

[*Translation*]

That is why the Reserve Bank of New Zealand, for example, decided to broaden its monetary policy's mandate to include the pursuit of maximum employment. Since monetary policy is a powerful tool and inflation is no longer the number one enemy, why not specify that the policy seeks to achieve economic prosperity, and particularly full, sustainable employment?

In reality, since 2008, the monetary policy in Canada, New Zealand and other parts of the world has already been seeking to support job growth. Why not make it official?

The Bank of Canada's current balanced and responsible approach certainly deserves to be enshrined in law and in the agreement that the bank has with the government.

That is one of the reasons why the mandate of the Reserve Bank of New Zealand was reviewed. In a recent speech, Dr. John McDermott, the assistant governor of the Reserve Bank of New Zealand, explained the reason for the dual mandate as follows:

[*English*]

> And what of the move to a 'dual mandate'? The Bank has always had regard to developments in the labour market, and this has been encouraged by our increasingly flexible approach. We have a long history of meeting with businesses and organisations across the country, and we regularly assess the available labour market data and are committed to discussing labour market developments. So my current sense is that, to a large extent, the changes are a way of ensuring that the flexibility in our approach endures.

[*Translation*]

A dual mandate would reassure Canadians. They could have more confidence in the investments they need to make to adapt to the changes and risks we now face. This would perhaps require closer collaboration between monetary policy and fiscal policy, but it's worth it.

In conclusion, dear colleagues, as you can see, the question I asked at the beginning of this speech is certainly worth examining. The Standing Senate Committee on Banking and Commerce could certainly start a discussion with all interested parties on this very important topic.

Thank you for your attention.

Hon. Pierrette Ringuette: I'd like to thank Senator Bellemare for raising this issue, which I think is very important and is in need of modernization. It's unfortunate that she didn't seek to move a motion calling on the Standing Senate Committee on Banking and Commerce to conduct research, which would be necessary and desirable. I'll do my research.

(On motion of Senator Ringuette, debate adjourned.)

(*At 8:36 p.m., the Senate was continued until tomorrow at 2 p.m.*)

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