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Tuesday, May 10, 2016

The Honourable GEORGE J. FUREY
Speaker

CONTENTS

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

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THE SENATE

Tuesday, May 10, 2016

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

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker *pro tempore*: Honourable senators, I wish to draw your attention to the presence in the gallery of family and friends of the Honourable Senator David Smith, including his wife, Chief Justice Heather Smith, his son Alex and his daughter Kate.

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

Hon. Senators: Hear, hear!

SENATORS' STATEMENTS

TRIBUTES

THE HONOURABLE DAVID P. SMITH, P.C., Q.C.

The Hon. the Speaker *pro tempore*: Honourable senators, I have received a notice from the Leader of the Government in the Senate, who requests, pursuant to rule 4-3 that the time provided for the consideration of Senators' Statements be extended today for the purpose of paying tribute to the Honourable Senator David Smith, P.C., who will be retiring from the Senate on May 16, 2016.

I remind senators that pursuant to our Rules each senator will be allowed only three minutes, and they may speak only once. However, it is agreed that we continue our tributes to Senator David Smith, P.C., under Senators' Statements. We will therefore have the balance of the 30 minutes for tributes, not including the time allotted for Senator David Smith's response. Any time remaining after tributes will be used for other statements.

Agreed?

Hon. Senators: Agreed.

Hon. James S. Cowan (Leader of the Senate Liberals): Honourable senators, I rise today to pay tribute to our colleague, Senator David Smith, as he prepares to leave this chamber for what is, without a doubt, a well-deserved retirement.

But while it may seem natural to open by speaking to the substantially deep political footprint he leaves behind, it's not where I wish to begin today.

I have had the good fortune of knowing Senator Smith since the 1960s, when younger versions of ourselves worked together as members of the Young Liberals of Canada.

But despite knowing the senator for a little over five decades — or more alarmingly, half a century — it was only recently that I became aware of the true depth of his long history of community involvement.

The Greater Toronto Area's Habitat for Humanity, Exhibition Place, George Brown College, the Toronto General Hospital, the Mount Sinai Hospital are but a small handful of Toronto-based philanthropic boards that Senator Smith has served throughout his career.

Even as he joins us here today, he helps to showcase Canadian talent and culture by sitting on the Board of Governors of Massey Hall and Roy Thomson Hall, two of Canada's premier concert halls.

And it's not just his board participation. Beyond these roles, Senator Smith demonstrates a steadfast devotion to his community by supporting charities such as the Scott Mission in Toronto, a charity that his father, the late Reverend Campbell-Bannerman Smith, also championed.

David, your service to your community is admirable to say the least. You have surely touched the lives of many. I know that those you have helped are very grateful for it; and I'm certain that your father would be very proud of you for carrying forward the family tradition of service.

But now let me return to that footprint I spoke of earlier, which speaks to Senator Smith and his history of another kind of service.

Colleagues, it has long been debated whether man, by nature, is a "political animal," but to know Senator Smith and his captivating career is most definitely to give one to the Aristotelians.

To most Canadian political pundits, the name "David Smith" is synonymous with Canadian politics, exemplifying a love of politics that is second to no one in this country.

Before the break, I spoke about independence and how one can be both a member of a political party and strongly independent in one's actions. Well, colleagues, meet Senator Smith: Exhibit A.

I've been proud to have Senator Smith in our independent Senate Liberal Caucus. And at the same time, few can claim as much devotion to the Liberal Party of Canada. David is a lifelong Liberal whose hard work, dedication and determination have helped to build and to define the Liberal Party of Canada.

• (1410)

Beginning as president of Carleton University's Liberal Club, he went on to serve the party in more or less every way imaginable.

In the 1960s alone he was the National President of the Young Liberals, National Youth Director of the Liberal Party, assistant to the party's National Director, and Executive Assistant to two ministers under Prime Minister Lester B. Pearson — all of this while somehow finding time to get a law degree from Queen's.

He is also a lifelong Torontonian, with a deep and abiding love of and commitment to that city. In 1972, the very year he was called to the bar, he was elected to Toronto City Council, where he dedicated the next six years to serving Torontonians in a variety of roles, including President of the City Council and Deputy Mayor.

Then, in 1980, he threw his hat into the ring for Canada's thirty-second federal election and, victorious, came to the Hill to represent the riding of Don Valley East. Here, he went on to work for Canadians in the roles of Parliamentary Secretary to the President of the Privy Council, Deputy Leader of the Government in the House of Commons, Liberal Party Deputy House Leader, and later on, Minister of State, Small Business and Tourism.

It was during that time in the other place that he participated in what he has identified as the single most satisfying project of his parliamentary career. Senator Smith served as Chairman of the Special Committee on the Disabled and the Handicapped, as it was then known, the committee responsible for producing the landmark report *Obstacles*, a recommendation-based report that brought the challenges faced by persons with disabilities to the forefront of Canadian public policy.

Shortly following the report's release, the first draft of the Canadian Charter of Rights and Freedoms was tabled, and Senator Smith — quiet, shy and retiring person that we know him to be — took the lead in pushing to include “mental and physical disability” in section 15(1) on equality rights.

Some Hon. Senators: Hear, hear!

Senator Cowan: It was during his fifth or sixth appeal for inclusion into the Constitution that he descended into what he refers to as “a bucket of tears of joy” after being interrupted by Prime Minister Pierre Elliott Trudeau saying, “David, we don't have to listen to your speech anymore. We're putting it in.”

Today, thanks to the efforts of Senator Smith and his colleagues, the Charter reads:

Every individual is equal before and under the law . . . without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

Like many of his then-colleagues, he stood for re-election in 1984 and lost in the Conservative sweep that year. Undaunted, he returned to his first love, the law, and went on to become Chairman of Fraser & Beatty and its successor firms, Fraser Milner Casgrain and Dentons Canada LLP — which today is the world's largest firm by number of lawyers and where he continues to serve as Chairman Emeritus today.

While fine-tuning his prowess of municipal, administrative and regulatory law, he cemented his reputation as one of the most successful political managers in modern Canadian history.

He is credited with masterminding three consecutive majority wins for Jean Chrétien in 1993, 1997 and 2000.

Many will recall the 1993 election, when the Liberals swept Ontario, winning all but one seat. Mr. Chrétien would often tease him about this loss, until he did so in front of President Bill Clinton, who replied: “Ninety-eight out of ninety-nine? I'd settle for that. Listen, do you want to come to Washington to work for me? Could you show up next Monday morning?”

Small wonder that he's been called an election guru, a campaign Machiavelli and, by political scientist Heather MacIvor, “the 800-pound gorilla.”

In June 2002, David Smith was summoned here to the Senate on the advice of Prime Minister Chrétien. In his 14 years here, he has served on many committees, always with distinction. But I must single out his work serving as Chair of our Rules Committee and Chair of the Special Committee on Anti-Terrorism. In the first capacity, he worked to make the Senate function better, and in the second, to contribute to protecting Canadians from the terrible threat of international terrorism.

Senator Smith brought all his skills — as a lawyer, as a negotiator, as a facilitator and as a charmer — to all his work, including here in the Senate. He could and often did work miracles, and Canada is a better place as a result.

David, I want to thank you for the years of loyalty and service you have given to your community, to your party, to your caucus and to this chamber. You leave behind a formidable legacy, and I wish you and your family, in the unwritten chapter that lies ahead, every happiness. Thank you.

[*Translation*]

Hon. Claude Carignan (Leader of the Opposition): Honourable senators, today, we bid farewell to our honourable colleague Senator David Paul Smith. He was elected to the House of

Commons in 1980, when Pierre Elliot Trudeau was Prime Minister, and now he is leaving us under Trudeau the younger.

[*English*]

Two years ago, he called his new big boss “not perfect, but a very impressive guy in an interview.” As you can see, he is a very generous person. In another interview, he called the Senate “not boring, a lively and exciting place.” Well, for the last 14 years, he has contributed to that vitality here in the Senate. He certainly hasn’t been idle.

[*Translation*]

He showed his dedication to our institution through his work as Chair of the Special Committee on Anti-Terrorism and as a member of the Rules Committee; the Foreign Affairs and International Trade Committee; the Standing Committee on Internal Economy, Budgets and Administration; the Legal and Constitutional Affairs Committee; the National Security and Defence Committee; and others. He served the Canadian public in an exemplary manner.

[*English*]

Senator Smith has great character — I can tell you that. He has the Senate’s Question Period on his website, and the *National Post* once called him a “mischievous Liberal senator” for telling Margaret Thatcher a joke.

[*Translation*]

I had the privilege of getting to know him recently when we travelled to London as part of the Commonwealth Parliamentary Association delegation. Our goal was to learn about various parliamentary practices and the best policies. I really enjoyed his quick wit, his skills as a raconteur, and his many stories, which, I must point out, were not always verifiable. I wish I could have gotten to know him sooner.

Senator Smith is also a great humanitarian who has stood up for people with disabilities on many different occasions. When he was an MP and Chair of the House of Commons Special Committee on the Disabled and the Handicapped, he helped to identify the main obstacles facing people with disabilities. That inspired him to defend the rights of those people when the Canadian Charter of Rights and Freedoms was being drafted.

[*English*]

He was relentless in his promotion to amend section 15 to include mental and physical disabilities.

[*Translation*]

Honourable senators, that is the kind of determination that our colleague showed in the Senate. Senator Smith, we thank you for your great contribution and your spirit of cooperation. We wish you, your wife Heather, and your children many memorable moments in your summer home in Cobourg.

[Senator Carignan]

[*English*]

I hope we will see you soon.

Hon. Art Eggleton: Honourable senators, I’m pleased to rise to talk about my seatmate and how much he has contributed to this country and how much we’ll miss him.

• (1420)

I’ve known him for some 50 years, just like Senator Cowan. We started together in the Young Liberals of Canada. I have a lot of stories. Many of them are not repeatable, but maybe we’ll get a few in.

As I stand here, he would refer to me as Brother Eggleton and I would refer to him as Brother Smith. He likes that whole Christian tradition of calling people “Brother” or “Sister” — Brother Harder, Sister Martin. He enjoys doing that. He enjoys gospel music as well. Amen!

It was once said that the greatest of distinctions is service to others, and I think that well describes David Smith. He has spent his lifetime serving others. He has served others in his country, his province, his city, his party and his profession of law. He has excelled in all of them.

He started here at a very young age, while he was getting his law degree, but he was learning so much from some of the icons of our party, people like Walter Gordon and John Turner and Keith Davey. He worked closely with Keith Davey and learned a lot about how to run election campaigns. That really paid off for Mr. Chrétien, who won three majority governments, and David was the chair of those campaigns, a great achievement in terms of his political involvement.

But he and I also shared a number of years together on city council. We sat on the executive committee for a number of years. Following that, he ended up coming out here and I went on to become the Mayor of Toronto.

He came up here, and we’ve heard both Senator Cowan and Senator Carignan talk about his signature achievement. I just have to mention how proud I know he is of the report on the disabled and handicapped, the report entitled *Obstacles*. It helped pave the way for a new direction in terms of dealing with the challenges that so many people in our country face, and it helped to move us into a very important commemoration of the UN year of the disabled.

But most important, of course, how many people can say that they made a very solid contribution to the Constitution of this country and to the wording of that Constitution and the Charter of Rights and Freedoms? That’s a very significant legacy that this man leaves.

He left here, of course, as has been pointed out, to go back to law, and a number of people are here from the firms that he had the pleasure of being chair of for a number of years.

I see my time is just about up, but there's so much more I could say. He has shone in terms of the 14 years of service he has provided here.

David, your retirement is so well-deserved, and we wish you well. Heather, Alex, Laura and Kate, we wish you the same as well, and to all of your family and friends who are here.

You have served well, sir. Thank you very much, my friend.

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I wish to add my sincere best wishes to our colleague and my “Seoul” brother, David Smith, who ends his notable career on Parliament Hill after more than three decades of service and political activism.

His long list of achievements, as cited already, notably includes the protection of people with mental and physical disabilities in section 15(1) of the Charter, which came about through his strong advocacy. We will no doubt hear more in today's tributes and later this evening at a special retirement dinner that Art Eggleton and I are co-hosting.

Let me explain, then, why I refer to our colleague as my “Seoul” brother, a slightly older one at that.

I couldn't help but notice that certain years that mark milestones in his life are interestingly significant years for me as well. For instance, the year my life began in Canada, 1972, is when David Smith was called to the bar in Ontario, which began his distinguished career as a lawyer and then a member of Parliament.

In 1976, the year he was appointed President of Toronto City Council and Deputy Mayor of Toronto, was the year I became a Canadian citizen.

The year I graduated from high school, 1983, was the first year he served in cabinet as Minister of Small Business and Tourism. And the day on which he began his Senate tenure, June 25, as all honourable senators know, is the day that marks the outbreak of the Korean War, an important day for us, dear Brother Smith.

In all honesty, there is no comparison. There is an ocean of difference between me and my Big Brother Smith in the depth of his political experience, the number of political campaigns fought, the notches on his political belt and volumes of campaign funds raised as chair of several elections past. You are a political giant among giants.

Yet I stand today and say for the record that David Smith is a “Seoul” brother. Since my tenure began in 2009, Senator Smith has sat across — Brother Smith, I should say — has sat across the aisle from me, and never a sitting day passes without him waving hello or sending a kind note.

On Wednesday mornings at the ecumenical Prayer Breakfast, where senators and MPs of all political stripes attend, he and I often sit side by side to share heartfelt testimonies and pray together for our colleagues, our families, our nation and our world. And long before I became Co-chair of the Canada-Korea Interparliamentary Friendship Group, Brother Smith has had a genuine fondness for the country of my birth and has faithfully served as vice-chair of the friendship group since.

Honourable senators, please join me in acknowledging David Smith's long, distinguished parliamentary career, his life as a humanitarian and a public servant, and in wishing him and his wife, Heather, Chief Justice of the Superior Court of Ontario, and their three children — Alexander, Kathleen and Laura — and their families our very best as they soon end this memorable journey and embark on the next adventure.

Hon. Senators: Hear, hear.

Hon. Mobina S. B. Jaffer: Honourable senators, today I also rise to thank our colleague and my friend Senator Smith.

Thank you, Senator Smith, for your contribution to our Senate Chamber and to our country over your many years of service. I also want to thank you for your friendship over the years.

Senator Smith and his most gracious wife Heather, former Chief Justice of Ontario, and his three children have unselfishly served our country for many years.

I have many stories I can also relate about Senator Smith and our relationship, but I will share just a few.

Senator Smith and I have had many heated discussions over the years, especially when he was the chair of numerous elections, but I can honestly tell you all that he always managed to make sure that we were still friends. This is the strength of Senator Smith.

David probably holds the number one title of being an election chair for many years, and when he was the election chair, he did an amazing job.

Senator Mercer can also vouch for the interesting and educational tools we received from Senator Smith when we went to Oxford University in England for Liberal International meetings. Senator Smith has an encyclopedic memory of all the different buildings and the history of Oxford University. One Sunday morning, I remember him dragging us all to church. We forgave him because he then bought us a great brunch.

Honourable senators, Senator Smith has always been first in inviting us all for a drink whenever there has been an opportunity, and he has always been very thoughtful to make sure I have my special drink.

David and Heather, I want to say “thank you” to both of you. You both, Senator Smith and Justice Smith, have demonstrated to us over your careers that there are many ways to serve our great country. You have both served with poise and humility, and your motivation was always the strengthening of our country. Your tireless work has had an impact upon our lives, and your unselfish service will always be remembered by us.

• (1430)

Today, honourable senators, I want to take this opportunity to thank Senator Smith, and I specifically want to thank Senator Smith’s three children, Alexander, Kathleen and Laura, for sharing your dad with us.

Today we salute you and thank you for your service to our country.

Senator, you know that your presence will be truly missed in this chamber, but your hard work will be carried on for generations in our country. You have helped to make our country stronger, fairer and more resilient.

Now, Heather and David, time to enjoy your grandchild. We will miss you.

Hon. Pana Merchant: Honourable senators, service as a minister of the Crown in the other place — children under 12 and independent senators, cover your ears — service for Canada as a very successful Liberal Party campaign chair in 1993, 1997 and 2000; service for Canadians as a member in our chamber and one of Canada’s legal leaders; witness to life in every part of the world; a great storyteller: Senator David Smith is all these and many other things that others have enumerated.

It is ideas that bind us together, and for many of us Liberals and others, David’s friendship and comradeship was without borders. The doors to his office were always open. He is a gracious host at the end of a long day.

Senator David, you have been my friend for over 30 years, with the best of memories, and although we will see less of you as you leave this chamber, you leave this place with our respect and great affection. Thank you for everything you have done for us.

Hon. Jim Munson: Senator Smith, as your whip, I have saved every joke that you have written to me over the last 12 years. I have them all on my desk, but I’m going to give you enough time to get out of here before I publish them in my book. But they are tremendous insights into life and to flights of fantasy, I guess, as well.

I’m just thinking, David, that as your whip you always took a look at me when a vote was called when we were sitting on the other side, and said: “Well, time for libation?” And on we went

downstairs into your office, and you did tell great stories. The pictures on the wall of your office are a history lesson for everybody in this country.

Do you know what you did as well? You did it recently in welcoming the new senators here. I saw you talking to every one of them, and you made people feel welcome here in the Senate of Canada, no matter who you were or what party you represented.

Now, as a United Church minister’s son, you never let me get away with too much because you always talked about PKs and how they act and react with others. I want to assure you that for most of my life I was a pretty good minister’s son, but you’ve got to challenge the system from time to time. And that’s what you have done over the many, many years.

The one thing I really do want to say, and it’s been referred to regarding the Charter, has to do with the report I see you have the report in front of you, *Obstacles*. It is good reading about mental and physical disabilities. In this day and age, we talk about intellectual disabilities. I’ve used the report. Your seatmate has used it, as did Senator Keon and others who sat on the Social Affairs Committee when we studied autism and when the committee studied mental health just before I arrived here. It served as a template to take those Charter rights, which are incredible, to another level, so that we can give voice. You were one of the first, along with your committee at that time, to give voice to those who did not have that voice, who today cannot be forgotten in the debates in this country when it comes to autism or those who are involved in the Special Olympics.

I want to thank you for your friendship. It’s not very often I can talk to someone vis-à-vis the Senate, and you’re a giant.

So I’ve always looked up to you, Senator Smith. At the end of the day, it’s been a job well done, and we love you very much.

Hon. Terry M. Mercer: Honourable senators, when I heard that Senator Smith was retiring, I took a quick look at his birthday and was shocked to learn that his birthday is the same as that of my one and only granddaughter, Ellie, who was born a year ago next Monday. And so, David, I will never be able to forget your birthday again.

I had the pleasure of first working closely with David in the 1993 election campaign. I was charged with the responsibility of training Liberals across Ontario after having worked on the Chrétien leadership campaign a couple of years earlier. I had occasion to meet with David quite a few times. Once or twice he had to scold me for not being prepared, but it only happened then. I never met with David again when I wasn’t prepared, because I knew he would catch on. I don’t want to dwell on that too much.

I do want to talk about a trip that we took together that Senator Jaffer mentioned. We went to Oxford in England to a Liberal International meeting. David’s wife was with us, along with my wife, and several other couples were at this very serious meeting. We took a side trip to Churchill’s home. You’ve never been to England unless you’ve been there with David Smith. As I

[Senator Jaffer]

was making my notes for today, I decided that perhaps Her Majesty may be the only one who has more knowledge of Mother Britain than David Smith.

David, it was a great experience to travel anywhere with you, whether it was in Britain or to other Commonwealth parliamentary association meetings.

David, as people have said, was the campaign manager in 1993, but then I moved on and became the national director of the party and worked with David as the national campaign manager for the 1997 and 2000 campaigns.

As I always say, David has been sued by many but none of them have ever been successful. Many a disgruntled member of our party or some other group would have at David, but he always had his t's crossed and his i's dotted — well done.

Also, it may not be known to all of our colleagues in this place that David is a great host, but he's also blessed with a great hostess in his wife, Heather. I've had the pleasure of joining them both in their homes in Toronto and in Cobourg. If you're invited, go, because I can guarantee that you'll have a great time.

Thank you, David, for what you've done for the Liberal Party and what you've done for Canada. More importantly, thank you for your friendship and for your solid advice.

Hon. Joan Fraser (Deputy Leader of the Senate Liberals): David Smith is the person who, to me, has most incarnated that lovely phrase “happy warrior.” Goodness knows partisanship has been a central element of his life. He has been a warrior for the Liberal Party that he has served so well, and for his country and for all the causes in which he believes. But what I have always noticed about him is that he's happy. This is a man who shows you how to give partisanship a good name.

Through the years, when I have had the pleasure of working with him, I have seen him sometimes frustrated. You will recall Senator Carignan's repetition of the famous word “soon.” But I have never, ever seen or heard David Smith attribute any kind of malicious motive or cast any kind of aspersions on the character of people who were sitting across from him or who did not agree with him. He has always, in my experience, shown capacity to see the good in people, even when the disagreements were profound. I don't know how many times I have heard him say, “Oh, I know her,” or “I know him; that's a really good person,” even when that person's function was to oppose.

• (1440)

He is, as so many here have said today, a wonderful host. He was always ready to open the door to anybody who had any kind of difficulty. He was always happy and quick with the jokes. They were frequently quotations with a slightly religious bent. I was

trying to figure out the source — it must be the Bible, and if it isn't the Bible, it should be the Bible — of the line, “Therefore, brethren, let us be joyful.”

Senator D. Smith: Amen.

Senator Fraser: David Smith has been and has made us joyful. We wish him much joy in all the years to come and thank him for the joy he brought us here.

Hon. Senators: Hear, hear!

EXPRESSION OF THANKS

Hon. David P. Smith: Well, this is a pretty moving experience. Your Honour, Senate colleagues, family and friends, today is my last day in the Senate. I'm ready to go, but I'm doing it and saying good-bye in good spirits.

I thought I might cover the different chapters I've had in Ottawa to give you a feel for all this stuff.

When I was young, sometimes you would hear this phrase, “Well, at our table we never discussed religion or politics.” Well, at our table we never discussed anything else. My father, Campbell Bannerman Smith, was a minister, not a cabinet minister. He was a preacher. He was named after his relative, Sir Henry Campbell-Bannerman, who had been an MP in the U.K. since 1868. When my dad was five, Henry became Prime Minister. He died three years later, but he'd led the Liberals to their greatest victory in 1906. Now Sir Henry never had any children, but he was always very pleased with this little great-nephew in Canada and did write several notes to my grandmother. I don't know what happened to them, but in any event, they are good memories. Sometimes when I'm in the U.K. Parliament, there's still a couple of Campbell-Bannermans in there, and we connect and bond.

I always had politics in the blood, and so I wound up coming up to Ottawa in 1961. I studied political science at Carleton University. At that point, I really hadn't belonged to any political party. I observed everything quite closely, but Parliament wasn't on TV then. One of the reasons I came up here was I wanted to be able to go and watch it, which I did. John Diefenbaker had me in to try and prove that we were related because his mother's maiden name was Bannerman. That's a long story I won't go into.

I really respected Lester B. Pearson. I became a Liberal because of him. I wound up becoming president of the Carleton Liberals and then the national president, and then Keith Davey's right-hand guy at the headquarters. We went roaring from coast to coast every four or five weeks getting ready for the 1965 election. Keith would frequently take me to meetings that he'd have with Lester B. Pearson. You would not meet a finer man than Lester B. Pearson. He was such a lovely man. His father was a Methodist minister, that's United Church now.

He would refer to PKs, preachers' kids. Munson is one as well. Pearson would say, "We PKs, we got to stick together." One time we were out at the summer residence of the Prime Minister in front of the fireplace. He said, "There are quite a few PKs, but not that many double PKs." I asked what a double PK was. He said his father and grandfather. I said, "That's me." He said, "I know that's you. I know who your father and grandfather were. We're both double PKs, and we got to really stick together."

I remember on several occasions the Prime Minister would invite me in to watch World Series baseball games with him. Pearson would give you the batting average of every batter coming up before they'd announce it. He really knew it. He'd been at the Olympics.

Now, with reference to preachers, my two brothers are here, George and Bob. They're up there. You can just wave. They are my older brother and younger brother. They're both preachers, and evangelicals, but they're not like Donald Trump. They don't refer to 2 Corinthians. It's Second Corinthians. If you're following CNN, you'll get that one.

People would say to me, "Well, how come you're not a preacher?" My dad used to say that it was great to be a preacher, but only if you were called. I can honestly say I just never really felt the call. So I didn't become a preacher. I did feel a bit of a call to public life.

I did a BA in political science, and then I went off. I thought I'd better become a lawyer, so I went to Queens law school. The best thing that happened there was to meet my lovely wife, Heather. That was very nice. She's been a judge for over 33 years. She's a Chief Justice now of the Superior Court. I tease her. She doesn't like this joke. I'm the only guy in Ontario who could never get a fair divorce because there are 300 judges who issue them, and they all work for her. That's never going to happen. It was just a joke.

After graduating from Queens, I was called to the bar and started practising. Eight months later I was elected to the Toronto City Council and was hanging out with Brother Eggleton. He wound up mayor. I did run for mayor in 1978, but I lost, and then he won two years later. It's a long story, but in any event, 15 months later, I was elected an MP.

Serving in public life can be very satisfying if you have opportunities to improve people's lives. This did happen to me. Several people have mentioned this already, but I just can't resist.

Obstacles was a parliamentary report established in 1980. It dealt with disabled and handicapped persons. The year 1981 was the United Nations International Year of Disabled Persons. Mr. Trudeau asked for a report in 1981. So we went all across the country and heard from over 600 witnesses. I got some photographers and people from ad agencies in Toronto that I knew who donated their time, and some script writers who would sit down with these disabled persons, some with physical and

some with mental disabilities, and write the story of their difficulties. Then I had a whole bunch of photographs taken and filled the book full of photographs.

All the nursing schools, community colleges and high schools wanted them. Over 400,000 copies were printed. I asked for some more copies. The Speaker was then Jeanne Sauvé. She called me in. She said we couldn't afford to make more copies. I said, "Madam Speaker, most parliamentary reports are a cure for insomnia. Keep it by your bedside, and if you can't sleep, just start reading it. Suddenly all the high school kids and community colleges want copies, and you're saying no?" Boy, did she back down. So we printed lots more.

• (1450)

And, as you've heard, one of the results was that we were on the radar screen — and several people have referred to this — when the Charter was coming in. I've got it here, and I'll read section 15, the first draft:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age

And that's where it ended. So I started getting up to speak in the special caucuses on why we had to include "mental or physical disability." I'd give the speech and, of course, they're talking to all these bureaucrats in Justice and they're telling them all the problems, but I just wasn't giving up.

I remember we had caucuses in the West Block then. I'm walking back from the West Block to the Centre Block, and suddenly there's an arm around me and it's Allan J. MacEachen, your Nova Scotia colleague, a great hero, and he was deputy PM then. And he said, "David, you might be discouraged, but don't you give up. You are on the right side of this thing."

And you've already heard this story, but a couple of weeks later we had another caucus and I got it in. I was about two minutes into my speech and Pierre Trudeau stood up and said, "David, we don't need to hear it again. We're putting it in." As I said, I was a bucket of tears but they were tears of joy. In any event, that was very, very satisfying.

I then wound up being Minister of Small Business and Tourism, but you don't need to hear about all that. In 1984, when the government went down, I went down, and actually it was probably good that that happened because I got really serious about practising law and putting money in the bank, and we all have to do that sooner or later so that worked out fine.

After Jean Chrétien became leader in Calgary in 1990, he then wanted me to see him, so I went to see him. "So are you going to run for us in the next election?" I said, "Well, no." "Well, why

not?" I said, "Well, you know, the Bible says a wise farmer puts his grain in the storehouse in good years, and these are very good years and I'm putting grain in the storehouse." "Well, I knew you'd say something like that so your penalty is you chair the campaign." So I chaired these campaigns.

And Jim referred to this, but this was one of the funniest so I just can't resist repeating it. In Ontario, in that election of 1993, we won 98 out of 99 seats. That had never happened before. The seat we lost was Barrie by 120 votes. Chrétien always razzed me, "So, what happened in Barrie?"

Bill and Hillary Clinton were up here on an official state visit in 1994, and I'm at the head table and Chrétien brings me over, and he says, "Well, this is my guy who ran the campaigns, but in the last election he lost a seat in Ontario. We only won 98 out of 99." Bill Clinton said, "I'd settle for that. Can you come work for me in Washington? How about next Monday?" And he went on for two or three minutes. Chrétien never teased me about it again. But that was a memorable night.

Then he used to say, "So are you ready for the Senate?" "Well, not yet. Not yet. Not yet." You know, keep putting it in the storehouse. "Well, we need good people," and so I said, "Well, once I'm over 60 probably." So I came 14 years ago and I've never regretted it at all, and I have enjoyed it. I'll mention a couple of occasions that I remember a lot.

When Flora MacDonald passed away there was a big article in the *National Post*. It was a whole page about how she and I had, at the request of the Canadian Jewish Congress, gone over to the Soviet Union to try to persuade them that, under the Helsinki Accord, Jewish people who lived in the Soviet Union had the right to immigrate directly to Israel — not to other countries, but to Israel. And they weren't doing it and they were getting turned down, refused, and they were nicknamed "refuseniks."

We went over there for several weeks of meetings and we just kept at it. Then they started letting them go. And Abba Eban, who was then their foreign minister and had been the Israeli ambassador at the United Nations, had a big conference in Jerusalem that summer and he asked me to be the keynote speaker. And, you know, there are things that make you feel, "Gee, I'm glad I went into public life," and he started off by saying, "Canada made this happen. It was Canada." People who got out of the Soviet Union would come up and hug me, and when you do a few things like that you appreciate it.

Then another one was with Nancy Ruth. Are you sitting there, Nancy? Are you hearing me? We went over to see Gaddafi. I was asked by the Speaker if I'd go with this group to see Gaddafi, and I said, "I'll go, but we've got to get an assurance from the Libyan ambassador that we can have a meeting with the appropriate people on those eight Palestinian nurses who were under the death penalty because of all those 170 poor people who had died in that outbreak in Benghazi." They said we could and we did. And, about three months later, the wife of the President of France flew

down there on a jet and got them out. I think we made it happen. We sure contributed to it. And when you're able to do things like that, it makes public life worth going into.

Now what are all these notes? Oh, I've got a Margaret Thatcher story here. I did get to know her pretty well because, you see, when we amended the Constitution we had to amend the British North America Act, which was an act of the British Parliament. So there were a bunch of MPs giving her trouble over there, and Trudeau says, "I'm sending you over to London; you use all this Campbell-Bannerman stuff to meet with these guys." I had 44 different lunches and dinners in all the best restaurants and clubs in London trying to make them see the light. And I worked with Ms. Thatcher on it — she had me over to No. 10 several times — but it worked. They finally did see the light and we got it through.

Then, when Ms. Thatcher came over on a special visit, Mr. Trudeau assigned me to go to the airport in Toronto and meet her and go everywhere with her. I could tell you lots of Thatcher stories, but I won't start.

But the one thing she did say that I've never forgotten, and it made me proud as a Canadian, was, "You know, when you're at these G7, G8 meetings, whoever is President of the United States is always the most influential person there. But I have to admit, because I don't always agree with him, that on an intellectual plane your Mr. Pierre Trudeau is in a league of his own." Now you don't hear that from Margaret Thatcher too often. I will never, ever forget that, and she was very nice to me.

Now where am I? Okay, the Senate. Well, you all know about it. I don't need to persuade you that we know it's not going away. There are some people who think it might be abolished. Well, amending the Constitution to do that is mission impossible — seven provinces and four provinces from Atlantic Canada. Well, you know the math.

We want to make it work and work well, and we're here to see how we best fulfill our role. When they had the vote on whether to have a plebiscite, only one province — Alberta — even bothered having one, so it's not changing.

I have served in both the House of Commons and the Senate. They're different. It's fair to say that the work on committees in the Senate is, for the most part, a little better. I'm not criticizing the MPs because they've all got to roar back all the time for their constituents in a way that we don't to the same extent, but I think a senator is on a committee longer and the Senate committees, generally speaking, are very strong, and we should continue to do that.

And one thing I think we should do that we used to do more of — and I hope the leadership hears this — is have committees go across the country on specific issues and hear witnesses, which really helped the Senate connect with Canadians. I went on a number of those, and I think we should do more of that. I thought it was good, and I think that if that happens, it's really good.

• (1500)

Now, all this business about the changes around here, the new appointment system, will all sort of itself out in due course, I imagine. It's not that you don't have too many people that have political backgrounds. I think there always should be some. Sometimes I equate political instincts like an ear for music. If you're not born with an ear for music, you can go to a thousand symphonies and you will still sing out of tune. Sometimes I think political instincts are something that you're almost born with. Yes, I think it's good that we have people from a variety of categories, skills, ethnic groups and religions and that we maintain gender balance, but you've got to have some people who have that political instinct to make the thing work. Our current structure is a bit confusing. I'm never quite sure about the three separate caucuses, but hopefully it will work out because we have good people here.

There is one other thing I want to mention. I think that the culture these days of the House of Lords is something worth looking at as a model. I know that when Senator Carignan and I were in London, he was talking to these cross-benchers. I think that's good; I really do. Yes, I've been a lifelong Liberal in a way, but the older I get, the less partisan I get. It doesn't matter to me what party someone belongs to. It's the individual. You want good people in all parties. You need good people on both sides of the house. I think the less partisan we are, the better. The cross-bencher model is something that's good to think about. I will leave it at that.

I worked my guts out for 50 years for the party and then we got kicked out. I was a bit frustrated, but I kind of like the end result: free votes. I like free votes. I was quoting Martin Luther King Jr. who said: "Free at last!" Thank God I'm free at last! Who wants to be a whipped robot? Not me. I don't want to be a whipped robot. I think if it's less partisan, the better. We'll see how this system works out, but we've got good people here.

Finally, with respect to the political culture in this country — and I have a few American relatives here — if you watch CNN much these days, you hear about Lying Ted, Crooked Hillary and that sort of thing. As Canadians, we're not going to go down that nasty road where you say bad things about people. You want to get good people into public life. We need them. The more of that crap that they do down there, will good people want to get in there? No. As Canadians, we don't want to go down that road. We want to keep this country and this institution. We want to have a civilized democratic society. Let me say this: Let's keep it that way!

I'm going to miss you all. I wish you all the best. Continue to be the chamber of sober second thought. Amen!

Hon. Senators: Hear, hear!

VISITORS IN THE GALLERY

The Hon. the Speaker *pro tempore*: Honourable senators, I wish to draw your attention to the presence in the gallery of Myron van Dijk and Benjamin Vanlaar, students of the

[Senator D. Smith]

Dufferin Christian School, and Rudy Vangoor, a resident of Winnipeg. They are guests of the Honourable Senator Gagné.

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

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET IN CAMERA FOR THE PURPOSE OF ITS STUDY ON THE STEPS BEING TAKEN TO FACILITATE THE INTEGRATION OF NEWLY-ARRIVED SYRIAN REFUGEES AND TO ADDRESS THE CHALLENGES THEY ARE FACING

Hon. Jim Munson: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(a), I give notice that, later this day, I will move:

That, notwithstanding rule 12-15(2), the Standing Senate Committee on Human Rights be empowered to hold occasional meetings in camera for the purpose of hearing witnesses and gathering specialized or sensitive information in relation to its study on steps being taken to facilitate the integration of newly-arrived Syrian refugees and to address the challenges they are facing as authorized by the Senate on April 14th, 2016.

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

Hon. Senators: Agreed.

[Translation]

TRANS CANADA TRAIL

HISTORY, BENEFITS AND CHALLENGES— NOTICE OF INQUIRY

Hon. Claudette Tardif: Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to the Trans Canada Trail — its history, benefits and the challenges it is faced with as it approaches its 25th anniversary.

[English]

THE SENATE

ROLE IN THE PROTECTION OF REGIONAL AND MINORITY REPRESENTATION— NOTICE OF INQUIRY

Hon. Judith Seidman: Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to its role in the protection of regional and minority representation.

QUESTION PERIOD

BUSINESS OF THE SENATE

The Hon. the Speaker pro tempore: Honourable senators, pursuant to the motion adopted in this chamber on Thursday, May 5, 2016, Question Period will take place at 3:30 p.m.

[Translation]

DELAYED ANSWER TO ORAL QUESTION

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the answer to the oral question asked by the Honourable Senator Carignan, P.C., on April 14, 2016, concerning the Champlain Bridge.

TRANSPORT

CHAMPLAIN BRIDGE

(Response to question raised by the Honourable Claude Carignan on April 14, 2016)

The New Champlain Bridge will be a vital link to the City of Montreal and surrounding communities. The New Champlain Bridge Corridor Project is proceeding as planned, on time and on budget, with the bridge scheduled to be open in December 2018.

We will continue to work closely with our provincial and municipal partners to ensure that this vital infrastructure meets the needs of all of its users.

[English]

The Hon. the Speaker pro tempore: Honourable senators, could we be a bit quieter? There seems to be a lot of conversations. It was difficult to hear Senator Harder over the hum.

• (1510)

ORDERS OF THE DAY

DIVORCE ACT

BILL TO AMEND—SECOND READING— DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator McCoy, for the second reading of Bill S-202, An Act to amend the Divorce Act (shared parenting plans).

Hon. Anne C. Cools: Honourable senators, I rise to speak to second reading of my Bill S-202, An Act to amend the Divorce Act (shared parenting plans). Its short title is the “Shared Parenting Act.”

In divorce, children’s needs, meaning child support, child custody and access, are large problems for the spouses and the court. One such problem is the court’s need that both parents’ duties to the children be clearly defined. My four-clause bill will amend the Divorce Act to order divorcing spouses’ obligations to provide the court with parenting plans that set out each spouse’s authority and responsibility for the children’s care and upbringing.

Honourable senators, mindful that children need both parents emotionally and financially, for over a century the law has given large powers for their protection to our judges and superior courts.

The Divorce Act, section 11(1), reads:

(1) In a divorce proceeding, it is the duty of the court . . .

(b) to satisfy itself that reasonable arrangements have been made for the support of any children of the marriage and, if such arrangements have not been made, to stay the granting of the divorce until such arrangements are made;
. . . .

No reasonable child support arrangements, no divorce. That’s the law.

This section is absolute on the court's duty in child support payments but not so on the court's duty in child parenting. It has no equal court duty to stay the divorce if reasonable arrangements have not been made for the children's parenting. The Divorce Act ranks the court's duty in the monetary child support realm higher than its duty in the affectionate child parenting realm. This section needs an equal duty for the court to stay the divorce if reasonable arrangements have not been made for the children's parenting.

Honourable senators, my bill's clause 2 will correct this imbalance and give the court this missing duty. It will add a new subsection (a.1) after section 11(1)(a), to give the court the duty:

(1) (a.1) to satisfy itself that reasonable arrangements have been made for the parenting of any children of the marriage, having regard to their best interests, and, if such arrangements have not been made, to stay the granting of the divorce until such arrangements are made;

Bill S-202 will correct this injustice that has caused families incalculable pain. It will bring balance between the Divorce Act's financial parenting child support regime and its affectionate parenting, child custody access regime. It will allow the court to satisfy itself that the spouses have made reasonable arrangements for parenting their children, and if they have not, to stay the divorce until they do. This will harmonize the two distinct parental duties, the financial-monetary child support and the emotional-affectionate child parenting.

I ask colleagues to support this bill. I thank Senator Elaine McCoy, my seconder.

In Canada, public support for post-divorce shared parenting has been large since our 1998 Special Senate-House of Commons Joint Committee on Child Custody and Access, which travelled Canada and heard 500 witnesses. I served on it and had a large role in its creation.

Its 1998 report *For the Sake of the Children* recommended "shared parenting." From sea to sea, Canadians gave strong support to this committee's work and report and since then have awaited the promised correction of this cruel defect.

Honourable senators, in 1984, mindful that the previous decade had brought the provinces' family law reform acts that set out gender equality and sharing of the matrimonial home, assets and debts, Canadians then eager to share the children had expected a new divorce act.

That year, Liberal Justice Minister Mark MacGuigan introduced his Bill C-10, An Act to amend the Divorce Act, intending that his bill would bring gender equality in divorce, as in marriage, and that shared parenting would become the divorce standard. For this he employed the settled law, called the best interests of the child.

His bill died on July 4 by Parliament's dissolution for the September 4 federal general election. This brought in Prime Minister Brian Mulroney's Progressive Conservative government.

[Senator Cools]

New Justice Minister John Crosbie reworked Bill C-10, retaining its best interests of the child conceptual framework. In 1985, he brought his Bill C-47, the Divorce and Corollary Relief Act. This received Royal Assent on February 13, 1986. This act, as amended by Justice Minister Allan Rock's 1996 Bill C-41 on the Federal Child Support Guidelines, are largely the current Divorce Act. It uses the term "best interests of the child" twice in its custody orders, sections 16(8) and 16(10), and three times in its variation, rescission or suspension orders, sections 17(5), 17(5.1) and 17(9).

Called the "friendly parent rule" by lawyers, section 16(10) reads:

(10) In making an order under this section, the court shall give effect to the principle that a child of the marriage should have as much contact with each spouse as is consistent with the best interests of the child and, for that purpose, shall take into consideration the willingness of the person for whom custody is sought to facilitate such contact.

Honourable senators, scholar Minister MacGuigan had been the founding Dean of Windsor University's Faculty of Law and law professor at York University's Osgoode Hall and at the University of Toronto. He knew the law and pedigree of the best interests of the child in the Sovereign King's *parens patriae* in the law of equity in the British Lord Chancellor's Courts of Chancery and Equity. He used it to vest divorce's children with the superior courts' and judges' protection that is children's due.

By the enactment of Minister Crosbie's bill, the Divorce Act vested divorce's children with statutory rights, inherent rights to both their parents' financial and affectionate care. These two rights, like the parent-child bond, are inseparable. The child's first interest of its best interests of the child is that child's interest in its relationship with its own two parents, mother and father. Unsure that the term "shared parenting" would endure, Mark MacGuigan employed this phrase and its pedigree to achieve children's justice.

My bill follows his and Minister Crosbie's lead and also the 1998 report *For the Sake of the Children*, which recommended post-divorce shared parenting, with continuous and meaningful involvement of children with both their parents. These ministers' separate efforts gave us the 1985 Divorce Act that upheld gender equality in child support, child custody and child access.

This act's section 15(8), before its repeal, said:

(8) An order made under this section that provides for the support of a child of the marriage should

(a) recognize that the spouses have a joint financial obligation to maintain the child; and

(b) apportion that obligation between the spouses according to their relative abilities to contribute to the performance of the obligation.

My Bill S-202 uses the term “shared parenting” only in its title, and the phrase “best interests of the child” six times. I shall soon explain its pedigree in the British 19th century jurisprudence that shaped Canada’s 20th century welfare of the child approach.

Honourable senators, Canada enacted its first federal Divorce Act in 1968. Until then rare, difficult and costly, divorce proceeded by the old British Matrimonial Causes Act in all provinces except Quebec and Newfoundland, where divorce was by individual private bills in Parliament, right here.

Begun as petitions in this Senate, these private bills were debated and voted here, then adopted in the House of Commons, then given Royal Assent. Each divorce bill was unique to the couple identified by name in both their petition and private bill of divorce. These Parliament divorces ended in 1968.

• (1520)

Honourable senators, in 1996, Liberal Justice Minister Allan Rock introduced his Bill C-41 and its federal Child Support Guidelines, a wholly new child support regime that changed the MacGuigan-Crosbie gender equality model. Made legal as regulations and subordinated legislation, these guidelines weakened judicial independence and the judge’s role in setting child support quantum. These guidelines preordained child support amounts set out in calculation tables and were based solely on the income of the non-custodial parent, mostly fathers. Custodial parents’ — mostly mothers — income was not factored into these amounts, in the claim that custodial parents’ financial contributions were assumed.

These Federal Child Support Guidelines birthed both the pre-eminence of spouses’ financial duties over their affectionate parenting duties, and Divorce Act section 11(1)(b) on the court’s duty to stay the divorce if reasonable arrangements were not made for child support, as per the guidelines.

Honourable senators, our Senate then played a large role for fairness in these child support guidelines. Progressive Conservative Senator Jessiman and I, then a Liberal, fought for the children. We upheld their need for the financial and emotional support of both parents, both mothers and fathers. We held that divorce ruptures the spouses’ marital bond but not the enduring child-parent bond, and that Parliament never intended the Divorce Act to dispossess children of their parents or parents of their children. We upheld the birthright of children in the ancient common law of our sovereign Queen’s absolute Royal Prerogative power to protect children, known as the *parens patriae* in the law of equity.

In ancient Britain, the King had delegated this power to the most powerful judge after himself, the Lord Chancellor, who was the Keeper of the King’s Conscience and the Keeper of the Great Seal in his Courts of Chancery and Equity, in their unique jurisdiction for children. The Lord Chancellor later received the powers of the King’s ancient Courts of Wards and Liveries, by which the King owed to his knights fallen in battle his duty to protect their minor children, his wards and their estates, delivered to them on reaching the age.

Honourable senators, I will now speak to Canada’s Chancery and Equity Courts and their large powers for children. In 1837, Upper Canada, by its Act to Establish a Court of Chancery in this Province, created a British-type chancery court with powers to protect children. The act’s section II reads, at page 765:

. . . That the said Court shall have jurisdiction, and possess the like power and authority as by the laws of England are possessed by the Court of Chancery in England, in respect of the matters hereinafter enumerated, that is to say: . . . in all matters related to infants, idiots and lunatics, and their estates

Nova Scotia, by the way, also had a chancery court.

Later, the British, by their Supreme Court of Judicature Act, 1873, merged their common law, chancery and equity jurisdictions, thus vesting their superior and high courts with the chancery courts’ royal equity powers for children. This British 1873 act, at subsection 25(10) reads:

In questions relating to the custody and education of infants, the Rules of Equity shall prevail.

Jowitt’s Dictionary of English Law, 1959, volume 1, explains “equity” at page 726:

. . . equity acts in *personam*; equity acts on the conscience; equity will not suffer a wrong to be without a remedy; equity follows the law; equity looks to the intent rather than the form; . . . equity imputes an intent to fulfill an obligation; . . . delay defeats equities; he who comes to equity must come with clean hands;

Equity is conscience. Like the British 1873 act’s union of their chancery, common law and equity courts, my province in 1881, by its Ontario Judicature Act, also merged its courts, giving our high and superior courts and judges the chancery courts’ equity powers for children. Like the British, the Ontario Judicature Act subsections 17(9) and (10) said:

(9) In questions relating to the custody and education of infants, the Rules of Equity shall prevail.

(10) Generally in all matters not hereinbefore particularly mentioned, in which there is any conflict or variance between the Rules of Equity and the Rules of the Common Law with reference to the same matter, the Rules of Equity shall prevail.

Equity’s rules in conscience prevail. Once for children who owned property, and administered by the King as *parens patriae*, the law for children is ancient and true. *Black’s Law Dictionary*, sixth edition, defines this term at page 1114:

Parens patriae originates from the English common law where the King had a royal prerogative to act as guardian to persons with legal disabilities such as infants.

Jowitt's Dictionary of English Law, 1959, volume 2, also defines it, at page 1294:

The sovereign, as *parens patriae*, has a kind of guardianship over various classes of persons, who, from their legal disability, stand in need of protection, such as infants, idiots, and lunatics.

Honourable senators, the legal phrase “the best interests of the child” was set out in Britain’s Queen’s Bench Division, Court of Appeal, in its defining and stunning 1893 child protection judgment, *Queen v. Gyngall*. By their 1873 court merger, this court had received the *parens patriae* and the chancery court’s equity powers. In *Queen v. Gyngall*, the child barely knew her poor birth mother, ever unable to care for her. Much bounced around, this 15-year-old girl of delicate health was thriving in Ms. Gyngall’s care, training to be a teacher’s aide. She strongly resisted her mother’s efforts to reclaim her custody.

The judges talked with her. They ruled and they ordered her to Gyngall’s custody. The greater Lord Esher, Master of the Rolls, the highest judge after the Lord Chancellor, led this great judgment. About their jurisdiction, he wrote, at page 239:

But there was another and an absolutely different and distinguishable jurisdiction, which has been exercised by the Court of Chancery from time immemorial. That was not a jurisdiction to determine rights as between a parent and a stranger, or as between a parent and a child. It was a paternal jurisdiction, a judicially administrative jurisdiction, in virtue of which the Chancery Court was put to act on behalf of the Crown, as being the guardian of all infants, in the place of a parent, and as if it were the parent of the child, thus superseding the natural guardianship of the parent. The present case arises after the Judicature Act. . . . The effect of that Act is . . . not to invent a new jurisdiction or to create new rights, but to alter the mode of procedure; and, there having been before two independent jurisdictions, one common law and the other equity, the Act in effect provides that, if a person proceeds in the Queen’s Bench Division under the common law jurisdiction, and it turns out that the case raises questions to which the Chancery jurisdiction is applicable, the Queen’s Bench Division judges are not to send the suitor to a Chancery Court, but are to exercise the Chancery jurisdiction themselves.

Lord Esher said, at page 240:

In the case of *In re Spence* (1), Lord Cottenham, L.C., said: “I have no doubt about the jurisdiction. The cases in which this Court interferes on behalf of infants are not confined to those in which there is property. . . . This Court interferes for the protection of *infants*, qua infants, by virtue of the prerogative which belongs to the Crown as *parens patriae*, and the exercise of which is delegated to the Great Seal.”

Lord Esher added, at page 241:

How is that jurisdiction to be exercised? The Court is placed in a position by reason of the prerogative of the Crown to act as supreme parent of children, and must

exercise that jurisdiction in the manner in which a wise, affectionate, and careful parent would act for the welfare of the child.

Lord Esher continued, at page 242:

Then we have the case of in *Re McGrath* (2), in which Lindley, L.J., said: “. . . The dominant matter for the consideration of the Court is the welfare of the child. But the welfare of a child is not to be measured by money only, nor by physical comfort only. The word ‘welfare’ must be taken in its widest sense. . . . Nor can the ties of affection be disregarded.” The Court has to consider, therefore, the whole of the circumstances of the case, the position of the parent, the position of the child, the age of the child, the religion of the child . . . , and the happiness of the child.

Honourable senators, Lord Justice Kay noted, at page 247:

. . . Lord Hardwicke, professing not to go upon guardianship and disclaiming wardship, puts it upon this: that the Court represents the King, as *parens patriae*.

Adding, at page 248:

This statement of the jurisdiction shews that, arising as it does from the power of the Crown delegated to the Court of Chancery, it is essentially a parental jurisdiction, and that description of it involves the main consideration to be acted upon in its exercise is the benefit or welfare of the child.

The Hon. the Speaker: Senator Cools, I regret that I have to interrupt you. You will have the balance of your time when debate is resumed after Question Period.

(Debate suspended.)

QUESTION PERIOD

Pursuant to the order adopted by the Senate on December 10, 2015, to receive a Minister of the Crown, the Honourable Amarjeet Sohi, the Minister of Infrastructure and Communities appeared before Honourable Senators during Question Period.

The Hon. the Speaker: Honourable senators, pursuant to the order adopted on December 10, 2015, the Honourable Amarjeet Sohi, P.C., M.P., Minister of Infrastructure and Communities, is with us today to take part in proceedings by responding to questions relating to his ministerial responsibilities.

• (1530)

As was the case in past weeks, I would ask colleagues to limit themselves to one question and, if necessary, at most one supplementary. This will allow as many senators as possible to take part in Question Period.

On behalf of all senators, welcome, Minister Sohi.

[Translation]

MINISTRY OF INFRASTRUCTURE AND COMMUNITIES

MONTREAL—LIGHT RAIL

Hon. Claude Carignan (Leader of the Opposition): Minister, thank you for being here with us. My question is on the light rail system being proposed by the Caisse de dépôt et placement du Québec for the Montreal area. It would be the largest public transit infrastructure project undertaken in Montreal since the metro was built 50 years ago. Last week, the senior vice-president of the branch of the Caisse de dépôt et placement du Québec responsible for infrastructure, Macky Tall, said that in order for this project to be completed by 2020, the federal government must confirm its involvement in the project before the end of the year.

Minister, my question is the following: Have you met or are you going to meet with Quebec's Minister of Transport, Sustainable Mobility and Transport Electrification, Jacques Daoust, to discuss this project?

Will the federal government be able to confirm its involvement in this project by the end of this year, as required? Given that we are talking about the Caisse de dépôt et placement du Québec, I know that you can negotiate directly with the Caisse without having to wait for Minister Daoust's opinion on the matter.

[English]

Hon. Amarjeet Sohi, P.C., M.P., Minister of Infrastructure and Communities: Honourable senators, first of all I just want to convey my deepest appreciation to all of you for allowing me to be here. This is a very special moment for me to be among you and in front of you to talk about my department and the infrastructure and communities portfolio.

I do want to acknowledge that the work being done in this house by honourable senators really strengthens the delivery of the infrastructure commitments that we have made to Canadians. We're looking forward to working with you to deliver on our commitments, so thank you very much for giving me the opportunity to be here.

I had the chance to meet with Mr. Sabia, who is the project proponent on behalf of Caisse de dépôt. This is one of the most innovative and creative projects that I have seen in my short while in this portfolio, and it will be transformative for the region of Montreal.

I had the chance to meet with three of my provincial counterparts last Friday when I was in Montreal, as well as Mayor Coderre of Montreal and the Chamber of Commerce. We are working very closely with the province to support the expansion of light rail transit in the region of Montreal. Under phase one funding in our infrastructure plan, we have allocated \$775 million to the region of Montreal, and that money will enable the Caisse de dépôt project to move ahead by allowing them to use some of the money for design and planning work, as well as the blue line extension in Montreal.

Our timing for the second phase of the infrastructure funding, which is the long-term phase, aligns with the Caisse de dépôt's plan to have this project at a procurement stage by the end of this year, and we are working very closely with them. I see this as a great opportunity for us to support innovation in the delivery of infrastructure, because we do need to engage public sector pension funds, as well as private sector funds, to make sure the amount of infrastructure that we build across the country engages other stakeholders and partners. We will continue to work with them. Thank you.

PRINCE EDWARD ISLAND—CONFEDERATION BRIDGE TOLL

Hon. Percy E. Downe: Minister, thank you for being here today. I noticed in your mandate letter that you have responsibility for infrastructure that would increase trade and economic growth across Canada, and I also see you have responsibility for the toll-free replacement for the Champlain Bridge, and that leads me to Confederation Bridge in Prince Edward Island.

When Prince Edward Island joined Confederation, Canada made a promise of continuous communication to the mainland, so over time the ice boats were replaced by the ferry service, and the ferry service was replaced by Confederation Bridge.

Prince Edward Islanders agreed to a toll on Confederation Bridge, which cost \$1 billion to build, because at the time the Government of Canada had a user-pay policy for all major infrastructure projects. Your government, however, changed that policy and announced that the new \$5 billion replacement for the existing Champlain Bridge will have no tolls, even though they had tolls up until 1990. In the interests of treating all Canadians equally and fairly, what relief is your government proposing on the current \$46 per-trip toll that islanders have to pay on Confederation Bridge?

Hon. Amarjeet Sohi, P.C., M.P., Minister of Infrastructure and Communities: Thank you for your question, honourable senator. First, I'll answer your question about the focus on trade and transportation and a major infrastructure corridor.

As you may recall, the Prime Minister has given me a mandate, and one part of the mandate is to refocus the existing Building Canada Fund towards trade and transportation corridors.

I am working very closely with my colleague, the Minister of Transport, to realign some of the resources from the Building Canada Fund, particularly the national component of the fund, to

focus on trade and transportation corridors because we believe in growing our trade. We believe in expanding our economy and making our economy more productive and efficient, so we have to have investment in that area.

On your second question related to the new toll-free Champlain Bridge in Montreal, the bridge that we are building is a replacement. It is not a new bridge. The bridge that already exists needs to be replaced. The reason we are committed to not having a toll on the new Champlain Bridge is that the current one does not have a toll.

As for the Confederation Bridge, it is a federally owned asset, and the agreement with Strait Crossing Bridge Limited goes until 2032, and under that operating agreement the bridge operator has the authority to amend the tolling structure and rates. Transport Canada's only role with respect to tolls on the Confederation Bridge is to review annual changes to the tolling structure and the rates to ensure that they are compliant with the provisions of the agreement.

The distinction that I make is that one was a new structure where there was no bridge before, and the other is a replacement for an existing structure. Thank you.

Senator Downe: Thank you for the comments, minister, but I think if you read my question, you'll see I talked about a replacement bridge as well.

Confederation Bridge is a replacement for the ferry service. Canada made a commitment to Prince Edward Island and to Prince Edward Island residents for continuous communication, which has been interpreted by the courts to be an evolution of transportation. We went from ice boats in the winter to the ferry service to the technology to build a bridge, so it's a replacement. More important, it's honouring the commitment Canada made to Islanders to get us to join Canada.

• (1540)

What we need from you, minister, is some of that infrastructure money for an existing infrastructure project to increase trade and economic development in Prince Edward Island.

You're quite correct that the contract was signed with a private company for 35 years, but there are a couple of options your government could consider. The bridge has been constructed to last 100 years. If the contract was extended by the Government of Canada and it paid the subsidy that is now going to the company for another seven years, tolls would fall in half overnight. If you extend it by 20 years, tolls would disappear.

The other possibility is that the Government of Canada has targeted tax measures for people in all parts of Canada. It might be possible for Prince Edward Islanders to save their receipts and to claim them on their income tax, as other Canadians do in specific tax areas, if the toll was eliminated. If you don't pay taxes, you get a cheque for the amount. But we need you and your infrastructure funding to address this change in policy that your

government has implemented when you announced that the replacement bridge would not have tolls, even though the bridge it is replacing used to have tolls. Would you consider that, minister?

Mr. Sohi: Thank you, honourable senator. I want to touch on the changes we have made to the Building Canada Fund to help the Atlantic provinces. As you may recall, under the New Building Canada Fund, there were restrictions for which road projects the Building Canada Fund can be used for.

In discussions with my counterparts in Atlantic Canada, we came to know that the vast majority of the infrastructure dollars allocated to the Atlantic provinces were not being used because of those restrictions. We have removed those restrictions. That will free up hundreds of millions of dollars for the Atlantic provinces to use for roadway infrastructure. Where that money goes is a decision made by the provinces, not by the federal government. They will determine their priorities. If a particular province wants to use those resources for the expansion of the roadway system or replacement of the existing structures or any other way they feel they need to allocate those resources, they'll be able to do so.

As far as the Confederation Bridge is concerned, I understand that the contract is in place until 2032. I know this is an area that Minister Garneau is responsible for, but as I said earlier, I understand and appreciate the concerns. The decision not to toll the Champlain Bridge is because it's a replacement structure, as well as there was no consultation done with the area's municipalities, the business community or the residents who would have paid this toll. That is the reason we have committed to not having a toll on the Champlain Bridge.

NEW BRUNSWICK—INFRASTRUCTURE COMMITMENTS

Hon. Carolyn Stewart Olsen: Minister, a \$90.4 million upgrade at Greater Moncton's wastewater treatment centre is awaiting a federal letter of support from you. The Greater Moncton Wastewater Commission began this project in 2015, assuming that Building Canada Fund infrastructure funding would be available.

These upgrades are essential for the health of the Petitcodiac River and the local population of Atlantic salmon. Without federal support, the company can't secure matching provincial funding or costing for equipment and subcontracting services, which could create many much-needed jobs in New Brunswick, especially with our people returning from Fort McMurray and jobless.

Minister, would you commit to immediately reviewing this file and showing New Brunswickers that your government's infrastructure promises are more than just smoke and mirrors?

Hon. Amarjeet Sohi, P.C., M.P., Minister of Infrastructure and Communities: Thank you, honourable senator. I assure you that we are committed to delivering on the commitments we made to Canadians. We have committed to invest \$60 billion of new money: \$20 billion in public transit, \$20 billion in social infrastructure, which is about affordable housing, building shelters for women fleeing domestic violence, daycare facilities,

[Mr. Sohi]

cultural and recreational facilities to build the capacities of the individuals to contribute their communities; as well as \$20 billion for green infrastructure such as water and wastewater infrastructure, which includes flood mitigation, and also the impact of climate change on our communities.

I am well aware of the project you are referring to, and these are the projects we will fund under our water and wastewater infrastructure plan that we recently announced in Budget 2016. It is a \$2 billion commitment over the next three years that we are investing in water and wastewater infrastructure.

I have sent out letters to all of my provincial and territorial counterparts to sign bilateral agreements so we can quickly start that money flowing into building the kind of infrastructure you are talking about, and we are hopeful that within the next month we will be able to sign those bilateral agreements. The sooner we sign them, the sooner we can start approving such projects.

Senator Stewart Olsen: Minister, are you saying that you have sent out a letter for this wastewater project?

Mr. Sohi: I can't give you the particulars of what stage it is at, but it is a project that is under consideration by my department. These are the projects we would like to fund under the new \$2 billion fund.

If you wish, I can get my staff to share with you at what stage this particular project is. But the message that I want to convey to all honourable senators is that we made a commitment to invest in water and wastewater infrastructure, to make sure that municipalities are able to comply with the federal regulations by 2020. That is the deadline and that is the reason we have committed to invest \$20 billion in green infrastructure, which includes water and wastewater.

NUNAVUT—NORTHERN INFRASTRUCTURE

Hon. Dennis Glen Patterson: Mr. Minister, I come from the Nunavut territory, which has no highways between communities and no road link to Southern Canada. Infrastructure in Nunavut is sorely needed to boost the mining sector, and our economy relies on mining.

Your department and government has loudly identified municipal transit infrastructure as a priority. We hear a lot of talk about shortening commuter times in the major urban centres, which I do understand, but major infrastructure and transportation in the North are also severely lacking and hamper, I believe, Canadian economic growth and the assertion of sovereignty.

Is your government prepared to invest in the development of core infrastructure needs in the North?

Hon. Amarjeet Sohi, P.C., M.P., Minister of Infrastructure and Communities: Thank you so much for your question, honourable senator. Yes, we are committed to supporting northern

communities in their very diverse needs for road infrastructure, for making sure that we are untapping the potential in the North for resource development, as well as for housing needs, because there are different needs and the construction seasons are different in northern communities.

We have made changes, again, listening to our counterparts in territories and northern communities. The changes will allow them to use the existing Building Canada Fund, which they didn't have access to for the last two construction seasons. Then, again, this few hundred million dollars has become available particularly for the territories to use.

• (1550)

In this budget, we have committed to providing additional resources to northern communities in the area of housing, as well as in some of the other areas, to enhance nutrition in Northern Canada, to support the isolated communities in the North, as well as the \$177.7 million for the Affordable Housing Initiative; \$8 million for Yukon; \$12 million for Northwest Territories; and \$76.7 million for Nunavut. So we are committed to doing so and the area that you have identified, sir, is very important, tapping the resource development. We are working with the leaders in those provinces, whether it's the Ring of Fire issue, whether it's the resource access in the territories. So we are working very closely with provinces in order to support them, but we will also engage the private sector, which will actually be investing money. So we are looking for private sector partnerships in the resource development.

Senator Patterson: Thank you for that answer, minister.

We also have needs like wastewater infrastructure, and I heard you say that you were aware of an important project in New Brunswick. I'm wondering, if I may dare to ask: Are you aware of the wastewater infrastructure proposal from the capital city of Iqaluit, in Nunavut?

Mr. Sohi: You are testing my memory. What I would say is that, recognizing the unique needs of smaller provinces and the territories, the way we are designing our infrastructure plan for water and wastewater is to ensure that each province and territory gets a base level of funding.

So for the first phase, the \$2 billion is the overall allocation for Canada. Then, within that, each province and territory will get \$50 million for the first two years. On top of that will be the allocation based on population.

So those provinces who would not have done well under the population allocation-based funding will do better under the allocation that we are proposing under water and wastewater. That \$50 million will definitely allow smaller provinces and the territories to do the necessary work that they need to do in water and wastewater. On your particular project, we will get back to you if that project is under review. If it is not, we will ask the province what stage they are at in order to bring that forward to us, and we are moving ahead on signing bilateral agreements with all provinces and the territories.

SASKATCHEWAN—INFRASTRUCTURE FUNDING

Hon. Denise Batters: Minister, the Trudeau government is giving Saskatchewan less than 1 per cent of the public transit infrastructure fund money promised in the 2016 budget, even though Saskatchewan has 3 per cent of Canada's population.

Even at that, this money is only for public transit, not one dime for Saskatchewan's roads or highways, the lifeblood of economic activity throughout our province. The Trudeau government has failed to move on pipelines to get our energy products to market. It's failing to fund improvements in Saskatchewan's road infrastructure, so it's failing Saskatchewan's communities.

Now, as a former teacher, surely our Prime Minister should understand that an E for effort just doesn't cut it. He's getting Fs all around. Minister, when will this Trudeau government pony up and give Saskatchewan its fair share of the infrastructure funding that our province needs?

Hon. Amarjeet Sohi, P.C., M.P., Minister of Infrastructure and Communities: Once again, honourable senator, thank you so much for your question. The first thing I did when I took over this portfolio was to reach out to my provincial and territorial counterparts. One thing that we heard from Saskatchewan was their ability or their inability to use the existing Building Canada Fund that they were allocated in 2014.

So we have allowed them to use that fund by making changes to the Building Canada Fund. So we are delivering on the commitment. We are delivering on behalf of provinces, regardless of the party affiliation.

Infrastructure is not about partisanship. Infrastructure is about building communities that we all desire to live in. It is about building safe, sustainable, inclusive and welcoming places.

My relationship with the Province of Saskatchewan is very positive, and we are building a strong partnership with them. As far as the allocation of transit funding is concerned, it is based on the ridership of the transit systems. It is not based on the population of transit systems or the population of the provinces. Had we done population-based allocation for transit and for water and wastewater, then maybe the province of Saskatchewan would have received less. So that is why, in order to balance them receiving less money under the public transit system, we have created a system where they receive more money under the water and wastewater system. But, when you combine both of them together, each province and territory basically receives the same amount of money they would have received under their population-based allocation. So we are trying to be fair, as much as possible, recognizing that transit needs are more prevalent in big cities, but water and wastewater, housing, recreational, culture needs are widespread throughout the country. In some cases, they are more prevalent in the rural and smaller communities where they didn't have the resources in the past. So we try to allocate our resources based on need and also apply the lens that, overall, all provinces should be getting their fair share.

So if you look at the combined water and wastewater and transit, the Province of Saskatchewan is receiving resources based on its population.

[*Translation*]

NEW BRUNSWICK—ALLOCATION OF PUBLIC TRANSPORTATION FUNDING

Hon. Percy Mockler: Minister, the people of New Brunswick are concerned.

[*English*]

In New Brunswick and in Atlantic Canada, we are very concerned. My question has to do with the funding in the federal budget for public transportation. As you well know, it will be allocated to provinces and territories based on their percentage of the national public transit ridership. This way will favour cities that already have well established infrastructure, while growing communities with less developed public transit will be penalized.

My question, minister, is: Why was that decision taken to allocate the funds this way when it clearly disadvantages smaller communities across Canada with underdeveloped public infrastructure, especially in New Brunswick and Atlantic Canada?

Hon. Amarjeet Sohi, P.C., M.P., Minister of Infrastructure and Communities: Thank you so much, honourable senator, for your question. The first phase of the infrastructure plan focuses on repairing what we have. So it's focused on replacing the tracks, replacing buses, replacing the transit centres or, in the area of water and wastewater also allowing new projects to be built.

Within that, we are also creating flexibility for municipalities to plan for the long term, plan for the next 10 years of needs in those particular areas. But I will also state that, when you look at the number of municipalities that will receive funding under the transit plan, it is a much larger number than municipalities who received funding under the transit plan under the previous program, right?

So we are actually expanding our support to smaller, mid-sized cities that have not received transit funding in the past. Now, they will receive that transit funding, and we will create flexibility in our long-term plan for municipalities or smaller communities who want to expand their transit system, who want to start new transit systems in the future.

• (1600)

The focus for our first phase is to fix what we have, allow design work, allow planning work and allow asset management practices, where they actually look at the assets they own and how to maintain those assets. Again, we're trying to balance the need by having \$2 billion for water and waste water infrastructure plans, where smaller provinces end up getting more money than the bigger provinces and cities based on the population of those municipalities and communities.

ALBERTA—CLEAN UP OF INACTIVE
OIL AND GAS WELLS

Hon. Betty Unger: Minister Sohi, I asked you this question at the Transportation Committee last week but did not receive an answer. I'm asking today, hoping that you will answer it today for all Albertans.

Prior to the budget being tabled, there was a clear request from many sources that your government include \$500 million in infrastructure money to clean up inactive oil and gas wells in Alberta. There are more than 75,000 abandoned wells across the province that need to be decommissioned. This would give several hundred shovel-ready jobs to desperate workers and a much-needed boost to an ailing industry. Here is an opportunity that would yield instant results for the economy and create long-term environmental benefits, but your government will not respond.

I'm asking again why your government will not support this initiative and whether you, as Minister of Infrastructure and Communities and as a member of Parliament from Edmonton, will commit today to go back to your Minister of Finance and ask him to reconsider his decision not to provide this much-needed help.

Hon. Amarjeet Sohi, P.C., M.P., Minister of Infrastructure and Communities: Thank you so much, honourable senator, for your question. The particular file you're referring to is not within my portfolio; it is within the portfolio of the Minister of Natural Resources. His department works with the energy sector and looks at proposals coming from the energy sector.

I would like to convey how my department is supporting Alberta. We committed to fast-track \$700 million for infrastructure that were committed to Alberta in 2014 because we recognize that Albertans need help. People in Atlantic Canada who are affected by the energy sector need help. People in Saskatchewan who are impacted by the downturn in the resource sector need our help.

We committed to fast-track \$9 billion of the existing funding, which would have been spent over ten years, within the first three years. Every province that has experienced decline will be able to tap into those resources.

Further to that, we are committing an additional \$12 billion in the next two to three years to help build new infrastructure under my portfolio, which does not include billions and billions of dollars for indigenous communities. It does not include almost \$2 billion for post-secondary infrastructure. It does not include \$500 million for Internet access for rural communities. We are here to work with each and every province and each and every community.

Our relationship with each province is getting better and better. We are so close to signing those bilateral agreements that we will start delivering money in this construction season, along with the money that should have been invested in the 2014 construction season and the 2015 construction season. Combined, that money will make a real difference to the lives of Albertans. It will make a real difference to the lives of people struggling in Atlantic Canada

or Saskatchewan or other parts of the country. We're here to build infrastructure because we understand how critical it is to not only grow our economy to make it more productive and efficient but also to tap the potential of people who are unable to fully participate in community life by providing them opportunities with investment in social infrastructure. That is my department's focus.

Senator Unger: Minister, will you commit to advocating for Albertans to the Minister of Natural Resources on this issue?

Mr. Sohi: Our government advocates on behalf of all Canadians. Being from Alberta and being the Minister of Infrastructure and Communities as part of this government, it is my responsibility to advocate on behalf of Albertans, as well as on behalf of all Canadians under this portfolio. We will continue to do so, and we are doing so. As you know, my province has been going through a very difficult time for the last week and a half.

The way in which Canadians have stood with Alberta is remarkable. It makes me so proud as a Canadian to see the outpouring of support from one part of the country to another and the compassion and the care that Canadians have shown for the people of Fort McMurray. This is what makes us strong as a nation. This is what really inspires us to stand shoulder to shoulder with each other in times of need. We are doing that for Alberta. We will do that and we have done that for other parts of the country. We will continue to advocate on behalf of all Canadians, including Albertans who need our support today. We will stand with them not only today but also tomorrow and well into the future as we work together to rebuild the community of Fort McMurray.

INFRASTRUCTURE BANK

Hon. Paul E. McIntyre: Minister, my understanding is that it is the intention of your government to set up an infrastructure bank. The bank would allow the provinces and municipalities to borrow using the federal government's lower interest rate. This is fine if everything goes well. However, if things go wrong, there's a risk involved. As you know, these banks would transfer the risk to the taxpayer, as they are seen as the guarantors of any cost overruns or late delivery of the products. How will you justify the huge cost to Canadian taxpayers when projects go over budget and add even more to the deficit?

Hon. Amarjeet Sohi, P.C., M.P., Minister of Infrastructure and Communities: Honourable senator, thank you so much for that question, because you touch on something that I am aware of and we all need to be aware of.

The concept of the infrastructure bank is to build the capacity of communities where they don't have the capacity to match their share of the one-third funding. In phase 1, we will contribute 50 per cent to the project cost instead of one third. That will relieve some of the pressure on smaller communities and municipalities.

But we need to tread very carefully as we design the infrastructure bank because we want to make sure that if we take that path, we are mitigating the risks that you have

identified. We're engaging private sector experts as well as other people familiar with the concept who can help us design the infrastructure bank to achieve the desired results of developing the capacity of local communities to build the needed infrastructure and to tap private sector investments and public pension investments, and do it in a way that's responsible and does not put Canadian taxpayers at risk. We will be treading very carefully.

• (1610)

We haven't moved forward on this file yet to answer those kinds of questions, but you have flagged something that we are aware of. Thank you so much for that.

The Hon. the Speaker: Honourable senators, the time for Question Period has expired. I would like to, on behalf of all honourable senators, thank Minister Sohi for being here today; we look forward to having you here again sometime in the near future. Thank you, Minister Sohi.

ORDERS OF THE DAY

DIVORCE ACT

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator McCoy, for the second reading of Bill S-202, An Act to amend the Divorce Act (shared parenting plans).

Hon. Anne C. Cools: Thank you, Your Honour. I would also like to thank the minister for coming before us and for presenting so earnestly.

Honourable senators, as I was saying on my Bill, S-202, this 1893 case, *R v. Gynghall*, set the stage for the 20th century's enriched legal-judicial welfare of the child treatment of children as young, fully human beings with their own needs separate and distinct from their parents'. For the world and humanity, Lord Justice Kay stated the established and most famous words ever on the law for children, that, at page 252:

. . . , the superintending power in respect of infants, which Lord Eldon said the Court of Chancery had always exercised by delegation from the Crown as *parens patriae*,

must be exercised as the Court may think for the best interests of the child.

This is where that phrase comes from, colleagues.

Honourable senators, Ministers MacGuigan and Crosbie put the term, "the best interests of the child," and its pedigree into our *Divorce Act* lexicon to express the curial-judicial power to protect divorce's children, a power delegated to the courts by the Crown as the *parens patriae*. That the child is a complete human person with its own needs and rights is our law.

It is a common mistake to unite the child's interests with one or both parents', and a common sin to unite the child's interests with the mother's. In the late 19th century, the Lord Chancellor's courts advanced child welfare. Children, then seen as small adults, worked in dirty, dangerous factories. In Toronto in the 1890s, as child welfare was emerging, one writer noted that on one night, on one street, he counted 700 children — ragamuffins, street urchins, street arabs — begging and scrounging.

Those were the terms that once were used for indigent children. I remember when my mother got angry with us, she called us, "You ragamuffins."

Ministers MacGuigan and Crosbie enshrined children's positive rights in the Federal Divorce Act as distinct from the provincial child protection laws. At the forefront of putting children's rights into law, these ministers knew that the only federal legislation on children's rights were the *Divorce Act* and the then Young Offenders Act, formerly the Juvenile Delinquents Act and now the Youth Criminal Justice Act.

As its own person, the child has unique needs which include adult parental care. The child's disabilities are privileges that vest adults with duties to them. A vulnerable, separate being, the child needs the love and care of its two parents, which care is united in both the financial and affectionate spheres. The term "the best interests of the child" is not poetry. It is not just poetic. It is the term of a "judicially-administrative jurisdiction" that is administered by judges in courts.

Honourable senators, I now come to the defining American judgment in the New York Court of Appeal 1925 case *Finlay v. Finlay*. Here, Justice Benjamin Cardozo applies *Queen v. Gynghall*, writing at page 938:

The jurisdiction of a state to regulate the custody of infants found within its territory does not depend upon the domicile of the parents. It has its origin in the protection that is due to the incompetent or helpless.

Justice Cardozo invoked the Lord Chancellor's common law and equity jurisdiction in *Gynghall*, at page 940:

The chancellor in exercising his jurisdiction upon petition does not proceed upon the theory that the petitioner, whether father or mother, has a cause of action against the

[Mr. Sohi]

other or indeed against anyone. He acts as *parens patriae* to do what is best for the interest of the child. He is to put himself in the position of a “wise, affectionate, and careful parent” (*Reg. v. Gyngall*, *supra*), and make provision for the child accordingly. . . . He is not adjudicating a controversy between adversary parties, to compose their private differences. He is not determining rights “as between a parent and a child,” or as between one parent and another.

Justice Cardozo cites equity at page 940:

He “interferes for the protection of infants, *qua* infants, by virtue of the prerogative which belongs to the Crown as *parens patriae*.” . . . The plaintiff makes no pretense of invoking this paternal jurisdiction. . . . He invokes the jurisdiction of a court to settle a dispute. Equity does not concern itself with such disputes in their relation to the disputants. Its concern is for the child.

Equity’s concern is the child. These two judgments, *Gyngall* and *Findlay*, clarified the law that the superior and high court judge’s duty is not to adjudicate or settle disputes and differences between the parents. Their duty is to protect the child and decide the best interests of the child in the circumstances.

Honourable senators, shared parenting allows the child to have the benefit of the affectionate bonds of both parents. For the best interests of the child, shared parenting must be part of the divorce process. My Bill S-202 will achieve this. It will amend the Divorce Act section 11 to correct this known defect that enlists the full coercive powers of the state to enforce the child support monetary financial sections of the Divorce Act but orders no equal power to enforce their affectionate child parenting duties.

Parents owe children both duties. Parents’ affectionate duties to their children are not inferior to their monetary payments duty. No statute can rank one higher or lower than the other, particularly when both duties are joined, in the law, in the best interests of the child. This Divorce Act imbalance is an imbalance in justice.

Honourable senators, we must strengthen the judges’ powers. In recent years, misunderstanding had arisen about “the term best interests of the child.” For example, the Supreme Court of Canada 1993 judgment *Young v. Young*, where Madame Justice L’Heureux-Dubé dissented. About access parents, mostly fathers, she said, at page 7:

The role of the access parent is that of a very interested observer, giving love and support to the child in the background.

About custodial parents, mostly mothers, she said, at page 41:

The need for continuity generally requires that the custodial parent have the autonomy to raise the child as he or she sees fit, without interference with that authority by the . . . non-custodial parent.

About non-custodial parents, mostly fathers, she mused, at page 47:

. . . , the non-custodial spouse with access privileges is a passive bystander who is excluded from the decision-making process in matters relating to the child’s welfare, growth and development.

About men, she mused, at page 49:

. . . men as a group have not yet embraced responsibility for child care.

Colleagues, these words jolt and shock the sensibilities.

In his 1995 article in the *Supreme Court Law Review*, “In the best interests of the child,” Queen’s University professor Nicholas Bala wrote on the case *Young v. Young*.

About this judge, he said, at page 455:

Justice L’Heureux-Dubé . . . wrote a lengthy dissenting judgment in which she emphasized that the best interests of the child are served by protecting the position of the custodial parent

He said, at page 461:

As in her 1992 spousal support judgment in *Moge v. Moge*, she offers an explicitly feminist analysis, discussing social science literature about gendered child care roles in marriage and after separation.

Equity only knows the law, conscience and the best interests of the child. It knows no feminist analysis, nor that non-custodial parents, mostly fathers, are bystanders in their children’s lives. As law in equity, the best interests of the child is not open to judges’ private musings. The jurisprudence is clear that the judges’ concern is for the child, not the parents’ quarrel nor their gender roles.

Justice Sopinko said the opposite, that, at page 15:

The best interests of a child are more aptly served by a law which recognizes the right of that child to a meaningful post-divorce relationship with both parents. The “rights” must be distributed between the custodial and the access parent so as to encourage such a relationship.

Honourable senators, now to the June 27, 1991, judgment in the Ontario Court General Division in *Oldfield v. Oldfield*. About the father’s good relationship with the children, Justice Robert Blair wrote, at page 237, paragraph 5:

That this is a loving and caring relationship is apparent. Clearly, it is “in the best interests of the children” to see that that relationship continues. If they are allowed to go, it is

equally obvious that the nature of his access relationship will change.

This is a case where the mother wished to move their children with her to France to marry her old boyfriend. On her plan to remarry and live there, Justice Blair wrote, at page 238, paragraph 6:

Is it “in the best interest of the children” to make an order which effectively defeats this prospect and leaves them in the daily care of a mother who loves them dearly but who is shackled by her discontent?

• (1620)

Allowed to, she moved the children to France, but the marriage never happened. Consequently, the father’s child support payments were increased to finance the children’s trips to Canada to visit him. Justice Blair said, on February 10, 1995, said, at paragraph 18:

Someone has to pay for their passage. The reality is that it cannot be Ms. Marechal alone, given her limited income and the discrepancy between her income and that of Mr. Oldfield. I have come to the conclusion, in the circumstances, that the costs of their travel to and from Canada must be factored in to the overall expenses of their upkeep.

My bill will support the judges who need clear laws. Sadly, for years, family and divorce law were afflicted by ideological gender warfare. I would say that ideological gender warfare in those days reached the stage of pathology. Though all know that family relations in divorce are ever delicate. Very clearly divorce is not a good forum for ideological warfare or fighting.

Honourable senators, Bill S-202’s clause 4 will amend the Divorce Act section 16 to add a new section 16.1 on parenting plans, those being 16.1(1) to 16.1(7) — seven subsections. These state the principles that divorcing spouses’ parenting plans must contain. I shall read them partly.

Proposed subsection 16.1(1) states that:

(1) . . . “parenting plan” means a plan that sets out, in whole or in part, the responsibilities and authority of each spouse with respect to the care, development and upbringing of a child of the marriage

My proposed subsections 16.1(4)(a), (c), (d), (e) and (g) state:

(a) the purpose of the plan is to serve the best interests of the child as determined by reference to the condition, means, needs and other circumstances of the child; . . .

(c) the dissolution of the parents’ marriage does not alter the fundamental nature of parenting, which remains a shared responsibility, nor does it sever the enduring nature of the parent-child bond;

(d) the child has the right to know and be cared for by each parent, including the right to have a personal, meaningful and ongoing relationship with each parent and to maintain direct contact with each parent on a regular basis;

(e) the child has the right to spend time with, and communicate with, other persons with whom the child has a significant relationship, such as grandparents and other relatives; . . .

(g) each parent retains authority and responsibility for the care, development and upbringing of the child, including the right to participate in major decisions respecting the child’s health, education, and moral or religious upbringing.

Colleagues, my bill’s parenting plans must contain all that “a wise, affectionate and careful parent” would do for their children.

I thank colleagues for their attention. I urge all senators to support this bill. This is a subject matter that I have worked on closely for many years. We all here know very well, and most of us can agree, that every child has a right to a meaningful and continuing relationship with both parents. That is a fundamental right.

I thank you for listening so attentively. The Senate had a role in this issue back in 1998 and was largely responsible for the creation —of a joint committee of the Senate and the House of Commons. As I said before, it travelled this country and heard over 500 witnesses. I must tell you that during that year of travel, every committee meeting was well attended, with literally only standing room left as we travelled the width and breadth of Canada.

This is an important issue and one on which I have invested a fair part of my life. There is nothing more sad than a child who has been isolated or alienated from one parent by the other. This is something that we should resist, and I encourage us strongly to eliminate it totally, so that every child can know its mother and its father.

I thank you so much.

(On motion of Senator Day, debate adjourned.)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

THIRD REPORT OF COMMITTEE—MOTION IN AMENDMENT—POINT OF ORDER

On the Order:

Resuming debate on the motion of the Honourable Senator Housakos, seconded by the Honourable Senator Maltais, for the adoption of the third report of the Standing Committee on Internal Economy, Budgets and Administration (Senate budget for 2016-2017), presented in the Senate on February 25, 2016.

And on the motion in amendment of the Honourable Senator Ringuette, seconded by the Honourable Senator McCoy:

That the Senate postpone debate on the third report of the Standing Committee on Internal, Economy, Budgets and Administration (Senate budget for 2016-17) until the full itemized budget has been tabled and distributed to Senators, as well as the detailed Senate expenses for 2015-16, and, five sitting days after it has been distributed, the Senate sit as Committee of the Whole for questions and that the Committee of the Whole sit until all questions by Senators have been answered.

Hon. Pierrette Ringuette: Honourable senators, I have a point of order on this issue.

On May 5, 2016, Senator Wells, in a debate on my amendment on the third report of the Standing Senate Committee on Internal Economy, Budgets and Administration, talked about two reports of the Subcommittee on the Senate Estimates. Despite the claims of Senator Wells that these were tabled publicly and available for us to look at, they are not. There are two reports that I and the rest of us who are not on the subcommittee cannot look at. The reports are not publicly available. They were presented in camera at a meeting.

I cannot even see on the subcommittee website the day they met. There doesn't seem to be a public record of these meetings at all prior to May of this year. There isn't a website for the committee — and I should say the subcommittee — last Parliament at all, despite the subcommittee having been struck in early 2015.

I could not get the reports from the committee clerk, either — because we called — as they were presented in camera. I have to officially request them, and they get to decide whether to release them. That decision would also be secret, in camera.

This is not transparency. This is not accountability. This is the continuation of the secrecy of this chamber, not just from the Canadian people but from senators themselves, who are being asked to vote on budgets they have no information on.

Senator Wells assures us that the recommendations made by the subcommittee are great. I respect the members of the subcommittee and the work that they've done, with probable diligence. However, we should all have a chance to take a look at and decide for ourselves whether this approach to budgeting is in the Senate's and Canadians' interest. No offence to the six senators on the subcommittee, but I don't think they get to make that decision on all of our behalf, and then not submit the report and tell us to vote for it.

My vote means something. When I support something with my vote, I want to know what I'm supporting and why I should. I think we all respect ourselves enough to demand that our votes are of substance and not just a rubber stamp.

• (1630)

[*Translation*]

Senator Wells said that these reports were tabled in December 2015 and had been made public. However, there is no record of these reports having been tabled in the Senate. They are not available on the subcommittee's website, and the meetings of the subcommittee are not posted on the website. Prior to May of this year, all of the subcommittee's meetings were held in camera. We have communicated with committee staff, and according to them, the reports were presented in camera and are not accessible to the public. I have to officially request them to have the subcommittee chair make them available.

[*English*]

I ask Senator Wells to correct his statement made on May 5, 2016, in this chamber, and that the subcommittee please table the second and the third report of the Subcommittee on the Senate Estimates in this Senate Chamber. Thank you, Your Honour.

The Hon. the Speaker: Would any senators like to speak on the point of order?

Hon. Joan Fraser (Deputy Leader of the Senate Liberals): Your Honour, a significant portion of Senator Ringuette's point of order relies on factual material, which is at some variance from my understanding of Senator Wells' speech the other day. He came into the chamber only late in Senator Ringuette's remarks. I note that the chair and deputy chair of the Internal Economy Committee are also otherwise occupied. They have not been here to hear this.

Therefore, with the indulgence of colleagues, I would like to suggest that we adjourn this debate until tomorrow, at which point people who are familiar with the workings of that committee might be able to enlighten us further and help you in your reflections.

The Hon. the Speaker: Thank you, Senator Fraser.

Senator Fraser raises a good point. Under rule 2-5(1), the Speaker is given a fair amount of leeway in terms of the time and the number of speakers with respect to rules of order, and there are a number of individual senators who may or may not wish to speak on this who are not present.

I will ask that if there are any senators present who would like to speak, I will hear them now. If not, when this matter is raised again at the next sitting of the Senate, we will resume and ask if any senators at that time wish to speak.

Do any senators wish to speak today? If not, then we will do it tomorrow when this matter is called. Thank you, Senator Ringuette.

Senator Ringuette: Thank you.

PEOPLE'S REPUBLIC OF CHINA

INQUIRY—DEBATE CONCLUDED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Ngo, calling the attention of the Senate to the hostile behavior of the People's Republic of China in the escalating territorial claim dispute in the South China Sea.

The Hon. the Speaker: I would like to point out to honourable senators that if Senator Ngo speaks on this matter now, it will have the effect of closing debate.

Hon. Thanh Hai Ngo: Thank you. Honourable senators, due to the pressing and time-sensitive nature of the escalating disputes in the South China Sea, I will be concluding this inquiry in order to bring forward a motion on the same topic and in the same fashion.

[*Translation*]

I want to take this opportunity to thank all those who contributed to this inquiry and the senators who still plan to express their concerns about the territorial claim disputes in the South China Sea.

As you know, the South China Sea is very important, strategically, to the Southeast Asian countries that border it, but especially China, which has for some time been exhibiting hostile behaviour to assert its particular vision of territorial ownership.

While periods of increased tension sometimes follow periods of relative calm, the search for a negotiated solution and the resolution of a recurring dispute could, at any point, provoke regional or even international escalation.

[*English*]

As I said in my speech in early March, the hostile behaviour of the People's Republic of China in the escalating territorial claim dispute in the South China Sea is of critical importance to Canada and our allies and trade partners.

When I introduced my inquiry on the South China Sea, the Chinese military had just stationed surface-to-air missiles on one of the islands it occupies in the South China Sea.

Since then, tensions in the region have increased, as China's ongoing militarization of the South China Sea has provoked a reciprocal response from its neighbour and has led to escalating rhetoric on all sides.

Since March 8, both the United States and Japan have committed additional military resources to the area and China has stationed anti-ship cruise missiles on an island occupied by its military.

Reported aggressive action in the region has resulted in clashes, driving the dispute to cause environmental disasters and irreparable damage to an already fragile ecosystem.

The situation in the South China Sea is tense, escalating rapidly, and requires an urgent response from the Canadian government.

I hope to begin a national dialogue to spur the government to action, and it is my belief that the Senate can and must act to promote this policy discussion.

Honourable senators, while the South China Sea dispute may seem distant and far removed from Canada, it will still have a direct impact on Canadian sovereignty. At this moment, a similar boundary dispute is brewing in the Arctic. Five Arctic coastal states have submitted, or plan to submit, territorial claims to the Commission on the Limits of the Continental Shelf through a process established by the United Nations Convention on the Law of the Sea. This issue was, in fact, discussed last Wednesday during the open Senate Liberal caucus on the Arctic, where panellists even made mention of China's interest in the Arctic.

Honourable senators, China considers itself as a "near Arctic country," and its single party government last month revealed its plan to ship cargo across Canada's Northwest Passage.

This encouragement of Northwest Passage shipping could pose a direct challenge to Canadian sovereignty in the Northwest Passage if Chinese ships are dispatched without Canadian consent. If China succeeds in consolidating its position in the South China Sea through intimidation and by disregarding international law, why couldn't this happen in the Arctic? It is in Canada's interests to ensure that all states abide by the United Nations Convention on the Law of the Sea. It is my belief that a motion is needed to urge our government to take greater action there in the South China Sea and to protect our claim here in the Arctic.

• (1640)

[*Translation*]

Honourable senators, it is vital that the Government of Canada take urgent action in the territorial disputes in the South China Sea in order to ensure compliance with the United Nations Convention on the Law of the Sea and, ultimately, to protect our sovereignty in the Arctic.

[*English*]

I look forward to an engaging debate and, of course, encourage all senators to voice their concern on the growing tension in the South China Sea.

[*Translation*]

The Hon. the Speaker: Honourable senators, if no other senators wish to speak, the matter is considered debated.

(Debate concluded.)

[*English*]

HUMAN RIGHTS

COMMITTEE AUTHORIZED TO MEET IN CAMERA FOR THE PURPOSE OF ITS STUDY ON THE STEPS BEING TAKEN TO FACILITATE THE INTEGRATION OF NEWLY-ARRIVED SYRIAN REFUGEES AND TO ADDRESS THE CHALLENGES THEY ARE FACING

Hon. Jim Munson, pursuant to notice of earlier this day, moved:

That, notwithstanding rule 12-15(2), the Standing Senate Committee on Human Rights be empowered to hold occasional meetings in camera for the purpose of hearing witnesses and gathering specialized or sensitive information in relation to its study on steps being taken to facilitate the integration of newly-arrived Syrian refugees and to address the challenges they are facing as authorized by the Senate on April 14th, 2016.

He said: Honourable senators, I have a quick explanation regarding this study. We will probably have four hearings, one with witnesses in Ottawa and then hear from witnesses by teleconference from Calgary and other cities out West. We are going to go to Toronto and Montreal to get a real picture of the settlement of Syrian refugees.

As we know, there are government-sponsored refugees who don't seem to be doing quite as well as those who are privately sponsored. There are issues of human rights dealing with these refugees, including those who go to food banks to get their food in rather rich cities.

With respect to a number of the refugees who want to appear before our committee, they asked to meet in camera so that we can have a conversation in light of the fact that many of their family members are still back in Syria. We want to respect that and protect their identities for now. We hope, tomorrow, to get a real insight from one particular family here in Ottawa, and that's why we think we'll have a very candid conversation in camera. But the majority of the hearings will be in public.

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

Hon. Senators: Agreed.

(Motion agreed to.)

HUMAN RIGHTS ABUSES IN IRAN

INQUIRY—DEBATE ADJOURNED

Hon. Linda Frum rose pursuant to notice of April 21, 2016:

That she will call the attention of the Senate to egregious human rights abuses in Iran, particularly the use of torture and the cruel and inhuman treatment of unlawfully incarcerated political prisoners.

She said: I'm happy to finally reach the end of the Order Paper, but we're at the end and about to speak about something that is of profound importance.

Honourable senators, in the three years since the Senate Chamber last launched an inquiry into the human rights abuses of political prisoners in Iran, the situation for political dissidents, gays and lesbians, journalists and bloggers, and members of the religious minorities has only become worse.

Between 2013 and 2016, there were at least 2,141 judicially ordered executions in Iran, the worst per capita record in the world. As of January 2016, 161 juvenile offenders sit on death row.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, has said:

. . . these are unlawful killings committed by the State, the equivalent of murders performed by individuals. . . .

These are profound tragedies

Today in the Senate, I would like to thank the senators who will join with me in this inquiry into the grotesque human rights abuses that take place inside Iran every single day and especially inside Iran's prisons, where prisoners routinely endure isolation, torture, rape and mock executions.

Each of us will highlight the case or cases of unlawfully held political prisoners. We are here to let these prisoners know and to let the regime know that the Senate of Canada is paying witness.

The prisoner that I wish to advocate on behalf of today is an Iranian with a strong connection to Canada, Saeed Malekpour. This, sadly, is not the first occasion on which I have described the plight of Saeed Malekpour in this chamber, nor the first time I have called for his release. Saeed has been incarcerated for eight years now.

Saeed Malekpour, a software engineer, immigrated to Canada in 2004 and was awaiting citizenship when he returned to Iran for a visit to be by the side of his terminally ill father. After arriving in Tehran, Saeed was kidnapped by the Iranian Revolutionary Guard Corps, the IRGC, and thrown into prison. When Saeed's death sentence, awarded to him for so-called agitation against the regime and insulting the sanctity of Islam, was called off in late

2012, it was replaced by a life sentence. Whereas once Saeed and his family lived in fear of his imminent death, that terror has now been replaced by the despair of contemplating a life spent in prison. He is accused of committing a crime against the state, a crime for which there is absolutely no evidence other than a forced confession achieved by the use of torture.

In response to a question of what Canada can do to help Saeed Malekpour, Payam Akhavan, International Law Professor at McGill University and also an Iranian-Canadian, told *The Toronto Star*:

Canada has a unique opportunity to at least demand the release of Saeed Malekpour and other political prisoners with ties to Canada as a precondition to re-establishment of diplomatic relations

It is time for the Rouhani government to demonstrate its supposedly reformist credentials, and for the Trudeau government to do what is just, rather than expedient, in our foreign relations.

Honourable senators, today the Senate of Canada stands in solidarity with Iran's unlawfully incarcerated political prisoners, including Canadian resident Saeed Malekpour. We urge that the Iranian regime release Saeed Malekpour immediately and allow him to return to Canada.

Hon. Daniel Lang: Colleagues, I too rise today to bring to your attention the inhumane and unlawful treatment of Ali Amir Amirgholi, a 33-year-old human rights activist and former university student who is currently held in Ward 8 of Tehran's notorious Evin Prison.

Colleagues, Evin Prison is one of the most horrific prisons in the world. One former prisoner who was forced to experience the brutal torture of Evin Prison described her experiences as follows:

There is only one experience worse than being tortured; having to listen to others scream and beg, not for their lives but for their death. . . . At night, I would count around 60-70 bullets, which meant 60 to 70 souls had been executed and I was hearing the last shot they would give the victim in the head.

Despite Amir's being a prisoner of conscience, he is reportedly being held in a cell with dangerous prisoners who suffer from life-threatening diseases, rather than a cell for political prisoners. Colleagues, if the Iranian authorities have their way, Amir will be a prisoner for the next 20 years, if he survives his confinement.

The Revolutionary Court in Tehran, presided over by Judge Salavati, sentenced this non-violent activist to a 21-year prison term on the basis of outlandish charges, such as insulting religious sanctities, insulting the supreme leader and propaganda against the regime. In 2014, *The Guardian*, in the U.K., identified Judge Salavati as one of Iran's most corrupt judges owing to his leading role in cracking down on free speech and pro-democracy activities.

[Senator Frum]

• (1650)

Through his peaceful activism in 2014, Amir was defending the human rights of Iranians and participated in a peaceful protest outside the United Nations' office in Tehran in solidarity with the people of Kobane, Syria, who were then under siege. A couple of months later, Amir was arrested by Iranian authorities and transferred to a solitary confinement cell in Evin Prison, where he endured two months of interrogation and torture.

In light of this torture and the unreasonable political sentence of 21 years in jail for standing up for democracy and human rights, and countless similar human rights abuses in Iran, I call upon the Senate to pay close attention to the human rights abuses in Iran, and particularly the plight of imprisoned pro-democracy activists like Amir Amirgholi.

Mr. Amirgholi is a courageous man, not a criminal, one who is willing to sacrifice his life to stand up for what is right and just.

Honourable colleagues, please join with me in calling for Mr. Amirgholi's immediate release from Iran's Evin Prison.

I also bring the attention of colleagues to the horrific detention endured by Mr. Amirgholi. It seems appropriate at this time through this inquiry that we in the Senate also recognize the contributions of four outstanding Iranian Canadian women, each of whom has promoted human rights in Iran and alerted Canadians to related threats in our country, and made Canada their home. I refer to Ms. Nazanin Afshin-Jam, Ms. Homa Arjomand, Ms. Sayeh Hassan, and Ms. Shabnam Assadollahi, all of whom were very fortunate to escape to Canada from the Ayatollah's Iran.

Ms. Nazanin Afshin-Jam is an international human rights activist and author and co-founder of Stop Child Executions. She has utilized her role as a pageant winner to become a voice for those who need to be heard. She continues to champion causes, which makes all Canadians proud.

Ms. Homa Arjomand continues the struggle for freedom, supporting Iranian children's and women's rights. She also works with battered women and girls in Canada through the Let's Talk program with abused children. She is also the coordinator of the International Campaign Against Shari'a Court in Canada.

Colleagues, Ms. Arjomand appeared before the Standing Senate Committee on National Security and Defence last year during our study on radicalization and threats to Canada. She was most eloquent in her presentation and in describing her escape from Iran to a UN refugee camp and then on to Canada.

Ms. Sayeh Hassan is a prominent criminal defence lawyer and pro-Iranian democracy advocate who collaborates with Iranians and other transnational activists to advance the cause of human rights and democracy in her oppressed ancestral homeland. Through her blog focusing on the pro-democracy movement and regime changes in Iran, she stays in close contact with activists in

Iran and retains contact with various human rights and pro-democracy organizations abroad. She regularly speaks at conferences and has appeared on television and radio and in numerous publications in Canada.

Colleagues, at the beginning of these remarks I described life in Evin Prison where Mr. Amirgholi is held. These words were from a brave survivor, Ms. Shabnam Assadollahi, who is here with us today in the gallery. Ms. Shabnam Assadollahi is an outstanding democracy activist who writes and broadcasts in Canada. Through her international network, she exposes clandestine Iranian influence activity in our country.

Colleagues, as we bring much-needed attention to the issues in Iran through this inquiry, let us urgently redouble our support for Ali Amirgholi. In doing so, we salute courageous Canadian women of Persian heritage who are leading human rights efforts nationally and internationally to help bring attention to Iran's vile and brutal regime and the plight of individuals like Mr. Amirgholi.

Hon. James S. Cowan (Leader of the Senate Liberals): Honourable senators, I was alarmed to recently learn that 2015 was one of the darkest years in the history of the Islamic Republic of Iran. Multiple sources, including the United Nations and Amnesty International, have reported more than 900 executions in Iran in 2015 alone. That's reportedly the highest number of executions in Iran since 1989. As horrifying as this may be, the Iranian government's death penalty record has not had an impact on its relations with the international community. I'm extremely saddened to observe that the Iranian authorities are increasing the rate of executions in Iran at the same time as the country is emerging from years of isolation.

Today I would like to highlight the cases of four political prisoners who are on death row in Iran. I must note that these political prisoners are only a handful of dozens more who are sentenced to death and are currently awaiting execution.

Habib Latifi, a young Iranian Kurdish man, was arrested by Iranian authorities in 2007 in his hometown of Sanandaj. He was an industrial engineering student at the University of Ilam and was also engaged in civil, cultural, environmental and political activities with a number of NGOs and community groups. During the first four months of his detention, Habib was held in solitary confinement and had no access to the outside world, except for the time he was transferred to a hospital outside the prison for a kidney hemorrhage caused by violent interrogation. Habib suffered unimaginably during these four months in solitary confinement and was reportedly subjected to brutal psychological and physical torture. According to reports, Habib even suffered multiple fractures to his head and repeated kicks to his face.

In the summer of 2008, during a trial that lasted only a few minutes, Habib was sentenced to death for the vague and baseless charge of "enmity against God." This is Habib's ninth year on death row in Sanandaj prison. He is reportedly not allowed to request any type of temporary prison leave and is not allowed visits with his family.

Imagine for a second Habib's reality. He was 26 years old when he entered prison. He's now 35. He's lived every single day for the past nine years not knowing whether he will live to see another day.

Mohsen Daneshpour and his son Ahmad are on death row in Rajai Shahr Prison in the city of Karaj. Their other family members, including Ahmad's wife, Motahareh Bahrami, are also imprisoned. The Daneshpour family was reportedly arrested in 2009 after participating in a mass pro-democracy street protest in Tehran. In an unfair court hearing that lasted only minutes, Mohsen and Ahmad were both sentenced to death and accused of supporting the Iranian exiled opposition group, the MEK. To date, they have not seen their verdicts, nor have they been allowed access to a lawyer or their case files.

I fear the Iranian authorities may be holding a grudge against the Daneshpour family and, as a result, are systematically harassing and abusing them. In the late 1980s, during a time of mass executions in Iran, two of Mohsen's brothers were reportedly executed. Mohsen is 70 years old and suffers from heart disease and osteoarthritis of the knee. Ahmad is 46 years old and suffers from ulcerative colitis and mental illness. Father and son have lived every day for the past seven years knowing that they may be executed at any moment.

Then there's juvenile offender Saman Naseem, who was only 17 in 2011 when he was arrested by Iranian authorities and accused of firing a gun at an IRGC agent. Although Saman had initially confessed to this accusation, he later retracted his claim, stating that he had been forced and pressured to confess under torture. According to Saman, he was hung upside down from a ceiling blindfolded and had his toenails and fingernails pulled out. The only evidence reportedly used against Saman in court was his forced confessions. Saman was sentenced to death based on confessions he gave under torture. The young man is now 22 years old and is still languishing in prison. He has gone through hell and back in these five years living in the shadow of death, but he is not the only juvenile offender on death row.

• (1700)

Honourable senators, according to Amnesty International, Iran is not only home to the most executions per capita in the world but also home to the most juvenile executions. Iran is signatory to the United Nations Convention on the Rights of the Child and therefore should not be sentencing juvenile offenders to death. There is no sign that the Iranian authorities are planning to slow down the rate of executions or begin respecting and following their international obligations.

I stand today to condemn the Iranian regime's horrifying execution record and call for the immediate release of death row prisoners Habib Latifi, Mohsen and Ahmad Daneshpour and Saman Naseem.

Hon. Salma Atallahjan: Honourable senators, I stand before you in solidarity with students who have been imprisoned in Iran, and I will be highlighting two such cases for you today.

Sakhi Reigi, an Iranian from the country's Baluch ethnic minority, was a blogger and university student majoring in software development when he was arrested by Iranian authorities in the summer of 2009. He was 31 years old at the time of his arrest and had only two more terms to complete before graduating.

Sakhi was also a student volunteer for the presidential campaign of Mir Hossein Mousavi, and his arrest occurred only a few days after the results of the 2009 Iranian presidential election were announced. An Iranian court subsequently sentenced Sakhi to 20 years in prison for allegedly acting against national security and spreading propaganda against the regime.

Aside from the Kurdish political prisoner Habib Latifi, who has been sentenced to death, Sakhi arguably may have received the harshest prison sentence handed down by an Iranian court to a university student. Sakhi is currently being held in Karoun Prison, located in the Iranian southwestern city of Ahwaz. While in prison, it has been reported that he has endured long durations in solitary confinement and has been subjected to repeated physical and psychological torture. Sakhi is in his seventh year of imprisonment.

Another student imprisoned in Iran is Misagh Yazdan Nejad, who studied English and translation at Payame Noor University in Tehran. He was arrested in September of 2007 for participating in an event on the nineteenth anniversary of the mass execution of political prisoners in Iran in 1988 and was accused of having relations with exiled Iranian opposition group MEC. For this alleged offence, he was sentenced to 13 years in prison.

Like Sakhi, it has been reported that Misagh has endured long durations in solitary confinement and has been both physically and psychologically tortured. He is currently in his ninth year of imprisonment.

Honourable senators, the situation for university students in Iran is dire. Not only are the students regularly expelled or banned from pursuing post-secondary education, but they also face threats and harassment for daring to learn and speak up for justice and human rights.

I stand in condemnation of the detention and abuse of Iranian students and call for the immediate release of student political prisoners Sakhi Reigi and Misagh Yazdan Nejad.

Honourable senators, I just learned a few minutes ago that Misagh has been released. It's as though they knew about this speech in the Senate today. I welcome the great news and hope that Saki too will be freed soon. Thank you.

Some Hon. Senators: Hear, hear.

Hon. A. Raynell Andreychuk: Honourable senators, I also rise today to draw your attention to the plight of three Kurdish journalists imprisoned in Iran: Mohammad Sadiq Kaboudvand, Kamal Sharifi and Adnan Hassanpour.

Mohammed Sadiq Kaboudvand was arrested in 2007 and sentenced to serve nine years and ten months in Tehran's notorious Evin Prison. As founder of the Kurdistan Human Rights Organization and editor of a weekly publication called *Payam-e Mardom* — The Peoples' Message — he was accused of "acting against national security," spreading "propaganda. . .," "opposing Islamic penal laws. . ." and "advocating on behalf of political prisoners." Similarly, Adnan Hassanpour was arrested in 2007 on comparable charges. His death sentence was reduced to a 15-year prison term to be served in the Zahedan central prison.

Finally, Kamal Sharifi was first arrested by Iranian authorities in 1989, accused of membership in Kurdish opposition groups. He is serving a 30-year sentence in the Minab Prison.

These journalists have reported cruel and degrading treatment, torture and periods of prolonged solitary confinement. They have reportedly been denied adequate medical treatment in addition to their right to furlough.

Ranked 169 out of 180 countries by the 2016 World Press Freedom Index, such are the ongoing practices perpetrated against journalists and human rights defenders in Iran.

Also among them in prison, members of religious and ethnic minorities are the most persecuted — and not only in prison. I want to note, again, the Baha'i community, which has been one of the most oppressed religious minorities in Iran, their faith still unrecognized by the Iranian constitution.

Numerous Baha'i community leaders have been arrested on charges relating to "disturbing national security."

Honourable senators, it is Canada's responsibility to insist that Iran uphold its commitments to freedom of thought and expression under international human rights law. I urge all senators to join in condemning the systematic persecution of religious and ethnic minorities and to call for the immediate release of the unjustly imprisoned activists and journalists in Iran.

I want to thank Senator Frum for putting a face on the statistics that we often hear from Iran. This continued annual inquiry in the Senate is an important way of showing the people of Iran that we are with them in their struggle and that we continue to urge Iran, if it wishes to be part of the world community, to adhere to international standards for human rights and respect for the rights of their citizens.

Hon. Lynn Beyak: Honourable senators, I also rise today to speak of Nahid Gorji, an ordinary Iranian citizen and a mother, like many of us, who was arrested by Iranian intelligence agents in October 2014 during a midnight raid on her home in the northern Iranian city of Mashhad.

According to multiple confirmed sources, Nahid is being punished for something that many of us do every day — for simply going on to Facebook and chatting, and other activities on social media.

Nahid was held in prison for one full year without any charges before finally being released on bail in October 2015, the anniversary of her arrest.

Honourable colleagues, close sources say Nahid's release was related to her deteriorating psychological well-being in prison, but even so, in March 2016, an Iranian court sentenced her to three more years in prison for exercising her right to freedom of speech.

Nahid was returned to prison on April 8, when authorities arrested her again. She is currently being held in Mashhad's Vakilabad Prison, and like countless other prisoners of conscience in Iran, she is being deprived of her most basic human rights, such as access to a lawyer and regular visitation with her family.

Honourable senators, this is not a partisan issue. It is an issue that goes to the very heart and soul of our values and beliefs. Let us join together to send a strong message to Iranian authorities that Canadians will not stand for the violation of the Iranian people's basic human rights.

- (1710)

Nahid Gorji is one of many victims of the Iranian regime's crackdown on civil society, and I stand today to ask you to join with me. Let us call on the authorities in Iran to release her immediately to her family and friends. I believe we all agree it is the right thing to do.

Hon. Norman E. Doyle: Honourable senators, Zeynab Jalalian was 25 years old in March 2008 when she was arrested by Iranian authorities and locked up behind bars. She is now 34 years old and still languishing in prison.

Zeynab, who is a Kurdish women's rights activist, spent the first two years of her imprisonment held without charge. During this time, she was subjected to constant threats to her life and endured long periods in solitary confinement. She was brutally interrogated and tortured, both psychologically and physically, to confess to the accusations against her, such as supporting Kurdish opposition groups through engaging in armed operations.

According to sources close to Zeynab, she has denied the charges against her and has refused to cooperate with authorities by providing them with a confession. As a result, in 2009, an Iranian court unlawfully sentenced Zeynab to death for the baseless and vague charge of "waging war against God."

Human rights groups have reported multiple cases of other civil rights activists in Iran who, like Zeynab, have been charged with waging war against God, merely for their peaceful activism. Although Zeynab has stated she supported some Kurdish opposition groups, she has also stated that she has never engaged in any type of armed operation, insisting her work consisted of raising non-violent awareness about the situation of Kurdish women in Iran. In other words, Zeynab's real crime is yearning to live a decent life of dignity for herself and her Kurdish community.

In 2009, following an international outcry, Zeynab's death sentence was commuted to life in prison. But nothing can repair the damage inflicted on this young woman for having to endure years in prison knowing she could be hanged at any moment. According to the UK human rights group, Justice for Iran, Zeynab Jalalian is currently the only female political prisoner in Iran who is currently serving a life sentence. There is no denying that a life sentence is really a slow death sentence.

Honourable senators, we all have to be extremely saddened about the situation of Zeynab Jalalian. Throughout her imprisonment she has not had access to her lawyer or adequate medical care or fair due process. And for the past few years, she has been suffering from multiple illnesses, including a severe eye condition, as a result of the confinement and medical neglect. Her family members and lawyer have warned that if she does not undergo surgery on her eye immediately, she could lose her eyesight altogether. Zeynab also reportedly suffers from an intestinal infection and gastrointestinal bleeding. Despite all this, Iranian authorities have stubbornly refused to release her until she agrees to confess on camera.

As a member of the Senate of Canada, I call on the Iranian authorities to release Zeynab Jalalian immediately from prison and provide her with the medical care that she so desperately needs.

Hon. Joan Fraser (Deputy Leader of the Senate Liberals): Colleagues, I want to begin by congratulating Senator Frum for launching this inquiry. It is serious and important business, and we are grateful to her for beginning it.

It has been suggested that the Government of Canada's policy of certain reengagement with Iran is wrong because of the abuses that occur in that country. My own view is that the policy is right, in large measure because of the abuses that occur in that country, because we cannot hope to have any influence at all on people with whom we do not even speak.

I shall never forget, years ago, when I was part of the parliamentary delegation to Cuba, meeting in the Canadian embassy, at the invitation of the ambassador, Cubans who had done hard time in prison for daring to exercise freedom of speech. It meant a lot to them to meet us. We could not have given them face-to-face encouragement had Canada, like the United States, boycotted all things Cuban. I think we made a difference in Cuba because we remained engaged, and I hope that we will be able, over time, in at least some small way, to make a difference in Iran.

But precisely because of that, it is crucial for us to publicly say, again and again, as Canadians and as Canadian parliamentarians, how strongly we reject and condemn the terrible abuses of human rights that occur on a daily basis in that country.

I'm going to speak to you about the unlawful treatment that political prisoner Maryam Akbari Monfared and her family have endured at the hands of Iranian authorities.

Ms. Monfared's family has been living in Iran under constant threats and harassment since the inception of the Islamic Republic regime. In the 1980s, during a decade of mass executions in Iran,

four of Maryam's siblings — three brothers and one sister — were hanged by Iranian authorities for alleged membership in the exiled Iranian opposition group, the MEK, the Mujahedin-e-Khalq organization.

In December 2009, in Tehran, Maryam participated in a mass pro-democracy street protest. As a result, she was arrested shortly afterward. Like other political prisoners highlighted today, she was handed an outrageous conviction by an Iranian court: She was sentenced to 15 years in prison and accused of being a member of the MEK, a charge she has repeatedly denied. In an open letter Maryam wrote from prison, she reveals that Judge Salavati told her during the court hearing, "You are serving on behalf of your brothers and sister" — the four siblings who had been hanged.

Ms. Monfared is held in Evin Prison's women's ward. Poor prison conditions, physical and psychological torture and imprisonment for the past six years have led her to contract numerous illnesses. Today, she suffers from diseases of her thyroid and eye. In January of this year, she was briefly transferred to a medical clinic outside the prison for a health assessment, but only briefly.

Ms. Monfared's family has reported to human rights groups that her case was recently sent to Iran's Supreme Court for review. Her family hopes that the charges against her will be dropped and that she will be released from prison.

I urge the Iranian authorities to release her immediately.

Hon. Stephen Greene: Ladies and gentlemen, I rise to speak in support of Senator Frum's inquiry regarding human rights abuses in Iran. I thank her very much for her intervention.

In particular, I would like to highlight the case of political prisoner Mohammad Saber Malek Raisi, a member of Iran's Baluch ethnic minority, who was arrested in 2009 at the age of 15.

Now, one person's political prisoner can sometimes be another's terrorist, but by all accounts Mohammad is not a

terrorist. According to Amnesty International, the sole reason that Mohammad was arrested was to force his older brother, Abdol Rahman, to return to Iran after fleeing in 2009.

Iranian authorities have reportedly tried, using torture, unsuccessfully, I might add, to get Mohammad to confess to having ties with the armed opposition group Jundullah. Mohammad has steadfastly insisted that he is nothing more than a high school student and has no political affiliations at all.

Despite this, the regime has sentenced Mohammad to 15 years in prison for alleged cooperation with opposition groups and has gone so far as to threaten execution should his older brother not return to Iran.

This young man is hardly a terrorist, but we all know that Iran is a supporter of terrorism. Numerous human rights groups and NGOs have cited Iran for its sponsorship of terrorist groups that believe in the eradication of the democratic state of Israel. In 1984, the U.S. State Department designated Iran as a state sponsor of terrorism, a designation that continues today, despite their recent treaty.

While Iran has traditionally sponsored terrorism in the Middle East in an effort to destabilize its rivals, it is expanding its efforts in Africa and even Latin America by supplying weapons and occasionally training to various groups.

Ladies and gentlemen, these are just a few examples of why I think it is sadly ironic for a regime like Iran to call a kid a terrorist. But Mohammad is no longer a teenager; he is now 22, having spent the last seven years in prison with no access to his family or a lawyer.

Iran, free Mohammad now.

(On motion of Senator Martin, debate adjourned.)

(The Senate adjourned until tomorrow at 2 p.m.)

CONTENTS

Tuesday, May 10, 2016

	PAGE
Visitors in the Gallery	
The Hon. the Speaker <i>pro tempore</i>	618

SENATORS' STATEMENTS

Tributes

The Honourable David P. Smith, P.C., Q.C.	
The Hon. the Speaker <i>pro tempore</i>	618
Hon. James S. Cowan	618
Hon. Claude Carignan	619
Hon. Art Eggleton	620
Hon. Yonah Martin	621
Hon. Mobina S. B. Jaffer	621
Hon. Pana Merchant	622
Hon. Jim Munson	622
Hon. Terry M. Mercer	622
Hon. Joan Fraser	623
Expression of Thanks.	
Hon. David P. Smith	623

Visitors in the Gallery

The Hon. the Speaker <i>pro tempore</i>	626
---	-----

ROUTINE PROCEEDINGS

Human Rights

Notice of Motion to Authorize Committee to Meet In Camera for the Purpose of its Study on the Steps Being Taken to Facilitate the Integration of Newly-Arrived Syrian Refugees and to Address the Challenges They are Facing.	
Hon. Jim Munson	626

Trans Canada Trail

History, Benefits and Challenges—Notice of Inquiry.	
Hon. Claudette Tardif	626

The Senate

Role in the Protection of Regional and Minority Representation—Notice of Inquiry.	
Hon. Judith Seidman	627

QUESTION PERIOD

Business of the Senate	627
---	-----

Delayed Answer to Oral Question

Hon. Peter Harder	627
-----------------------------	-----

Transport

Champlain Bridge.	
Question by Claude Carignan.	
Hon. Peter Harder (Delayed Answer).	627

ORDERS OF THE DAY

Divorce Act (Bill S-202)

Bill to Amend—Second Reading—Debate Suspended.	
Hon. Anne C. Cools.	627

QUESTION PERIOD

Ministry of Infrastructure and Communities

Montreal—Light Rail.	
Hon. Claude Carignan	631
Hon. Amarjeet Sohi, P.C., M.P., Minister of Infrastructure and Communities	631
Prince Edward Island—Confederation Bridge Toll.	
Hon. Percy E. Downe.	631
Hon. Amarjeet Sohi, P.C., M.P., Minister of Infrastructure and Communities	631
New Brunswick—Infrastructure Commitments.	
Hon. Carolyn Stewart Olsen	632
Hon. Amarjeet Sohi, P.C., M.P., Minister of Infrastructure and Communities	632
Nunavut—Northern Infrastructure.	
Hon. Dennis Glen Patterson	633
Hon. Amarjeet Sohi, P.C., M.P., Minister of Infrastructure and Communities	633
Saskatchewan—Infrastructure Funding.	
Hon. Denise Batters	634
Hon. Amarjeet Sohi, P.C., M.P., Minister of Infrastructure and Communities	634
New Brunswick—Allocation of Public Transportation Funding.	
Hon. Percy Mockler	634
Hon. Amarjeet Sohi, P.C., M.P., Minister of Infrastructure and Communities	634
Alberta—Clean Up of Inactive Oil and Gas Wells.	
Hon. Betty Unger.	635
Hon. Amarjeet Sohi, P.C., M.P., Minister of Infrastructure and Communities	635
Infrastructure Bank.	
Hon. Paul E. McIntyre	635
Hon. Amarjeet Sohi, P.C., M.P., Minister of Infrastructure and Communities	635

ORDERS OF THE DAY

Divorce Act (Bill S-202)

Bill to Amend—Second Reading—Debate Continued.	
Hon. Anne C. Cools.	636

Internal Economy, Budgets and Administration

Third Report of Committee—Motion in Amendment—Point of Order.	
Hon. Pierrette Ringuette	639
Hon. Joan Fraser	639

People's Republic of China

Inquiry—Debate Concluded.	
Hon. Thanh Hai Ngo	640

	PAGE		PAGE
Human Rights		Hon. Daniel Lang	642
Committee Authorized to Meet In Camera for the Purpose of its		Hon. James S. Cowan	643
Study on the Steps Being Taken to Facilitate the Integration of		Hon. Salma Atallahjan	643
Newly-Arrived Syrian Refugees and to Address the Challenges		Hon. A. Raynell Andreychuk	644
They are Facing.		Hon. Lynn Beyak	644
Hon. Jim Munson	641	Hon. Norman E. Doyle	645
Human Rights Abuses in Iran		Hon. Joan Fraser	645
Inquiry—Debate Adjourned.		Hon. Stephen Greene	646
Hon. Linda Frum	641		

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