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(HANSARD)

Tuesday, December 13, 2016

The Honourable GEORGE J. FUREY
Speaker

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THE SENATE

Tuesday, December 13, 2016

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

Prayers.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I draw your attention to the presence in the gallery of the Honourable Danny Williams, former Premier of Newfoundland and Labrador. He is accompanied by his wife, Elizabeth Williams.

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

Hon. Senators: Hear, hear!

SENATORS' STATEMENTS

TRIBUTES

THE HONOURABLE WILFRED P. MOORE

The Hon. the Speaker: Honourable senators, I have received a notice from the Leader of the Opposition who requests, pursuant to rule 4-1, that the time provided for the consideration of Senators' Statements be extended today for the purpose of paying tribute to the Honourable Senator Wilfred Moore, who will be retiring from the Senate on January 14, 2017.

I remind senators that pursuant to our Rules each senator will be allowed three minutes and may speak only once. The list of senators to give tribute is currently quite long, and if everyone takes their full three minutes it would be greatly appreciated.

[*Translation*]

Honourable senators, is it agreed that we will continue our tributes to Senator Moore under Senators' Statements?

Hon. Senators: Agreed.

[*English*]

Hon. Peter Harder (Government Representative in the Senate): Colleagues, when I first arrived in this chamber nine months ago, one of the first senators I met was Senator Moore. I must say, in the spirit of *Mr. Smith Goes to Washington*, I thought he looked the part. It took only a few encounters for me to realize that he played the part as well.

When you look at his compassion, his sense of justice and his love of Nova Scotia, his causes have become associated with him in a way that all senators would wish their careers to be identified. His commitment to remedying historical injustices with regards to the Aboriginal community; his drive to protect people in their engagement, shall I say, with border and customs officials; and his work on all aspects of justice, policy and individual advocacy are admirable. Last week, he was able to speak in the chamber about the Hamilton Declaration on Collaboration for the Conservation of the Sargasso Sea in the Atlantic Ocean, a subject matter that has preoccupied him for a number of years and that would not have been signed by Canada but for his efforts. We should acknowledge that, even as we say farewell.

I would also note that as the Lorax speaks for trees, Senator Moore speaks for whales. That takes heart. I won't prejudice the outcome of the committee's engagement on Bill S-203, but I think we can all agree that in Senator "Free Willy" Moore, whales have a friend.

As he retires from the Senate, we know that his contributions will be ongoing. In this respect, his efforts that are still under way in the Senate will be memorialized by our respect for how we deal with these bills. Thank you.

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, I rise to pay tribute to our colleague Senator Wilfred Percy Moore on the occasion of his retirement from the Senate, having not that long ago celebrated his twentieth anniversary as the honourable senator from Stanhope St. / South Shore, Nova Scotia.

We are frequently treated to statements from Senator Moore about the outstanding work of his fellow Nova Scotians, and I am pleased that we will have an opportunity today to recognize his own outstanding contributions.

It is our role as senators to examine legislation and provide sober second thought, but Senator Moore is a notable example of the impact that a senator can have in the creation of legislation, as well. In fact, as we saw yesterday with his introduction of a new bill, he's not prepared to let a little matter like retirement get in the way of advancing issues of importance — in this case, promoting the arts.

One of Senator Moore's earlier initiatives was his bill to amend the Financial Administration Act with respect to borrowing authority. That bill was introduced five times in this chamber. I encourage our newest colleagues to read some of the excellent speeches he gave on the subject matter and the problems with respect to omnibus bills that were related to that particular bill.

Senator Moore doggedly pursued this issue of accountability and was rewarded for his efforts when Finance Minister Bill Morneau decided to incorporate his bill in the budget bill that we passed in June this year.

Of course, I would be remiss if I didn't mention, as Senator Harder has, the "Free Willy" bill that is now before our Standing Senate Committee on Fisheries and Oceans. Senator Moore is a dedicated champion of the issue of whale and dolphin exploitation and has done tremendous work on this file.

Additionally, Senator Moore told this chamber just last week about Canada signing the Hamilton Declaration and the important role that he had the opportunity to play in ensuring the protection of the Sargasso Sea.

These are but a few examples of some of the tremendous achievements that Senator Moore has accomplished as a member of this place. I trust that more will be detailed as others pay tribute to the legacy he has created.

Senator Moore, you have shown us how great of an impact a senator can have through hard work and dedication. I look forward to seeing what retirement will bring for you, and I'm sure I'm not alone in believing that we haven't seen the end of you, sir.

Thank you very much.

Hon. Senators: Hear, hear!

[*Translation*]

Hon. Claude Carignan (Leader of the Opposition): Colleagues, allow me to stand today in tribute to Senator Wilfred P. Moore, who will be retiring on January 14, 2017, during adjournment of the Senate.

On September 26, Senator Moore celebrated his 20th anniversary in the Senate.

• (1410)

[*English*]

For 20 years, Senator Moore worked on behalf of Nova Scotia, the Atlantic region and Canadians in general. For those of us who have been here long enough to see him in action, we know how tenacious he can be. As a former Leader of the Government, I can attest to the fact that facing him in Question Period was never easy. He was always well prepared, to the point, with tough questions — very tough questions. While in opposition, Senator Moore showed us how important the role of the Senate is in keeping the government accountable.

[*Translation*]

Unfortunately, I didn't have the opportunity to work as closely with Senator Moore as I would have liked. I say unfortunately because I know that he is a gracious, intelligent, warm and very compassionate man. He is in politics to do good things and to make a difference in people's lives.

He is also a man who pays close attention to what's going on in people's personal lives. Senator Moore often asked me how my family and kids were doing. For example, he was aware that I'd had to file an injunction so that my kids could keep going to the school where I was representing a group of 300 students. He frequently asked me how the reintegration was going. That's a great example of how Senator Moore takes a personal interest in people and pays attention to the little details that make up our lives. That is one of Senator Moore's remarkable personality traits.

Here's another example. Do some research on Senator Moore, and you'll find out about this:

[*English*]

> In March 2001, the Senator commenced an Inquiry in the Senate on the role of the federal government in the financing of deferred maintenance costs in Canada's post-secondary education institutions. This inquiry, after being considered by the Senate Standing Committee on National Finance, resulted in the federal government providing assistance of $200 million in its 2002 budget for Canada's post-secondary education institutions for the indirect costs of research, which includes the maintenance of the buildings of those institutions. This financial assistance has since continued in every subsequent federal budget as a line item.

[*Translation*]

Honourable senators, that's a great example of how we, like Senator Moore, can make a difference in society when we make good use of the tools the Senate makes available to us. Senator Moore, your style and your dedication are an example to us all.

[*English*]

I would like to thank you very sincerely for all that you have done for Canadians. I hope that your retirement will be the perfect opportunity to spend special moments with your family, and that you can fully enjoy the world of art, as that is your passion, Senator Moore. Thank you very much.

Hon. Senators: Hear, hear!

Hon. James S. Cowan: Colleagues, I am delighted to have an opportunity to say a few words today about my friend, colleague and fellow Nova Scotian, Senator Wilfred Moore.

Senator Moore and I have known one another since we were in high school together in Halifax, and that wasn't yesterday.

Through all those years Senator Moore has provided strong leadership in a wide variety of fields: in public service at the municipal, provincial and federal levels and, through his work with the Canada-U.S. Inter-Parliamentary Group, internationally as well; in the arts, where he and his wife Jane have been benefactors of and advocates for many artistic and cultural events; in academia, where he has been a strong supporter of both his alma mater, Saint Mary's University, and NSCAD University, both of which have recognized his contributions by awarding him honourary degrees.

But for me, Senator Moore's dedication to his community is best exemplified by his almost single-handed saving of the *Bluenose II*. At a time when this iconic symbol of Nova Scotian craftsmanship and history was destined for the scrap heap, he stepped up to establish the Bluenose II Preservation Trust Society, mobilize public support, take over the vessel, restore, manage and operate it for 10 years until the provincial government of the day — unwisely, in my view — assumed ownership and control.

In the Senate, we have witnessed that same dogged determination and single-minded focus in his work here — currently, as we've heard, with his whale protection bill, and recently, with his work on the bill which resulted in the return of parliamentary oversight of borrowing by government.

Senator Moore, as we know, never, ever gives up.

May I close by paying tribute to him as a colleague. Throughout my term as leader of our caucus I could not have asked for a more loyal or hard-working colleague. He always provided wise counsel and sound advice, whether I wanted it or not, and even when it might not have been exactly what I wanted to hear. But I appreciated it nonetheless.

Willie, I wish you a long, healthy and active retirement after you and I leave here next month. Godspeed, my friend.

Hon. Senators: Hear, hear!

Hon. Jane Cordy: Honourable senators, I am also pleased to speak today about Senator Wilfred Moore and the exceptional contribution he has made not only to the Senate of Canada but especially to the people of Nova Scotia. However, I cannot say that I am pleased that you are retiring, Willie, because I will miss our political discussions when we solved many of the country's problems, and I will miss our shared cab rides to the airport. But most of all, Willie, I will miss your friendship of over 25 years.

We first worked together during Mr. Chrétien's leadership campaign in 1990. You were the campaign chair for Nova Scotia, and Bob and I were on the Nova Scotia team. The convention was in Calgary at the Saddledome, and while I know it is more democratic to have one member, one vote for electing party leaders, I have to say that those old fashioned leadership conventions were exciting because just about anything could happen, and often did. Of course, maybe it had something to do with the fact that we were much younger then and could survive on only a few hours of sleep every night.

We also worked hard on the federal election teams in 1993 and 1997, and, as I recall, you and Robert Pace spent election day in Shawinigan with Mr. Chrétien in 1993, which I am sure was a memorable time.

Before our independence day, when we were part of the caucus with the Liberal MPs, you served as vice-chair of the Nova Scotia and Atlantic caucuses. Do you remember the morning that the Nova Scotia caucus was having our official picture taken with Mr. Ignatieff? Just as the photo was being taken, you pulled out a Saint Mary's University poster, so our caucus photo became an unofficial infomercial for Saint Mary's, which was great for you and Senator Mercer but not so great for Senator Cowan and me, who graduated from Dalhousie and Mount Saint Vincent.

Of course, Willie has been active in promoting his alma mater: He established an endowment at Saint Mary's, creating the Senator Wilfred P. Moore Bursary, which provides a $1,000 bursary to a first-year student in the Sobey School of Business.

In recognition of his work with the university, his community and the province of Nova Scotia, Senator Moore was awarded an honourary Doctorate of Laws degree in 2007 by Saint Mary's.

Senator Moore also received an honourary Doctorate of Fine Arts from the Nova Scotia College of Art and Design in 2014. Senator Moore established the Community Studio Residency program in Lunenburg. The program offers recent graduates of NSCAD the opportunity to develop their talents. Willie, your contributions to the arts in Nova Scotia are invaluable.

Senator Moore was the volunteer chairman of the Bluenose II Preservation Trust Society. In 1994, the *Bluenose* was deemed to be not seaworthy and unable to sail. Senator Moore and Gerry Godsoe started fundraising to refurbish the *Bluenose*. Not only did they raise the funds, but the *Bluenose II* was ready to serve as Nova Scotia's sailing ambassador when Nova Scotia hosted the G7 in 1995. If later governments had listened to the wise counsel of Senator Moore instead of playing politics, a lot of anguish and money could have been saved in the recent rebuilding project.

Senator Moore served as an alderman in Halifax and was a founding director and chairman of the Halifax Metro Centre. He is well known as a supporter not only of the arts but of many community activities, including the establishment of a scholarship in the name of his friend, Graham Downey. He was also very active in the efforts to rebuild St. John's Anglican Church in Lunenburg, which was destroyed by fire in 2001.

Willie was named to the inaugural class of the Maritime Sport Hall of Fame in 2014 as a member of the 1961-62 Halifax Kingfishers Junior A hockey team. He was also a member of the Saint Mary's University hockey team.

Senator Moore, you have an eclectic range of interests: sports, the arts, marine animals in captivity, the environment and, of course, politics.

• (1420)

Willie, I applaud you for your contributions to our province of Nova Scotia and our great country of Canada.

I know that you are retiring from this place, but I know that you have more than enough community projects to keep you busy. Bob and I wish you and your wife Jane and your children Nicholas and Alexandra all the best.

Hon. Senators: Hear, hear!

Hon. Pierrette Ringuette: Honourable senators, when Senator Moore was appointed to the Senate in 1996, I was an MP in the other place. We both sat in the Liberal Atlantic caucus and the Liberal national caucus.

How times have changed in 20 years, but, fortunately, Senator Moore has always been true to his principles and to the issues he has so vehemently promoted.

His time and devotion to keep and to maintain one of Nova Scotia's iconic symbols, the *Bluenose II*, is an example to us all.

His time and devotion within the Canada-U.S. Inter-Parliamentary Group kept Atlantic Canada in touch with its neighbour and almost sole trading partner.

Willie has been an example of dedication to Nova Scotia and to Atlantic Canada. He fought for fairness, from post-secondary education to banking, from food banks to small businesses.

In his 20 years on Parliament Hill, Willie has pursued issues persistently and always as a gentleman, as a diplomat.

I must thank you particularly for your unwavering support with regard to merchant credit card fees. Willie would keep me informed on what was developing in the U.S. and would send me U.S. media clippings on a regular basis. Thank you, Willie.

Dear Senator Moore, my friend, if you grew a beard in your retirement, you would be an amazing Santa Claus. Today, you are even wearing the right necktie. That being said, Santa Claus or not, you have been a gift to the Senate and to all Canadians.

I do not believe that Santa Claus can retire, so you have to continue to give, Willie. And I know that you will. I wish you the best of health, and, last but not least, be very, very careful with those chimneys.

I will miss you, my friend. Thank you.

Hon. Terry M. Mercer: Honourable senators, the Honourable Senator Dr. Wilfred P. Moore, Q.C., has been a friend of mine for over 40 years. It's an honour to rise to say a few words about him. Don't worry, Willie, I'm not going to tell some of those embarrassing stories I might have.

Wilfred P. Moore has had quite a life and an amazing career. He is a proud Haligonian. Saint Mary's University conferred a Bachelor of Commerce degree on Willie in 1964 and Dalhousie a law degree in 1968. I like the first degree better, of course, because it's from Saint Mary's University, our alma mater, and a place where Willie has done such good work, including serving on the board of governors.

He also was awarded a Doctorate of Law degree by Saint. Mary's and an Honourary Doctorate of Fine Arts degree from the Nova Scotia College of Art and Design University, all in recognition of his work as a tireless supporter for universities and their students.

Willie cut his political teeth as an alderman with the City of Halifax. He also ran provincially for the Liberal Party in Nova Scotia. He had quite a team, women like Betty Murphy, Betty Fry and my aunt Evelyn Mercer. What a team they were. They ran Fairview like they owned it.

While I was Executive Director of the Liberal Party of Nova Scotia, Willie was Treasurer. Then he became the Vice-President of Policy and eventually the President. During that time, we initiated some very important spending and fundraising reforms that directly influenced the course of the Liberal Party politically in Nova Scotia.

It was a great time to be a Liberal, and I would suggest it still is. A small group of us had a lot of fun during that time and had many adventures. There are many stories that I will not utter here, of course. Suffice to say that Willie was always there to offer his help, his advice and certainly his opinion. We all listened every time he did.

I do believe his most important work outside of politics was that of Chairman of the *Bluenose II* Preservation Trust. I am most sure that there would not be as many problems with the current incarnation of the vessel if Willie were still in charge.

In his spare time, which he doesn't have much of, Willie has also been involved in a successful art business. Indeed, I have two prints hanging on my walls at home that came from Willie's efforts there. He's also done some great work with the brand new Lunenburg School of the Arts as chairman of the board. There is not enough time to talk about the many achievements in the Senate since being appointed by the Right Honourable Jean Chrétien in 1996. It was interesting: Willie told me that, on his twentieth anniversary in the Senate, he picked up the phone and called Mr. Chrétien and said, "Boss, I just called to say thank you." Mr. Chrétien said, "What are you thanking me for?" He said, "I am thanking you for appointing me 20 years ago today to the Senate." That's the kind of guy Willie is.

Senator Moore's work on Canada-U.S. relations is certainly a highlight. Anybody who has been involved in the Canada-U.S. Inter-Parliamentary Group knows that Willie has always been one of the leaders, and his work has been extraordinary.

Honourable senators, I know this is the end of Willie's career in the Senate, but it's not the end of our friendship or the many friendships he has made over the years in this place.

Congratulations on a successful career, my friend. We all look forward to seeing what you do next.

Hon. Senators: Hear, hear!

Hon. Serge Joyal: Senator Moore, I would like to speak to your sense of humanity and what the Senate owes you.

I had the opportunity to be in this chamber for many years and share several experiences with you, and there are two fights that you led that I would like to acknowledge today.

The first one happened in 1999, on the extradition bill. You will remember that bill, introduced by the Minister of Justice of the day, a minister of the Liberal Party. The bill contained no provision to save the life of persons who would be extradited to countries where the death penalty would be imposed.

We had to fight the Minister of Justice to amend that bill, and the debate lasted for more than three months in the Senate Chamber, against all the odds of the government trying to lobby the senators, directly or indirectly, to force their vote in support of the bill. You remember that pressure, senator?

I want to remember that fight in those days because we're talking about independence of senators. I think you did show the kind of independence of mind that was at the forefront of your commitment to your personal values and to your principles. I want to acknowledge that.

I also want to mention the fight that you led in 2003 on the Youth Criminal Justice Bill. Do you remember that one, Senator Moore? You introduced an amendment to protect Aboriginal youth who found themselves in court and to get from the courts the same kind of consideration that adult Aboriginal people would get on the sentencing provision of section 7.18 of the bill. The hope was that the *Gladue* protection would make sure that the courts would pay due consideration to the status of an Aboriginal youth.

We won by one vote, and I remember very well how it happened. It was Senator Hervieux-Payette, who happened to run from Montreal to be here just on time before the vote was called. We won that vote. We changed the Youth Criminal Justice Bill to make sure that Aboriginal youth would be paid due consideration in our system of justice, considering the past and the plight that the Aboriginal people had to suffer in Canada.

• (1430)

I want to acknowledge you, Senator Moore, and say to all colleagues in the chamber that our independence of mind is the first quality that any one of us is called upon to show when we are confronted with important issues pertaining to the plight of those who are exploited or have not been given a chance in history, or those who are faced with the plight of the death penalty.

We are also indebted to you, Senator Moore, to have supported the history of our chamber and your commitment to ensure that the institution of the Senate and the constitutional monarchy in which we live have been appreciated by our colleagues.

Look at the calendar on the table. It's due to you. I remember very well in 2012 when we decided to honour the Diamond Jubilee of the Her Majesty the Queen. Former Senator Fortin-Duplessis and you volunteered to pass the hat on both sides of the chamber, and each one of us donated money to be sure that we would be able to honour our Queen, the Queen of Canada, in that jubilee year.

Thank you, Senator Moore. You are a lasting example for our future.

Hon. Senators: Hear, hear!

Hon. Mobina S. B. Jaffer: Honourable senators, I rise to pay tribute to our colleague and dear friend Senator Moore, Q.C.

The work Senator Moore has done through the various avenues he has access to, whether through one of his roles with the Liberal Party, where I first met him, or as a lawyer or the tireless worker that he has been in the chamber, clearly show that he has committed his professional life to improving the lives of all Canadians. He has worked tirelessly for us. It is because of the spirit of service that Senator Moore embodies that I respect and admire his work, both as a colleague and on a personal level.

Over the years, we have watched Senator Moore lead by example, showing how to help change a country. You have to participate. Only by showing up can you have an impact on your communities, and show up for his community he did. That is why he's so fondly known in Halifax and now in this chamber.

By focusing on his own community so consistently, Senator Moore embodies the truth we all try to live by: Service starts in our own backyards.

Every institution Senator Moore has been a part of has benefited from his opinions, thoughts and contributions. And every institution has felt that Senator Moore is an active member of the community, involved, bringing a sense of trust to the opinions he expressed — they were personal. Senator Moore, you really care about Canadians, and I want to thank you for that.

Senator Moore's contributions have been as vast and diverse as our country itself, and through all of his work we see that consistent theme of supporting, uplifting and improving a community. It started in Halifax, but he has managed to extend that sentiment across the entire country to the community of Canada.

Senator Moore, we thank you for your leadership by example. We thank you for your passion, and we thank you for your years of tireless service. This chamber will miss you, but we take comfort knowing that your presence will still be felt through the impact of your work over the last years, both here and across our great nation.

Senator Moore, Jane Cordy and I will miss the dinner dates we had with you. We will truly miss this.

Senator Moore, I will miss you. Now, my friend, it is time to have some fun.

Hon. Senators: Hear, hear!

Hon. Dennis Dawson: I think I'm the last to speak. Willie, I always told you after having been your seatmate for many years that I would have the last word because you were leaving before me. This is it. No, I will be very short.

Sometimes we have activities outside of the public, and in Willie's case he was co-chair of the legislative committee of the Liberal caucus, the national caucus, in the good old days, like we say. And Willie would be the one who would assure us that we would not have the type of issues that we have had over the last few weeks, including the last week on a bill like Bill C-29, when the national caucus and the house chamber and the Senate Chamber would be able to cooperate to avoid the type of confrontation that we have had over the last few months. That's the unseen side of my friend Willie Moore, who was a party insider and a very active party insider.

Well, we would often disagree, but we did work in the best interests of our party.

I know one thing Willie does love is Charlevoix, Baie-St.-Paul and Le Massif. So I hope now that he is retiring I can have the opportunity, since I will also be feeling better over the next few weeks, to invite you to come to Le Massif and I can maybe finish off by being able to teach you how to snowboard so that you can

profit from the hills of Le Massif and the 90 inches of powdered snow we have this year. You can see the whales off Tadoussac. That will be very appropriate for you.

I want to thank you, mon ami, for having been my seatmate and trying to control me sometimes when I was a little bit mischievous. Merci, mon ami.

Hon. Senators: Hear, hear!

THE HONOURABLE WILFRED P. MOORE

EXPRESSION OF THANKS

Hon. Wilfred P. Moore: Wow. Thank you, honourable senators, for your generous remarks. Needless to say, I shall miss you all. I shall really miss this Red Chamber. The opportunities that this place presents are unbelievable. Every day when I enter this place I never take it for granted. It has been an honour to be here and to participate in our precious democratic process.

Upon my appointment — I just had Charles Robert look this up — I was the eight hundred and first Canadian to ever sit in this chamber. I mean, what an honour. This leads me to thank the Right Honourable Jean Chrétien for appointing me to the Senate, and I hope that I have honoured his judgment in making that appointment.

Hon. Senators: Hear, hear!

Senator Moore: My heartfelt thanks go to my family, my wife Jane, our son Nicholas and our daughter Alexandra, and I am most grateful for their patience during my many absences while attending to my Senate responsibilities, and for their steadfast love and their encouragement for me to do the right thing and to do my job.

I want to thank my hard-working staff, who toiled alongside me in the best interests of Canada, the late Doralen Amesbury, Lisa Fisher, Marie Russell and Archie Campbell. Archie possesses consummate political antennae and is an outstanding writer.

I also thank my A-team: Sheldon Gillis, Vincent McNeil, David Murphy and Archie Campbell for their strategic advice, their encouragement and their friendships. No finer group of Cape Bretoners has ever crossed the causeway. All of you have made me look good, and I'm very grateful for that.

Others whom I wish to thank: the table officers for their service and advice over the years; the various pages over the years; also my thanks to the numerous committee clerks with whom I have worked, and to the reporters and translators; thank you to the security service, their courteous assistance, even letting me in my office when I forgot my key; and a special thanks to our editing and transcribing service, particularly D'Arcy McPherson and Janet Lovelady, with whom I have worked in getting out my Senator Statements and speeches. They have been very helpful to me over the years.

Another group who has my utmost gratitude and thanks are the staffs in the parliamentary restaurant, the fifth-floor cafeteria and the little cafeteria in the East Block for keeping me fuelled up so I can do my work. I also want to thank my seatmates, past and present, for putting up with me and for sharing many personal anecdotes.

The Senate provides special opportunities to make Canada a better place. I'm relieved and pleased that we are maintaining the process of appointing members to this chamber. It ensures that our regions and our minorities are well and properly represented. However, I sorely miss Wednesdays, those days of the past when we all sat as Liberals in caucus and shared stories and strategized as colleagues. I really miss those days.

• (1440)

I also miss Shelagh Cowan's oatmeal cookies, Jim.

With regard to our many new Senate colleagues, I urge you to seize the opportunities and to immerse yourselves in issues that you hold close. I further urge you to get involved with one or more of the parliamentary groups.

The Canada-United States Inter-Parliamentary Group was of deep interest to me. It presented unique opportunities to engage with our largest trading partner, our neighbour to the south, and our ally. The network of friendships with our counterpart legislators is most important. I want to thank June Dewetering for her professional assistance and guidance during those years. June is with the Library of Parliament, and a real pro.

In closing, this has been a most rewarding experience for me. I have left my fingerprints on some pieces of good legislation, on an international agreement and on some programs that assisted my province and Atlantic Canada, particularly regarding post-secondary education. It was also a joy to serve in the Senate's Artwork Advisory Working Group and to leave behind some lasting enhancements.

Honourable colleagues, my time in the Senate comes to an end at midnight on January 13, 2017. In the words of my friend the late Johnny Cash, "I don't like it, but I guess things happen that way." Au revoir, mes amis . . . till we meet again.

Hon. Senators: Hear, hear!

[*Translation*]

ROUTINE PROCEEDINGS

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

SECOND REPORT OF COMMITTEE PRESENTED

Hon. Joan Fraser, Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented the following report:

Tuesday, December 13, 2016

The Standing Committee on Rules, Procedures and the Rights of Parliament has the honour to present its

SECOND REPORT

Your committee has, pursuant to its order of reference of December 6, 2016, begun its consideration of changes to the *Rules of the Senate* to allow and facilitate the broadcasting of proceedings, and now makes an initial recommendation as follows:

That the *Rules of the Senate* **be amended by replacing rule 14-7(1) by the following**:

"Broadcast of Senate proceedings

14-7. (1) Public proceedings in the Senate may be recorded or broadcast, but only through the use of facilities that are installed for that purpose in the Senate Chamber, subject to such arrangements with the Clerk as may be necessary."

Your committee will continue to study this issue and report to the Senate as necessary.

Respectfully submitted,

JOAN FRASER

Chair

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

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

[*English*]

THE SENATE

NOTICE OF MOTION TO SUSPEND THE PROVISIONS OF THE ORDER RESPECTING ADJOURNMENT ON WEDNESDAY, DECEMBER 14, 2016

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, with leave of the Senate and notwithstanding rule 3-3(1), I give notice that, later this day, I will move:

That the provisions of the order of February 4, 2016, respecting the time of adjournment, be suspended on Wednesday, December 14, 2016 and that the Senate can continue sitting until 6 p.m.

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

Hon. Senators: Agreed.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO DEPOSIT REPORT ON STUDY OF OPPORTUNITIES FOR STRENGTHENING COOPERATION WITH MEXICO SINCE THE TABLING OF THE COMMITTEE REPORT ENTITLED: *NORTH AMERICAN NEIGHBOURS: MAXIMIZING OPPORTUNITIES AND STRENGTHENING COOPERATION FOR A MORE PROSPEROUS FUTURE* WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. A. Raynell Andreychuk: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Foreign Affairs and International Trade be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate, between January 3 and February 3, 2017, a report relating to its study on Free Trade Agreements, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Chamber.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO DEPOSIT REPORT ON STUDY OF RECENT POLITICAL AND ECONOMIC DEVELOPMENTS IN ARGENTINA IN THE CONTEXT OF THEIR POTENTIAL IMPACT ON REGIONAL AND GLOBAL DYNAMICS WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. A. Raynell Andreychuk: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Foreign Affairs and International Trade be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate, between January 3 and February 3, 2017, a report relating to its study on Argentina-Canada relations, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Chamber.

ETHICS AND CONFLICT OF INTEREST FOR SENATORS

MOTION TO NAME SENATORS ANDREYCHUK AND PATTERSON AS MEMBERS OF COMMITTEE ADOPTED

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, pursuant to the order adopted by the Senate on December 7, 2016, I move:

That the Honourable Senators Andreychuk and Patterson be named members of the Standing Committee on Ethics and Conflict of Interest for Senators.

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

(Motion agreed to.)

[*Translation*]

MOTION TO NAME SENATOR JOYAL AS MEMBER OF COMMITTEE ADOPTED

Hon. Joseph A. Day (Leader of the Liberals in the Senate): Honourable senators, pursuant to the order adopted by the Senate on December 7, 2016, I move:

> That the Honourable Senator Joyal be named a member of the Standing Committee on Ethics and Conflict of Interest for Senators.

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

Hon. Senators: Agreed.

(Motion agreed to.)

QUESTION PERIOD

NATURAL RESOURCES

SOFTWOOD LUMBER NEGOTIATIONS

Hon. Ghislain Maltais: Honourable senators, on September 28, September 29, and October 19, I addressed the Government Representative in the Senate, as I am today, on the subject of softwood lumber. He told me that the negotiators were working hard on this file. He was even prepared to set up a committee to come to the assistance of the workers. Today is December 13. In light of the federal government's inaction, the Government of Quebec decided, through its Premier, to advance loans to the affected companies.

• (1450)

We are talking about approximately 60,000 direct and indirect jobs in Quebec and thousands of jobs in the Maritimes—particularly New Brunswick—as well as in Ontario, British Columbia and Alberta. Will the premiers of these provinces have to reach into their own coffers to help forestry companies? Does the federal government intend to allow this crisis to continue? Will the federal government help the provinces by providing companies with loan guarantees and advances so that workers will be able to continue to provide for their families on April 1, 2017?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question and his ongoing interest in the matters associated with softwood lumber negotiations. I know others in the Senate are also following this closely. The Government of Canada committed to seeking an agreement on softwood lumber that protects Canada's interests.

It is obvious that we anticipate a change in the U.S. administration and that this issue has become, from a timing point of view, more challenging with that reality. However, the Minister of International Trade has as recently as last weekend engaged with her counterpart, and the government remains hopeful that it will reach an agreement, but it will only reach an agreement that protects the interests of Canadians. It is premature to contemplate what measures may or may not be taken in the future, except to say that the government anticipates that should an agreement not be reached before January 20, it will engage with the new administration as a matter of priority on this important issue.

[*Translation*]

Senator Maltais: From what I understand, the Government Representative is telling us that it is not appropriate at this time to move forward with loan guarantees. Nevertheless, the provincial premiers believe that it is very important. I do not know what 60,000 jobs mean to you, but I am from a region on the north shore of Quebec where forestry is the main source of revenue. I am thinking of the people from my region who will have to spend Christmas with a sword of Damocles hanging over their heads. Will the federal government join the provincial governments in providing loan guarantees to help companies get through this difficult time while they wait for our negotiators to resolve the issue?

[*English*]

Senator Harder: I want to assure the honourable senator that the minister responsible and the Government of Canada remain committed to cooperating with the provinces and the premiers. This issue was canvassed last week in the meeting. With respect to the specific invitation to which he refers, I'll be happy to inquire of the minister.

PRIME MINISTER'S OFFICE

TRUDEAU FOUNDATION

Hon. David Tkachuk: Senator Harder, a few weeks ago when the Prime Minister was asked, he said he had cut all ties with the Trudeau Foundation many, many years ago, shortly after being elected. It turns out that many, many years ago is less than two years ago, and shortly after being elected is six years after being elected.

Senator Harder, can you tell me if, as a family member of the Trudeau Foundation, Mr. Trudeau received remuneration during those years, and if so, how much?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. I of course don't have specific knowledge of the answer to the precise question that he's asked. The Trudeau Foundation is a charitable foundation. I will inquire of the appropriate authorities the answer to the particular question which he's asking.

Senator Tkachuk: Senator Harder, it also turns out that you have connections to the Trudeau Foundation. Senator Lankin has connections to the Trudeau Foundation. Senator Bovey has

connections to the Trudeau Foundation, and several of the people who sit on the advisory council that recommended all your appointments to the Senate have connections to the Trudeau Foundation, including Huguette Labelle, the Chair of the Independent Advisory Board for Senate Appointments.

Conservative leader Rona Ambrose has asked both the ethics and the lobbying commissions to ask whether people might be using donations to the charitable Trudeau Foundation to gain influence with the government.

Can you tell me, Senator Harder, when you were involved with the Trudeau Foundation, were you expected to donate, or were other members sitting here now who were involved with the Trudeau Foundation expected to donate to the foundation? Did you or any of these senators actually make those contributions?

Senator Harder: I would note that this question doesn't really pertain to my responsibilities, but I would be happy to answer it in any event.

I would encourage all senators, including Senator Tkachuk, to look at the long list of Canadians who have been associated as mentors or otherwise with the foundation. It is a broad group of a wide range of partisan and non-partisan affinities. This is an extraordinary organization, and one that I was proud to be associated with.

PUBLIC SAFETY

RCMP MEMBERS—COLLECTIVE BARGAINING

Hon. Daniel Lang: Honourable senators, I'd like to direct the questions to another area of concern of the chamber, and that's the question of the future of Bill C-7, which was presented to this chamber and amended and sent back to the other place.

On January 16, 2015, the Supreme Court ruled 6-1 in favour of giving the RCMP members the right to meaningful collective bargaining. Writing for that majority, Chief Justice Beverley McLachlin and the now retired Justice Louis LeBel made a strong declaration in favour of freedom of association, noting that like the freedoms of expression, conscience and religion, and peaceful assembly, it protects the fundamental right to Canada's liberal democratic system. It is essential to the maintenance of the vibrant civil society in which our democracy rests.

To the government leader, it's now almost two years since the Supreme Court decision. As far as I know, the government is in default of the time provided by the court to bring forward legislation in relation to the essential rights of RCMP members.

Has the government returned to the Supreme Court to explain the delay and seek a further extension to respect the court's decision and direction as it pertains to the RCMP members?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question and for his work on this issue, both generically and specifically with respect to Bill C-7. The government is still reviewing its options, and the minister tells me that he will be making an announcement in due course.

[*Translation*]

INTERNATIONAL COOPERATION

UNITED STATES—TRADE

Hon. Percy Mockler: The new American President, Mr. Trump, is saying that his trade policy will be America First. Can you inform the House whether roundtable discussions have already been held with the Canadian businesses that will be affected on to how to maintain their share of the market if Mr. Trump continues to maintain this view?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. It's clear that Canadian enterprise, the Government of Canada and the provinces all have an interest in ensuring that the new administration, as it takes office, is fully cognizant of the integration of the economies in the northern half of North America, and in particular that the policies, such as procurement, are mutually advantageous for all of us. It would at this stage be premature for the Government of Canada to make any anticipatory comments on a sense of direction with an administration that has not yet fully taken shape. However, I do welcome the honourable senator's ongoing interest in ensuring that we are well prepared as a country, with our private sector, on matters of the economic consequences of the North American Free Trade Agreement.

• (1500)

[*Translation*]

Senator Mockler: My question follows on Senator Harder's comments. With respect to the importance of Canada-U.S. relations, considering your experience as a senior executive in Canada's federal public service and your knowledge of how the economy works, do you believe in the importance of the trade that used to exist as part of the agreements between Maine and New Brunswick, which were known as the Maine—New Brunswick Legislative Conference?

[*English*]

Would you apprise the house on how important these relationships are, if you believe they are important? I know with the experience you have as a senior bureaucrat in Canada, you've seen different administrations and are aware of the importance of putting such a summit in place in order to defend and to share with our neighbours to the south.

Senator Harder: I'd be happy to do that and with great enthusiasm. We need to have every hand on deck in terms of building the relationships, both with the new administration and

with other subnational entities in the United States, all of whom have influence in a complex country like the United States.

The experience that we've enjoyed as legislators from both sides of the border has come together in various organizational formats. In the west you've got the Cascadie, the Great Lakes region and the Maritimes. It's terrific when governors and premiers are involved, but it is also absolutely strengthened when legislators from across the border regions are meeting together, identifying issues of commonality and are frankly building the relationships that allow us to ensure that unintended consequences, even intended consequences, are mitigated when our interests are at stake.

So I welcome the initiative that I know the honourable senator is championing. He raised this with Premier Gallant at a meeting that I was happy to attend earlier this week or last — they all run into each other. I do hope this summit takes place and is an example for other legislators across the border.

One final point is that Americans need to be reminded that I believe 39 states have Canada as their number one export market, so it's not just a border issue. We have to find ways of getting beyond the border to the states that have a strong economic relationship with us but aren't intuitively connected to us geographically, culturally and emotionally.

Hon. Leo Housakos: Honourable senators, my question is to the government leader.

Leader, I'm a little bit perplexed that this government is still holding onto the previous administration of the Senate. Recently we had the Vice-President of the United States here speaking at the first ministers' conference, which is quite unprecedented. I think this government should be more preoccupied with the incoming administration in the United States rather than with the outgoing administration.

Our economies are so interlinked and so interdependent. Won't you agree, leader, that our government here in Canada is going to have to reassess our tax and spend policies and reassess even the carbon tax that they're talking about piling onto an already overtaxed corporate environment? We have a new President arriving in Washington who is promising radical corporate tax cuts. Don't you feel that the direction of our current government here vis-à-vis the direction of the incoming government in the United States are diametrically opposed and it's going to set an uneven playing field and create a lack of competitive environment for Canadian corporations compared to American corporations?

Senator Harder: Again, I don't accept the premise of the honourable senator's question, but I do accept the notion that we, on the Canadian side of this relationship, need to prepare for and be attentive to ensuring that we build good relationships and find occasions of engaging with our American friends.

I take some inspiration from comments made by former Prime Minister Mulroney just the other day in respect of the bilateral relationship. I do know that the Government of Canada is actively developing and working on the approach to be taken and the early meetings to be had with the members of the new administration. This is to be expected in any transition of government on the American side and is one that Canadian politicians and officials are very experienced at.

[*Translation*]

PUBLIC SAFETY

RIGHTS OF VICTIMS

Hon. Pierre-Hugues Boisvenu: First of all, I want to take this opportunity to wish our colleague, Senator Moore, a long and healthy retirement.

My question is for the Leader of the Government in the Senate. The Victims' Bill of Rights was adopted in 2015 in the Senate and in the other place. The purpose of that bill of rights is to ensure that victims' rights are protected and respected, and this includes the right to compensation.

Last week the Liberal government introduced Bill C-28, which could allow the courts to waive payment of a victim surcharge for many people who are currently facing charges.

My first question is this: how many victims' groups or individual victims were consulted in the study of Bill C-28?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. I will take note of his precise question and respond with the information.

[*Translation*]

Senator Boisvenu: On another point, can the Leader of the Government tell us why Bill C-28 is going to be retroactive? It's rather rare, especially when dealing with the Criminal Code, for new legislation to be enforced retroactively.

As a result of the current court delays in our justice system, enforcement of this legislation will not catch up with many criminals for at least two or three years. These delays will effectively exempt many criminals from these provisions. Can the Leader of the Government of tell us why this legislation is being enforced retroactively?

[*English*]

Senator Harder: Again, I will seek the answer to that and bring it forward as quickly as possible.

ENERGY

MORATORIA ON CRUDE OIL TANKERS

Hon. David M. Wells: Honourable senators, this question is for the Leader of the Government in Senate.

Senator Harder, I think it was a question last week from Senator Black regarding the moratoria on tanker traffic off the British Columbia coast, specifically the Douglas Channel. I know in the Prime Minister's statement he referenced the Douglas Channel and the Great Bear Rainforest, and we all understand it's a very beautiful area of the country.

Of course, we have regulations in Canada to protect our marine ecosystems with respect to tanker traffic. We have tankers every day off the coast of Newfoundland and Labrador, Prince Edward Island, Nova Scotia, New Brunswick and Quebec.

Because the regulations are in place, appropriate and rigorous enough in our nation — forget both coasts — why is there a double standard? I don't think the Douglas Channel or the Great Bear Rainforest is any more beautiful, natural or in need of protection than the coastline of Newfoundland and Labrador, the great beaches of Prince Edward Island and the coasts of Nova Scotia and New Brunswick. Why is there a double standard, senator, with respect to a moratorium on the West Coast and not one on the East Coast? That's not to presume that I think there should be one on the East Coast; of course I don't, but I think there should be greater ability for business to be conducted on the West Coast as well.

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. His last comment took away the line I was going to start with, so I appreciate that.

• (1510)

Let me simply say, as I tried to say in answer to Senator Black's question, that the government is of the view that the moratorium in the area affected is absolutely important for public confidence so that the pursuit of economic activities on the West Coast can be done in harmony with the environment and so that appropriate ecological protections are guaranteed.

Senator Wells: Thank you. I have a supplementary question.

Of course, I have a difficult time accepting the response as accurate, because those protections are afforded on the East Coast, where there is daily tanker traffic, as Senators Manning and Marshall know; it's right off our coast and we see it every day that we're there. The number of tankers coming from the Hibernia platform and from the other platforms in the Newfoundland offshore oil area is up to three or four a day; and I think it's more than four or five a day from the refineries in Placentia Bay. That's all done without incident because the regulations are followed — the same regulations that are in place on the West Coast.

Senator Harder: Let me repeat that it is the Government of Canada's view that this moratorium is essential for the protection of the environment as economic activity is pursued.

I would note for the information of all senators — of which they are undoubtedly aware — that we will hear from Minister McKenna tomorrow during Question Period, who may add more intelligent lines than I'm delivering today.

ORDERS OF THE DAY

CANADA PENSION PLAN
CANADA PENSION PLAN INVESTMENT BOARD ACT
INCOME TAX ACT

BILL TO AMEND—THIRD READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Dean, seconded by the Honourable Senator Griffin, for the third reading of Bill C-26, An Act to amend the Canada Pension Plan, the Canada Pension Plan Investment Board Act and the Income Tax Act.

Hon. Art Eggleton: Your Honour, yesterday Senator Stewart Olsen indicated that she wanted to take the adjournment, and I understand she's going to speak Thursday on this. I'd like to speak today, and then if it could be adjourned in her name.

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

Hon. Senators: Agreed.

Senator Eggleton: Honourable senators, I rise to speak in favour of Bill C-26, on phase 2 of the Canada Pension Plan, as it's called.

The sponsor of the bill, Senator Dean, indicated in his remarks that families without workplace pensions are particularly at risk of under-saving for retirement. He indicated that it is estimated that 33 per cent of such families may be at risk of under-saving.

When this matter was before us at the Social Affairs Committee, we had a number of representations from organizations — both pro and con, and those in between — with different concerns with respect to the legislation. One of them was the National Pensioners' Federation, and they indicate in their research that two thirds of working Canadians are in fact at risk of under-saving. Perhaps the truth is somewhere in the middle there, but other studies have been done and other evidence has been put before the committee in the past.

For example, the HSBC Insurance Survey, released a few years ago, showed that only 17 per cent of Canadians aged 30 to 70 feel that they're financially prepared to retire, and 83 per cent of them don't know how much income to expect once they stop working.

These are fairly frightening statistics. Therefore, it is most welcome to see this effort by both the federal government and the provinces to rectify the matter — and also to be looking forward, not only in terms of the current generation. There will be some benefits for people in a few years when this measure comes into effect, but most of the benefits will be for the next generation. How often do you hear that most of us in political office — of course, except for the people in this chamber — don't think enough about future generations and about the next election?

Here is a case where we are really investing in our future. I want to emphasize that that is exactly what it is: It's an investment. It's not a tax, as some people tried to set out. In fact, let me deal with that first.

There was criticism that this would be a payroll tax that would cause job losses. Ironically, this same argument was used in 1986, when contributions were double. And it didn't happen. There wasn't this kind of "the sky is falling," where there were massive job losses, and no evidence has been submitted to suggest that will happen this particular time. Again, I think this is an investment, by both employees and employers, in the future of this country.

Some have suggested that there are other savings vehicles; there are RRSPs and TFSAs. Some thought these would perhaps be adequate to meet the needs. However, this is not the case. This may be true for people who are well off, for people in the upper-middle income brackets, but it's not true for many of the more moderate and lower-middle income brackets.

Some will say we've got the benefit of the GIS and the combination of that with the OAS and CPP, which, when put into effect in the 1970s, brought a lot of people out of poverty. We went from about 30 per cent down to about 5 per cent, where it is today. There are still, by the way, some stresses for single people, and particularly single women, in terms of that poverty line. By and large, they have a better floor, but there are a lot of people in between the upper-middle income and the bracket that gets the GIS who are going to have a substantial drop in their standard of living if we don't do something to add to the Canada Pension Plan.

That is the plan: to add to the Canada Pension Plan. This plan has been very successful in this country, it's been well invested, and I think the second phase will further help Canadians.

Another criticism we heard is that employees will be paying thousands of dollars more. In today's dollars, the absolute maximum additional contribution payable by employers is $1,100, and it's not payable until the increases are fully phased in, in 2025. It's a seven-year phase-in, starting in 2019, and that number is only in relation to people with earnings of about $82,700, which is the top end of what the contribution would be.

However, that's not where the average incomes are. The average incomes are much lower, much closer to $50,000 or $55,000. The annual employer contribution in that case is $515, not $1,100, or you can translate it into $43 a month.

As for the job loss argument, why would the employer terminate an employee when we're talking about $43 a month, not the high figures that some were talking about previously?

I will speak briefly to one other point, the question of the observation. The observation deals with what is called the "dropout rate." It reads as follows:

> The Canadian Pension Plan includes provisions which allow an individual to leave out the years they were unable to work due to disability or child-rearing when calculating the value of their government pension.

That is what is in effect with the current CPP.

> This ensures that an individual's government pension is not dragged down due to these years of little or no contributions.

The proposed expanded bill that we're dealing with, Bill C-26, does not include that provision, and as such there is the potential that individuals who will be on temporary leave from the workforce, for the reasons stated above, will receive a lower pension than their peers.

We believe at committee that this is not a just matter and it needs to be corrected. Minister Morneau, who was before the committee, said that he would in fact be putting this on the table and discussing it with his provincial counterparts. After all, as I said, this is an agreement between the federal and provincial governments, so he has to go back and get their agreement to it, but he has indicated a willingness to do it.

• (1520)

So we say, in our observation, that the government should work with the provinces in order to ensure that the expanded CPP includes these provisions. This observation — not an amendment to the bill but an observation — gives support to the minister in his efforts to raise this matter with the provinces and to ensure it's corrected.

With that observation and with the provisions of this bill, as I said that I think are beneficial to many people who are struggling to get enough money together for their retirement, this bill is worthy of our support.

(On motion of Senator Eggleton, for Senator Stewart Olsen, debate adjourned.)

BUDGET IMPLEMENTATION BILL, 2016, NO. 2

ELEVENTH REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the eleventh report of the Standing Senate Committee on National Finance (Bill C-29, A second Act to implement certain provisions of the budget tabled in Parliament on March 22, 2016 and other measures, with an amendment), presented in the Senate on December 12, 2016.

Hon. Larry W. Smith moved the adoption of the report.

He said: Honourable senators, Bill C-29 was introduced in the House of Commons on October 25, 2016. It is "Budget Implementation Act 216, No. 2." I want to explain briefly what transpired in our committee meeting this Monday, December 12, 2016.

We had a prominent legal expert from Quebec, Mr. Yves Lauzon, who was part of the team that successfully challenged the Bank of Montreal at the Supreme Court level in a case to support Quebec citizens. What we learned was that the provincial laws and federal laws can co-exist without the need for additional

legislation. Mr. Lauzon explained that Part 4, Division 5, clause 627.03, would remove a citizen's right to seek remedy and remove the right to use a class action suit to seek resolution. A citizen who, for example, is charged an arbitrary fee of $50 has little incentive to enter into a legal battle with a large bank. However, if a group of citizens can address the wrongdoing with a class action suit, the case can be reviewed in a judicial process.

So why was the clause added to Bill C-29 that would prevent consumer protection laws from protecting citizens? If you check the Office of the Commissioner of Lobbying Canada's website, you would find that under "Banks," several banks, including the BMO and RBC, lobbied the government a total of 294 times in the last year. The big banks lobbied the government, which resulted in a section of Bill C-29 that favoured big banks over citizens. That is what your elected officials in the other place voted in support of.

The Senate exercised its rights and exposed the issue in committee and at second reading. Of course, Senator Baker thanked the individuals who took part in this activity, which was a very positive outcome.

The members of the Standing Senate Committee on National Finance hear testimony so that they can alert senators in this chamber when there are issues with legislation. This is not a partisan issue. As in Bill C-2, senators need to represent their provinces and the citizens of Canada.

I have a quick referral to Bill C-2 which we'll vote on later today. The objective of the committee was to try to address the income group between $45,000 and $90,000 that was outlined by the Prime Minister and help these people, which our amendment tried to cover. I do understand mathematics and how tax laws work. The issue here is not that the rules didn't give us the ability to do so. The issue is that we have to find a way of helping people, namely, 7.4 million Canadians.

We are a chamber of sober second thought, and citizens who could not care less about politics and political platforms count on someone to read the legislation and assess whether it serves the interest of Canadians. We are, simply stated, the quality control group that tries to make legislation better.

In order to study Bill C-29, the committee held five hearings with 19 witnesses. As a result of those hearings, we have identified another major issue in Part 1 at clause 44. This section deals with a change to the small business deductions in section 125 of the Income Tax Act. You have already heard that the Income Tax Act needs to be simplified, yet Bill C-29 adds another 10 pages to the act.

For those who wish to review the section further, clause 44 begins on page 50 and continues on to page 60 of Bill C-29.

Mr. Kim Moody, a tax specialist from the Canadian Tax Advisory, testified before the committee and stated:

> The proposals are very far-reaching and apply to many routine situations, where . . . they should not. . . . and likely have unintended consequences.

Mr. Moody also stated that the current system is "complex." He went on to say: "However, the amendments make such rules horrifically complex."

Because of the new breadth and depth of the amendments, many may no longer qualify for the small business deduction.

In Mr. Moody's opinion:

> This new . . . legislation, without a doubt, is within the top 5 in complexity.

The average small business owners will not have the capacity that large corporations can afford to manage this level of complexity.

Another significant issue with clause 44 is the coming-into-force date. The changes will be applied retroactively to the 2016 taxation year. This puts small business owners and doctors, who we were actually dealing with and who came to testify in front of us, in a difficult situation as they will have operated for a year under different laws and are unable to adjust quickly to the new criteria.

Honourable colleagues, our committee has heard from many witnesses in the health profession area who are prime examples of how clause 44 and the changes to small business deductions will result in unintended consequences. A clause of a bill can easily be removed; it can be redrafted and improved before coming into force. This is not a measure of confidence; it is a matter of diligence in the work we have before us.

I urge you to consider Bill C-29 carefully, as the intent is to serve Canada to the best of our ability.

Hon. André Pratte: Your Honour, if Bill C-29 becomes law, it will be quite different from the bill tabled in this chamber last week. That is a tribute to sober second thought and to the Senate of Canada.

When I first raised my concerns with other senators about the bill 10 days ago, I was pleased to see that they did not care whether I was an independent, a Liberal, or a Conservative. They wanted to know about the issues. Their decision to support my point of view or not had nothing to do with the group or caucus I belonged to. This is what the Senate is all about.

In the end, many senators shared consumers' concerns, especially Quebec consumers. Many were also worried about the effect of Division 5 of Part 4 of the bill on provincial rights. The Government of Canada listened to those concerns and yesterday deleted that part of the bill. A new bill will be reintroduced later.

I want to thank the government for what I think is a wise decision. I would also like to thank the many senators who supported consumers and provincial rights during the last week. Special thanks go to Senator Carignan, who helped me with his experience in politics and his knowledge of the law.

I can often hear my father's spirit say: "See, you should have become a lawyer." I can now reply: "Why? There are great

lawyers here — Senator Carignan, Senator Gold, Senator Joyal, amongst others — and their advice is free."

An Hon. Senator: Careful! You get what you pay for.

Senator Pratte: I would also like to thank Senator Harder, who I think everyone will agree discharges his duties with remarkable tact, skill and good humour, as did he on this file.

[*Translation*]

I would like to read you a quote that truly reflects my view of the Canadian federation and was the foundation of my opposition to Division 5 of Part 4 of Bill C-29:

> We must constantly come back to the spirit of federalism: the idea that we must work together — respecting our differences — in order to achieve our common objectives. The challenges that we face cannot be resolved solely from Ottawa. They require a true partnership between the federal and provincial governments; one based on respect for the jurisdictions of Quebec and all the provinces.

This quote is taken from a letter that was sent on August 22, 2015, to the Premier of Quebec, Philippe Couillard, signed by Justin Trudeau, Leader of the Liberal Party of Canada.

• (1530)

This spirit of federalism, this idea of authentic co-operation between the central government and the provinces, has been described by Mr. Trudeau as "sunny ways." The expression, borrowed from a famous predecessor, Wilfrid Laurier, signals a preference for dialogue rather than confrontation, co-operation rather than centralization.

Division 5 of Part 4 of Bill C-29 is rooted in an entirely different vision of federalism whereby the only way to promote the national interest is for Ottawa to impose its will on the provinces. The provinces are consequently seen as a nuisance. The objective is standardized laws and regulations—a mark of efficiency. That was how Sir John A. Macdonald himself saw Canada in the beginning: a legislative union of the provinces. However, mainly under the influence of Georges-Étienne Cartier, Sir John A. Macdonald was wise enough to acknowledge the merits of the federal formula. Otherwise, Canada would not have seen the light of day.

[*English*]

As we have discovered over the decades, federalism itself is the reason for its own value and effectiveness. In various fields, governments' shared jurisdictions encourage imitation, the sharing of experiences and innovation. Consumer protection in the banking sector is and could be in the future one of these fields, so long as Ottawa does not put a straitjacket on it. Diversity is a creative force.

[*Translation*]

Yesterday, the Finance Department reported that it would give the Financial Consumer Agency of Canada the task of studying all provincial legislation on consumer protection and ensuring that the strictest provincial rules shape the new federal legislative provisions governing banks.

It seems that the government still intends to introduce standardized federal provisions on consumer rights with respect to banks. However, instead of setting the bar low, it seems to want to set it high.

That may be good news for consumers, but it does not solve the jurisdictional issue. By trying to achieve consistency and balance in this regard, the federal government is infringing on the provinces' jurisdiction over consumer protection.

Some may wonder what difference it makes whether the consumer protection framework is the best that it can be. I have a two-part answer. First, let us consider exactly what is happening. Respect for jurisdictions in a federation is not optional; it is the very basis of the system. If, with the stroke of a pen, the federal government can take over the provinces' jurisdiction in this area, what is to stop it from doing the same in other areas?

It is a slippery slope.

[*English*]

The appeal for uniformity for the sake of efficiency will always be strong in a large country such as Canada. But I will remind honourable senators that Canada's success is not based on uniformity but on diversity. And that diversity is guaranteed in great part by federalism.

Some have advocated an open federalism, others a cooperative federalism, but those qualifiers are useless. Federalism is open and cooperative by definition, or it is not federalism.

Thus, while thanking the government for amending Bill C-29, I also ask that in writing its future bill on the protection of consumers of banking services it come back to what the Prime Minister called, in his letter to Premier Couillard, the spirit of federalism or, dare I say, to the sunny ways.

With that, I will support Bill C-29, as amended, in its entirety. Thank you.

Hon. Anne C. Cools: Would Senator Pratte take a question?

I thank him very much for his remarks. During the committee meetings we heard from witnesses, doctors, radiologists in particular, and we received scores of letters from other physicians. Could you say a word or two about that to the house?

Senator Pratte: Yes. I am sensitive to the doctors' representations. However, I agree with the view that if there is a problem with remuneration of research activities and teaching activities, the problem should not be solved by using a loophole in the tax system.

[*Translation*]

Hon. Ghislain Maltais: Honourable senators, my speech will be shorter than expected because the arguments I prepared are no

longer necessary. Now that Division 5 has been removed, it makes things much easier for us.

First, I would like to commend the members of the Standing Senate Committee on National Finance and Senator Carignan, the Leader of the Opposition, for their excellent work.

Having worked on the Quebec Consumer Protection Act in another Parliament, I can tell you that it was horrible to see how the government wanted to gut it when it took nearly 15 years for Quebec to reach a consensus on that legislation.

A law like this needs to be long lasting. In my opinion, nothing in Division 5 of Bill C-29 improved upon Quebec's law, quite the contrary, since it put all of the power into the hands of the big banks. We know that the role of banks it not to protect people. It is to do business. That is how it should be. Banks are not welfare institutions. They are financial institutions whose goal is to make as much money as possible for their shareholders.

However, we need to think about a segment of the population that is left unprotected when up against a huge financial institution. Taking away people's right to take legal action in the event of a conflict between the client and the bank is tantamount to a banking dictatorship. That has no place in a country like Canada.

In any event, the matter would have wound up before the Supreme Court. The Government of Quebec had stated as much, and other provincial governments keeping a close eye on the developing situation. Provincial and federal jurisdictions are like a skating rink; everyone has to skate in the same direction on the ice. If someone decides to skate in the opposite direction, that could lead to disaster—in this case, constitutional wars before the courts, with lawyers and everything. It is not the egos of the politicians that are taking the biggest hit, but rather ordinary Canadians who get up and go to work every morning to earn a living. Those are the people we need to be thinking of.

I studied this bill carefully and thought that no politician could ever have come up with this. It must have been senior departmental bureaucrats who proposed these measures. This is not the first time they have tried this kind of thing. I never heard the Prime Minister or the Minister of Finance talk about this during the election campaign. In fact, the Minister of Finance was one of the people who were most surprised to learn that these measures had been included in this omnibus bill.

Bureaucrats have something going for them: they stay. Politicians come and go, but bureaucrats might stay for 35 years. When they have a particular vision for the country, they have no problem pursuing it through legislation, even if it means inciting conflicts, sometimes to the surprise of ministers and even prime ministers. The same is true in every province. I have seen many similar cases, and I could give lots of examples.

That fight is over. We may have won the battle, but the war isn't over yet because they are coming back after a public consultation. I hope that Canada will be unanimous on this and that the new federal legislative provision will not be less effective, but rather more effective than Quebec's legislation. Thank you.

• (1540)

Hon. Marc Gold: Honourable senators, according to tradition, when new senators address the chamber for the first time, they take a few moments to talk about their background and the issues they are interested in, and to explain how they hope to serve Canadians in their new role.

In other circumstances, I would have told you about my family, the life lessons and values imparted by my parents and also my grandparents, who came to this country as young Jewish immigrants. I would have also told about the support and inspiration provided by my wife, children and especially my two grandchildren. I would have talked about my love for Quebec, its history, culture and diversity. I would definitely have spoken about my love for Canada and how this love developed and grew through my travels and studies and the fact that, fortunately, I have had the opportunity to live in various parts of Canada over the years.

However, given the issue we are debating today, I would like to share with you a more specific aspect of my professional life. I studied constitutional law at the University of British Columbia about 40 years ago, and I have since taught the subject to law students at Osgoode Hall Law School and McGill University. I have given talks on this subject to lawyers and judges across the country and abroad.

I am fairly knowledgeable about and have experience with the matter, which is important to me. Therefore, it is fitting that I rise for the first time in this chamber to debate an issue that lies at the heart of our Canadian constitutional order and that engages us as senators.

[*English*]

As you all do, I take very seriously our collective responsibility to be a forum of sober second thought, and I have deep respect for the traditions and practices of this chamber and its role in our parliamentary democracy. As I understand it, we have a duty to take the necessary time to ensure that proposed legislation respects the fundamental principles and values of our constitutional order. A core and defining principle is that of federalism — *l'esprit fédéral* — the appropriate distribution of powers between Parliament and the provincial legislatures.

No one denies that Parliament has a power to legislate with regard to banking, nor does any serious person — constitutional scholar or otherwise — deny or contest that as an incident to that jurisdiction, though not at its core, Parliament can legislate to provide bank consumers with a set of rights and remedies, as indeed they purported to do in Division 5 of Bill C-29. There was much that was good in that part of the bill. It would have provided some consumers with rights that they didn't or don't currently have in the provinces in which they reside. But in one important respect, it was fundamentally flawed.

[*Translation*]

As several people have already pointed out, each provincial legislature can enact laws about property and civil rights in the province. That includes legislative jurisdiction to pass consumer

protection laws. Some offer more consumer protection than others. That's the nature of federalism. The point, though, is that consumer protection is an important and legitimate role for the provinces.

Another point worth raising with respect to bank customers is that provincial consumer protection legislation can and does apply to the relationship between a consumer and a bank provided it does not conflict with federal law on the matter. The Supreme Court of Canada recently confirmed that in *Marcotte*, but it is a basic principle that has been central to the development of Canadian federalism for more than 130 years.

[*English*]

And here is the rub: The proposed changes to the Bank Act, in particular the section that was mentioned already, sought to establish an exclusive regime in relation to a bank's dealings with its customers by ousting the application of provincial law that relates to the protection of consumers.

The rationale of the briefings that were provided to us in this chamber was to provide a uniform set of rights to Canadians and to avoid consumer confusion, but it went too far. It wasn't necessary to achieve those goals. It wasn't even desirable from the point of view of the rights of Canadians, and indeed it might very well have been unconstitutional.

It certainly wasn't necessary. It's a basic principle of Canadian constitutional law that where valid federal and provincial laws conflict, or apply to the same set of circumstances, the federal law will apply in cases of conflict. Strictly speaking, it was unnecessary to establish federal paramountcy. But there was a deeper purpose to the bill, and that leads me to my second point: It just simply was not good, in fact, for Canadians.

The section was said to be necessary to avoid exposing consumers to a confusing array of protections and to reduce reliance on lawyers and on litigation. I understand the latter part, for sure.

But with the greatest of respect, at least according to the information that we were provided in the briefings, the proposed law fell well short of achieving these goals and of making the case.

[*Translation*]

I will speak frankly because I don't think we need to bother with bafflegab in a place like this. There is no doubt that waiving an otherwise valid provincial consumer protection law can make life easier for banks. That is hardly an illegitimate policy objective. But it is certainly not good for Canadians in general and definitely not good for those living in provinces that already have strong consumer protection legislation.

Yes, there are provinces where the consumer protection legislation is relatively weak, and in those provinces, the proposed Bank Act amendments will indeed enhance consumers' rights. In the long term, however, as Senator Pratte mentioned, this will have a negative impact on the rights of all Canadians.

[Senator Gold]

[*English*]

The effect of this section would have been to freeze and cap the rights of all consumers in relation to their dealings with banks, and it would deny to Canadians the benefit of any additional rights or remedies that their province might choose to accord in the years to come.

And in this respect, since we are to take a longer-range view, it would have compromised one of the great benefits and values of our Canadian federal system: the ability of provinces to be the social laboratories for innovation and change. That benefits the country as a whole. We need look no further than our system of medicare, which started with the government and the province of Saskatchewan, and now is considered by many, at least, to be an important and defining feature of Canadian public policy.

By ousting the operation of provincial consumer legislation, the bill, as it was, would have choked off the possible interaction and synergy between our levels of government in the area of protecting consumers and would have denied to all Canadians the benefits that ultimately could result from that interaction.

Finally, and perhaps most seriously, I have reservations as to the constitutionality of the provisions that were in issue. Simply put, it's one thing to assert that exclusive federal jurisdiction over banking can include the regulation of banks. That's beyond question. But it's quite another to assert that this authority necessarily includes the jurisdiction to oust the application of otherwise valid provincial laws of general application.

[*Translation*]

However, this chamber, on this particular day and at this late hour, is not the place to debate the various constitutional arguments on both sides of the question. That is a matter for another day, that's for sure. What I want to say is that there were serious concerns about whether this aspect of the bill was needed, whether it was a good idea, and whether it was constitutional. We were not given the analysis and information, nor were we given the time we needed to properly and thoroughly examine the bill, in other words, to conduct a carefully considered review.

• (1550)

[*English*]

We were not provided with an analysis of the impact of the proposed changes on existing consumer legislation. I hope that will be part of the study that is done in the other place. We were not provided with an analysis of how the operation of otherwise valid provincial laws would be detrimental to the rights of Canadians, nor, might I add, how it would frustrate the operations of banks, which, again, would be a legitimate policy concern that was simply not brought to the table. We certainly did not have the opportunity to hear from and question legal experts on the constitutionality of the proposed section.

But happily and to the credit of Senator Pratte, to the members of the Finance Committee, to the leaders, and to the members in this chamber and in the other place, we will have the time, and time will be taken to address these issues properly.

[*Translation*]

Honourable senators, I will conclude my speech where I began. In carrying out our legislative duties, we have an obligation to ensure that the bills before us are consistent with the fundamental principles and values of our Canadian constitutional order. Since exclusive federal jurisdiction over consumer protection is central to the federal principle, I support the amendment so that the rest of Bill C-29 can be passed by this chamber.

[*English*]

In this, we are fulfilling our constitutional role as a forum for considered reflection and review. I am honoured and proud to have this opportunity to serve with you in this august chamber. Thank you.

[*Translation*]

Hon. Percy Mockler: Honourable senators, I would like to comment on Senator Gold's speech. Senator Gold, I would like you congratulate you on your maiden speech and commend you for your wealth of experience and great respect for Canada's confederation. As we say in Acadia, hats off to you.

I would like to mention to you and all senators who are not members of the Standing Senate Committee on National Finance that the committee did a huge amount of work on Bill C-29. It was a group effort. In order to accomplish this work, senators met in a spirit of friendship and support with the goal of upholding our country's principles and protecting Canadian consumers.

[*English*]

It is a very good day, senators, when this chamber stands up for ordinary Canadian consumers like we did yesterday.

Senator Cools: I'm with you.

Senator Mockler: There is no doubt in my mind that it is much more rewarding fighting for the Main Street people than for Bay Street.

The National Finance Committee did a superb job. Congratulations to all the members and the witnesses who came to look at Bill C-29 and also Bill C-2.

The Senate committee deals with a number of very complex money matters in many different forums, honourable senators. We're given a challenging mandate, and all of us have come to embrace it with great passion and determination.

It was evident in yesterday's proceedings that we did our job for Canadians with Bill C-29. There are few issues in all of government that escape our attention. The supply process affects all of us, all of government and all of Canadians, and we must be always attentive when changes come from government.

To ask the tough questions that affect ordinary Canadians all the time is the right thing to do. "Who is the middle class?" was asked many times. It's a great question. Many times we did not have the right answer or the definition was, to some extent, not evident.

I wish to thank Senator Harder for his leadership in moving the motion yesterday in committee to get us where we are here today.

Hon. Senators: Hear, hear.

Senator Mockler: I would also like to thank and recognize Senator Pratte for his unrelenting pursuit of the truth.

[*Translation*]

That said, Senator Pratte, esteemed colleague, I must congratulate you, but never forget that:

[*English*]

Sunny ways of doing things can become funny ways of administering them.

[*Translation*]

Senator Pratte, I want to congratulate you as a parliamentarian on your determination and your unending quest to bring balance to the debate, to inform us and enrich us with your vision, and, as we saw yesterday from coast to coast, with your pure skill.

[*English*]

Please permit me to say *chapeau levé* to my leader, Senator Claude Carignan, who seconded the motion brought forward by the Leader of the Government in the Senate, Senator Harder.

I would also underscore, honourable senators, the impact that these deliberations have on all Canadians, including those who live in the province of New Brunswick and for every province in Canada from coast to coast to coast.

I would now like to pay a special tribute to Mr. Rick Hancox, CEO of the Financial and Consumer Services Commission, an arm's-length, self-funded Crown corporation from New Brunswick, our province.

The letter that he sent to me is self-explanatory on this issue:

> Senator Mockler,
>
> Thank you for sending me the information on Bill C-29. We understand that there is a paramountcy clause that would provide for federal legislation overriding any provincial legislation as it relates to consumer protection or business practices as they relate to consumers.
>
> The Financial and Consumer Services Commission is an arm's length, self-funded Crown corporation in New Brunswick responsible for the regulation of security, insurance, pensions, credit unions, mortgage brokers, loan and trust companies and a wide range of consumer protection legislation. We had not been consulted on the potential impact this Bill might have on provincial financial services or consequences for consumer protection. As it

> stands now, it is difficult to assess the impact without a better understanding of the purpose. We would support an opportunity to explore the intent and details with our federal and provincial and territorial colleagues before these provisions come into play. And as with many issues in this arena, the "devil is in the detail".
>
> I might suggest that an appropriate forum for this discussion is the federal-provincial-territorial financial policy sector dialogue group.
>
> This group is coordinated through the federal Department of Finance, Financial Sector Policy Branch. It brings together senior staff from the Department of Finance and financial services and regulators of the provinces and territories with their various federal counterparts to discuss issues affecting the oversight of the financial sector.
>
> Please let me know if we can be of assistance in any way.

• (1600)

With this, honourable senators, I bring to your attention the importance of what we did yesterday in taking Parts 4 and 5 out of Bill C-29.

[*Translation*]

Honourable senators, I would like to say thank you. That is the spirit of cooperation and that is the true Senate Chamber that was founded in 1867.

[*English*]

(Motion agreed to and report adopted, on division.)

THIRD READING—DEBATE SUSPENDED

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

Hon. Peter Harder (Government Representative in the Senate): Thank you, honourable senators, with leave of the Senate and notwithstanding rule 5-5(b) I move that Bill C-29 as amended be now read the third time.

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

Hon. Senators: Agreed.

Hon. Anne C. Cools: Honourable senators, I rise to speak to Bill C-29, a second Act to implement certain provisions of the budget tabled in Parliament on March 22, 2016, and other measures. Its short title is the Budget Implementation Act, 2016, No. 2.

Last night, on the supply bill, I explained appropriations, appropriation bills and the power of the control of the public purse: that is, the public revenue and the public expenditure. In his 1959 book, *The Control of the Purse: Progress and Decline of Parliament's Financial Control*, author Paul Einzig wrote, at page 17:

> The Commons were bought into being during the second half of the 13th century primarily in order to make it easier for the King to impose taxes on his subjects. They derived all their other functions and powers from that original function. They achieved ascendancy over the King and over the hereditary Upper Chamber, and eventually gained a virtually complete control over the State, largely through their authority to grant or withhold funds required by the Executive and through controlling the expenditure of those funds.

The British House of Commons was founded in the high concepts of representation by population and no taxation without representation. The ancient British commons became the guardian of the liberties and rights of the realm by the control of the public purse.

Einzig said, at page 18:

> It was through their control of the nation's purse-strings that the Commons also became the guardians of human rights. It was because of the British determination not to be taxed without consent that Parliament was able to create conditions that have made possible the British way of life. Control over finance enabled Parliament to secure the safety of the life, liberties and rights of the subject against arbitrary acts by the Executive. It was because the Commons were in a position to withhold supplies that they had been able to secure freedom and impartial justice for the citizens, to safeguard the interests of the weak and the defenceless, and to enable the formerly destitute masses to attain a standard of living in conformity with human dignity.

Honourable senators, the Constitution Act, 1867 gave this Senate equal and coordinate constitutional powers with our House of Commons, while giving it strong powers in the national finance. Senator W. B. Ross chaired the 1918 Special Senate Committee on the Rights of the Senate in Matters of Financial Legislation. The committee studied and adopted his learned memorandum on this subject. Senator Ross's report of May 9, 1918, said at page 3:

> The Special Committee appointed to consider the question of determining what are the rights of the Senate in matters financial legislation, and whether under the provisions of *The British North America Act 1867*, it is permissible and to what extent, or forbidden, for the Senate to amend a Bill embodying financial clauses (Money Bill), have the honour to make their Second Report as follows: . . .
>
> The following summing-up thereof is submitted as the conclusions of your Committee on the rights of the Senate in matters of financial legislation:
>
> 1. That the Senate of Canada has and always had since it was created, the power to amend Bills originating in the Commons appropriating any part of the revenue or

imposing a tax by reducing the amounts therein, but has not the right to increase the same without the consent of the Crown.

2. That this power was given as an essential part of the Confederation contract.

3. That the practice of the Imperial Houses of Parliament in respect of Money Bills is no part of the Constitution of the Dominion of Canada.

4. That the Senate in the past has repeatedly amended so-called Money Bills, in some cases without protests from the commons, while in other cases, the Bills were allowed to pass, the Commons protesting or claiming that the Senate could not amend a Money Bill.

5. That Rule 78 of the House of Commons of Canada —

This is now rule 80, colleagues.

— claiming for that body powers and privileges in connection with Money Bills identical with those of the Imperial House of Commons is unwarranted under the provisions of *The British North America Act 1867*.

6. That the Senate as shown in *The British North America Act* as well as by the discussion in the Canadian Legislature on the Quebec Resolutions in addition to its general powers and duties, is specially empowered to safeguard the rights of the provincial organizations.

7. That besides general legislation, there are questions such as provincial subsidies, public lands in the western provinces and the rights of the provinces in connection with pending railway legislation and the adjustment of the rights of the provinces thereunder likely to arise at any time, and it is important that the powers of the Senate relating thereto be thoroughly understood.

All of which is respectfully submitted. W.B. Ross, Chairman.

Colleagues, clearly, this Senate was given great powers as a vital and essential part of the Confederation. We must reflect on the Ross Report's words on Senate amendments of tax and appropriation bills, "but has no right to increase the same without consent of the Crown."

These words say, on the face of it, that the Senate may increase the amounts with the consent of the Crown, usually signified here by a senator Crown minister, of which we have none. The Constitution Act, 1867, in part III, the Executive Power, in section 9, says:

9. The Executive Government and Authority of and over Canada is hereby declared to continue and be vested in the Queen.

Our Sovereign Majesty Queen Elizabeth II is our head of state, head of government and head of Parliament and, in addition, the actuating and enacting power in our Constitution. She gives the force of law to every bill and measure. She should be represented in the Senate by ministers, members of her Canadian government, who, in responsible government, lead all government business in both Houses of Parliament, including worthy amendments to government bills.

In the two Houses of Parliament, the consent of the Crown may only be signified by a Crown minister. But in this place there is no senator who is a Crown minister, though responsible government dictates and says that Crown ministers must lead the business of the government in both houses. The government's neglect to enable a Crown minister to lead government business here, in this chamber, is tilting towards constitutional crisis. This is a matter that the government should deal with.

Governments must abide by the Constitution, which says that government business in the Senate must be led and signified by a responsible Crown minister, who must perform these Crown duties in the Senate, such as to signify Crown consent in the Senate when needed.

You might be interested in this, Your Honour: A British dominion upper house, the Legislative Council, obtained the Crown's consent. It happened here, if honourable senators remember, some years back on the Royal Assent Bill. The learned Arthur Berriedale Keith wrote about this in his 1912 book, *Responsible Government in the Dominions*, saying, at page 567:

• (1610)

In 1909 and 1910 minor questions have arisen in the case of New Zealand as to the position of the Council. In the former year the Council inserted an appropriation clause in a Reformatories Bill, which was validated ex post facto by a Governor's message being obtained to cover it, and the Speaker decided that that procedure was adequate for the occasion. In 1910, the Upper House altered the Crimes Amendment Bill by inserting an appropriation clause, and there was rather a warm discussion, the Speaker ruling that either a Governor's message must be obtained and the House formally by resolve decide not to insist on its privileges, or the Bill must be laid aside. The former course was adopted after a lively debate.

Honourable senators, some may pine for the old imperial Commons house's ancient antipathy to the Lords house, which the Commons dragged beneath them, especially after 1911, because Britain was a unitary state and a legislative union. But, unlike them, Canada is a federation, which this Senate was constituted to embody and actuate. About federalism, Cambridge University's Harold Temperley, in his 1910 book, *Senates and Upper Chambers*, wrote, at page 209:

The Federal State is the most complex and ingenious of modern political communities, and its Upper Chamber usually exhibits one aspect of that ingenuity. One principle is, however, common to all such formations: the Federation is based on a union of individuals and of States, and that union is expressed in the constitution of the two Chambers. The Lower one represents the rights and powers of the people — the total numerical majority; the Upper Chamber represents the rights and powers of the States in their separate and individual capacity. Population has always full

> representation in the Lower Chamber; . . . In the Unitary State the Upper Chamber only represents the rights of property of individuals or of classes. In this respect, then, a Federal Senate always has an advantage which no Upper Chamber in a Unitary State — as, for example, the House of Lords in England — can even claim to possess, and it is this fact which lessens the possibilities of comparison and renders many apparent analogies totally misleading.

Honourable senators, last Thursday, December 8, Government Leader Senator Harder, speaking to this bill, said, at page 2015:

> Now, quite aside from the merits of Bill C-29 and the policy rationale for the budget measures it seeks to implement, I want to take a few moments to speak on the role of the Senate with respect to legislation such as the bill that is before us.
>
> Bill C-29 is a classic example of a question of confidence in the other place. In its pith and substance, it is a budget bill that seeks to implement the explicitly announced budgetary program of a freshly elected majority government.

Colleagues, all bills are subject to debate, and all bills are subject to amendment. We must never forget that for a moment.

Senator Harder said, at page 2016:

> Hence, the Senate was never intended by the architects of Confederation to be a perennial rival and co-equal to the lower chamber.

I think "rival" and "co-equal" are contradictory terms.

> This is particularly true when it comes to budget bills that seek to implement policies have been explicitly articulated and subsequently passed by the elected chamber. And in Bill C- 29, what is before us is a framework implementing budget policies that have been adopted by the elected chamber in a vote of confidence. These are matters in which the Senate must exercise a very high degree of restraint.

I do not know what the senator means by a "vote of confidence." I would submit that the Senate is restrained 99 per cent of the time, but I would also submit that Senator Harder's view of the position of the Senate is very deeply flawed. I think perhaps Senator Harder has told us what he thought the Fathers of Confederation thought.

I think that we should hear the Fathers of Confederation speak directly, and I shall put some relevant quotes on the record.

On February 6, 1865, in the legislative assembly on the Confederation Debates and the Quebec Resolutions, John A. Macdonald said, at page 29:

> . . . we were forced to the conclusion that we must either abandon the idea of Union altogether — . . . or devise a system of union in which the separate provincial organizations would be in some degree preserved.

In other words, we had to maintain the integrity and the independence of the individual and separate provincial entities, meaning provinces.

And at page 35:

> We resolve then, that the Constitution of the Upper House should be in accordance with the British system as nearly as circumstances would allow.

Macdonald was prescient on the notion of swamping, saying, at page 36:

> The provision in the Constitution that the Legislative Council shall consist of a limited number of members that each of the great sections shall appoint twenty-four members and no more, will prevent the Upper House from being swamped from time to time by the ministry of the day, for the purpose of carrying out their own schemes or pleasing their partisans. The fact of the government being prevented from exceeding a limited number will preserve the independence of the Upper House, and make it, in reality, a separate and distinct chamber, having a legitimate and controlling influence in the legislation of the country. . . . There would be no use of an Upper House, if it did not exercise, when it thought proper, the right of opposing or amending or postponing the legislation of the Lower House. It would be of no value whatsoever were it a mere chamber for registering the decrees of the Lower House. It must be an independent House, having a free action of its own, for it is only valuable as being a regulating body, calmly considering the legislation initiated by the popular branch, and preventing any hasty or ill considered legislation which may come from that body, but it will never set itself in opposition against the deliberate and understood wishes of the people.

I thank Senator Harder for having the strength to actually withdraw the damaging provisions from the bill, but I dare say that would not have happened if certain senators here had not done their work and insisted on it or actually asked for it.

Macdonald was clear, at page 38:

> To the Upper House is to be confided the protection of sectional interests; therefore is it that the three great divisions are there equally represented, for the purpose of defending such interests against the combinations of majorities in the Assembly.

This is the Senate. Sir John A. Macdonald, George Brown and the Fathers envisaged. Make no mistake about that. It was not Senator Harder's vision. It was the Fathers' vision.

About financial legislation, at page 42, he said:

> We provide that there shall be no money votes, unless those votes are introduced in the popular branch of the Legislature on the authority of the responsible advisers of the Crown — those with whom the responsibility rests of equalizing revenue and expenditure — that there can be no

> expenditure or authorization of expenditure by Address or in any other way unless initiated by the Crown on the advice of its responsible advisers.

We need here a cabinet minister who is a responsible advisor of the Crown.

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

Senator Cools: Yes, thank you.

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

Hon. Senators: Agreed.

Senator Cools: Honourable senators, the Fathers speak best when we quote them directly. They speak best, and that is why I quote them directly.

The Senate Senator Harder described is not the robust, strong and active Senate the Fathers intended and constituted as a coordinate house, as the guardian of provincial interests in a federation.

Paul Einzig challenged the false notion that we cannot change a comma of budget or supply bills. In *The Control of the Purse*, he wrote, at page 264:

> To a large degree the reason why the House allows Estimates to be passed without any alteration whatever is the widespread belief among politicians that a Government defeat on financial proposals, whether connected with the Budget or with Estimates, must necessarily entail resignation or dissolution. This belief has no foundation in British constitutional practice.

All that talk last week, by Senator Harder, of "this is a confidence question," all of that is irrelevant. It does not matter at all.

> This belief has no foundation in British constitutional practice. It was emphatically repudiated by Lord John Russell on May 6, 1851, when he stated in connection with a minor defeat over a financial question: "I consider that all those questions upon which the House of Commons, representing the country, have peculiar claims to have their opinions listened to, and upon which the Executive Government may very fairly, without any loss of its dignity — provided they maintain a sufficient revenue for the credit of the country and for its establishments — reconsider any particular measures of finance they have proposed.

I was very pleased that Senator Harder reconsidered Bill C-29.

• (1620)

Paul Einzig continued, at page 265:

> From the point of view of constitutional consequences, distinction must be made between defeats over the minor amendment of Votes that involve relatively moderate amounts and major defeats involving a denial to the Executive of the whole or substantial portion of the annual Supply. . . . Admittedly, Government defeats over Estimates were few and far between even during the 19th century. That is no reason, however, for allowing the practice of amending Estimates to fade into oblivion.

Honourable senators, I thank you for your attention.

I listened with great care to the testimony before the committee on Bill C-29. I was deeply concerned about the issues that the doctors raised. I belong to that group of people who believe that doctors are not just ordinary professionals. Their profession is bounded by many other humane and humanitarian concerns and caregiving. I would have hoped that Senator Harder could have paid some more attention to the concerns of the doctors.

However, on the larger issues and on the principles, there are no barriers whatsoever constitutionally to the Senate making amendments to the bills. The only limitation on the Senate really is that bills must originate. These bills must originate in the House of Commons, and even that is a limit on the ministry. It is clear that only a minister can introduce a bill, which must be done in the House of Commons. He must introduce this bill with the blessing of the Queen.

Having said that, colleagues, I thank Chairman Larry Smith. I thank the members of the committee for their diligent work on this matter. Perhaps His Honour could take a read of the actions of the legislative council in 1909 and 1910 in New Zealand where they found a way to resolve a particular problem.

We did that in the Royal Assent bill, as senators will remember some years back. The bill began with Senator John Lynch-Staunton. The government then took control of the bill, and Senator Carstairs, the then government leader, rose here in the chamber and signified the Royal Consent which has to be obtained, whether it's called a Royal Recommendation or Royal Consent. It has to be obtained every time a bill moves in this house that touches upon that group of powers that we call the Royal Prerogative, and in Latin, the *lex prerogativa*. Legislation comes into existence where the *lex parliamenti* meet the *lex prerogative* — in other words, where the houses meet the sovereign and all agreeing together to adopt these matters.

Thank you, colleagues.

[*Translation*]

Hon. Claude Carignan (Leader of the Opposition): Honourable senators, since 1867 the role of the Senate has generated a good deal of commentary, and for the last few days that debate has picked up again with Bill C-29.

Obviously I do not want to use this speech to trot out all the aspects of what a modern Senate should be, or all the roles that we senators can or ought to play, but you will permit me all the same to make a few points.

The Senate must be a counterbalance to any untimely decisions made by the government. The Senate must be the chamber of sober second thought where bills are scrutinized to ensure that the wishes of Parliament are clearly expressed and that there are no clerical errors.

However, the Senate must also protect minorities and provincial rights. The balance of our federal system is a fragile thing, and the Senate is here to ensure that the central government does not unduly tip the scales in its own favour.

[*English*]

The Senate must be prepared to have the "Ottawa knows best" mentality that sometimes creeps into Canadian public policy. It is our role to assert that the Parliament of Canada respects the spirit and the letter of federalism.

Honourable senators, I want to send a very clear message to the Trudeau government and in particular to the Minister of Finance, the Honourable William Morneau: The senators in this chamber will scrutinize every piece of legislation you send us, including omnibus budget bills, so that we can protect all Canadians.

Hon. Senators: Hear, hear!

Senator Carignan: The senators in this chamber will not sit on their hands if you, your official or your government try and violate provincial rights clearly laid out in the Constitution.

[*Translation*]

Honourable senators, despite the government's claims to the contrary, Bill C-29 was passed by the House of Commons with no real consultation with the provinces, particularly with regard to the provisions exempting the banks from provincial consumer protection mechanisms.

It was when the bill came to the Senate that public opinion was alerted to its very real and profound flaws. Were it not for the meticulous and thorough study and the critical mindset of senators, especially those on the Standing Senate Committee on National Finance, Bill C-29 would have been passed to great indifference.

Yesterday I had the opportunity to replace my friend and colleague Senator Neufeld on the Standing Senate Committee on National Finance, chaired by the very talented Senator Larry Smith. After reading the well-prepared questions that the Committee members asked of the various witnesses, including ministers, I finally had the chance to see Senators Andreychuk, Ataullahjan, Cools, Eaton, Marshall, Mitchell, Mockler, Pratte and Saint-Germain at work, together with Senator Harder. Once again, they demonstrated the useful and essential role that they play for Canadians.

Honourable senators, you can be proud of the work done by your colleagues on the Standing Senate Committee on National Finance. It is because they held up their end, with the support of many of us, that the government finally saw the light and agreed, at the very last minute, to withdraw certain provisions of Bill C-29.

Contrary to the statements made by our colleague, Senator Harder, on many occasions in this chamber and those of Senator Mitchell and Senator Bellemare in committee, the Senate not only has the right to amend or reject money bills, but it has a fiduciary obligation to do so.

As Senator Cools pointed out in her comments yesterday on the supply bill, the framers of the Constitution expected the Senate to act in such a manner. The Senate has always defended its right to amend or defeat any bill. It would be nonsensical for us to say in advance that we refuse to do our work simply because the government says that we should not be doing it.

In fact, the government expressly recognized this yesterday in asking the Senate to amend Bill C-29. I find it incongruous that the same government that claimed until yesterday that the Senate could not do something should then ask it to do that very thing. In adopting the report of the Standing Senate Committee on National Finance, the Senate has amended Bill C-29. As you can see, it was not impossible.

With all due respect to Senator Harder, I must say that in defending his restrictive vision of the powers of the Senate, he speaks like a government representative in the Senate, not like a defender of the Senate. Too often we hear the government's representatives telling us that we cannot do this or cannot do that, that it does not fall within our mandate. Now the Minister of Finance and the Leader of the Government have expressly asked us to do this. And so the Senate has once again exercised its authority to amend a money bill, at the request of the Minister of Finance himself.

[*English*]

Let's go back to Bill C-29, now amended.

[*Translation*]

First of all, do I have to mention that Bill C29 is an omnibus bill? In fact, there are no bills more omnibus than Bill C29.

• (1630)

In its Speech from the Throne, given just over a year ago in this chamber, the government promised that "it will not resort to devices like prorogation and omnibus bills to avoid scrutiny." We were also promised a small deficit of barely $10 billion. However, we are now at $30 billion. There is another broken promise.

Bill C-29 adds enormous weight to the deficit, which was supposed to be absorbed by the next election. Now Minister Morneau is unable to tell us when we will again see black ink in our budget plans. There is yet another broken promise.

A budget deficit is not just a matter of arithmetic: it is a debt, a burden for future generations. We must remind ourselves what the consequences of a deficit are. At one point or another it will have to be paid back. Making bad choices in budget management today means condemning future governments to making very tough choices. If we do not act with prudence and logic, if we do not adopt a diligent approach, the Governor of the Bank of Canada will raise interest rates. Then the deficit will be out of control and lenders will want their money back.

I am not an economist, but I am a legal expert. I remember the draconian steps that the governments of the 1980s and 1990s had to take to get public finances back on track after the reign of

Pierre Elliott Trudeau. Will another generation of Canadians have to make sacrifices to repair the damage done by the second Trudeau government? If this public spending at least had a positive effect on growth and employment . . .

Former Bank of Canada Governor David Dodge warned Canadians and the government that the economic paradigms have changed. Bill C-29 is not responsive to the structural challenges of our economy. This government has been in place for a year now and we have no results. More worrying yet, there is a pervading feeling that this government is playing things by ear and has no concrete plan.

The Liberal Party had promised jobs and a stronger economy. Today it must be acknowledged that the job is not getting done. Billions of dollars in investments have not yielded the results expected. The government did not keep its promises. Bill C-29 affects seniors, the unemployed, professionals — particularly doctors — and small businesses.

[*English*]

Bill C-29 is not just a deficit creator; it is a job killer.

[*Translation*]

When the Trudeau government delivered its throne speech in this chamber a year ago, in December 2015, it spoke of an open, transparent and fair government, a government that would tackle the major challenges, and with a very high ethical standard. What we are seeing the government do today is the very opposite. The government is not concerned about ordinary Canadians. It says one thing and does the opposite.

Bill C-29 has broken the promise to put an end to omnibus bills. The promise of a $10-billion deficit was also broken. The promise to quickly return to a balanced budget was broken. The promise to kick-start the economy was broken. The promise to make Canada more competitive was broken.

In fact, honourable senators, that is what Bill C29 is.

[*English*]

Our work here has not gone unnoticed. Because of our determination and tenacity, the government accepted that we are amending Bill C-29 to protect provinces. Now let's finish the job and protect all Canadian taxpayers. Let's defeat Bill C-29.

(Debate suspended.)

DISTINGUISHED VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of the Honourable Maryam Monsef, Minister of Democratic Reform.

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

Hon. Senators: Hear, hear!

BUDGET IMPLEMENTATION BILL, 2016, NO. 2

THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Harder, seconded by the Honourable Senator Bellemare, for the third reading of Bill C-29, A second Act to implement certain provisions of the budget tabled in Parliament on March 22, 2016 and other measures.

Hon. George Baker: Honourable senators, very briefly, I have listened carefully to Senator Carignan. I think there's a point we have to recognize here, and that is that the amendment made to Bill C-29, that particular portion of the bill had nothing to do with the budget of the Government of Canada. It was extraneous to it. It had nothing to do with the finances.

The big mistake was made in the other place in that the official opposition, the Conservative Party, didn't do their job. There were two members of the House of Commons who brought this issue up publicly. One was an NDP member and the other was a Bloc member. I have to point out that this was not entirely about protecting provincial rights. This whole thing was about protecting Canadians against charges that are made by banks that the general public in Canada is not even aware of. Five banks in Canada charged fees that were not described in the contract of credit cards. That's reality.

The Supreme Court of Canada made three judgments. One was AMEX, one was the Bank of Montreal and the other was Desjardins. In those three judgments, the Supreme Court of Canada made this distinction, which is so important and I think formed the basis of the Senate's action. In the case of the Bank of Montreal, they took $30 million from customers as a fee that was not in the contract for the credit card. The credit card was used in a foreign nation. They called it an administration fee. It wasn't in the contract.

Now, when those people discovered this and formed a class action, where could they go for a class action that has a civil remedy? The only place they could go was to the Consumer Protection Act of the Province of Quebec. Why? Because the Bank Act, as the Supreme Court of Canada pointed out in those three judgments, has no civil remedy. The remedy in the Bank Act is what is termed a criminal remedy, but it's against the bank. It could be a fine against the bank, but there is no civil remedy in the Bank Act. So if the Bank Act was to encompass everything when credit cards are issued, an umbrella control, which is what that portion of Bill C-29 would do, there would be no civil remedy.

Can you imagine $30 million by one bank taken from Canadians without Canadians being aware of it and having no remedy? You can't go and get the money back? Well, your

provincial act, that's provincial jurisdiction. You're talking about contract law. So now you go to your provincial consumer protection act. We have them in every province. For example, in the Quebec act you see charges even to the point of saying there are special damages.

Now, just imagine. It's not just normal damages. It's not just repayment of the money you owe us, but it's special damages. "Punitive damages" is actually in the Quebec act.

Senator Day: There you have it.

Senator Baker: So that is the only place where a Canadian can get justice for improper charges by the banks, through provincial legislation that is provincially controlled. If the Bank Act were to control everything, then there would be no civil remedy. I think that's the most important point of all: the action of the Senate, where the official opposition in the House of Commons didn't do their job. The Senate's job was sober second thought on the actions of the House of Commons.

• (1640)

On behalf of Canadian taxpayers, the committee, headed by Senator Smith, the great former fullback of the Montreal Alouettes — yes, he's a corporate lawyer, but we'll forgive him for that. The great fullback, he headed the committee, and the members of the committee should be congratulated. Yes, Senator Pratte and the leader of the official opposition here today should be congratulated, as should every single member, and Senator Harder, the key go-between that enabled the Senate to do its job — sober second thought on a mistake that was made in the House of Commons in this huge, complex bill.

An Hon. Senator: By the government.

Senator Baker: Well, it was the job of the official opposition to bring it to the attention of the House of Commons, which they didn't do. But it was the Conservatives — and this says something for the Conservatives in this place, because the Conservatives in this place were the —

Senator Tkachuk: Did their job.

Senator Baker: Really, they did their job of sober second thought. That's right; we're all a team. The Senate once again provided that sober second thought. It's our job to do, and we did it on behalf of Canadians, not just for some constitutional argument as well.

Hon. Nicole Eaton: Honourable senators, I rise today to speak to Bill C-29, and specifically its provision to effectively limit access by group medical structures to the small-business deduction.

In this regard, I will focus on what it is hoped has been an unintended consequence of this measure on the medical profession, and in particular, its impact in respect of altering the means of application of this deduction by group medical structures engaged in research and education in teaching hospitals and universities.

As clearly defined by the myriad number of medical professionals from whom many of us have heard on this matter:

> Group medical structures have an important role in health care today. They are prevalent within Canada's academic health science centres and amongst certain medical specialties. Group medical structures are essential for educating and training medical students and residents in teaching hospitals, as well as for conducting and funding medical research.

The proposed measure will be one of general application and thus will treat all small businesses uniformly with respect to the application of taxes.

In other all-too-familiar words from this government, it seems a small business is a small business is a small business. As Minister Morneau frequently asserted, "To be clear, what we are doing with respect to small businesses is clarifying that one small business gets one small-business deduction, simply put."

But for doctors who are part of group medical structures working in university-sponsored academic hospitals, these are not your average small businesses — not by any means — and impacting their good works will have potentially disastrous consequences for health care in Canada.

Honourable senators, I do not claim to be an expert in tax matters, nor do I claim to have a depth and breadth in medical matters that will enable me to adroitly convey the very significant impact this change in the tax regime will have on university-sponsored academic hospitals from a practitioner's perspective. But I do have some experience in the workings of teaching and research hospitals.

Time and time again I have witnessed the profound dedication their doctors bring to their work — all the while knowing they are sacrificing higher remuneration for the greater good of service delivery in a culture of care, the ability to teach and mentor better-trained physicians, and undertaking groundbreaking and often life-saving research.

It's most appropriate that I let the doctors' words speak volumes about the need to re-examine this punitive tax change.

Dr. Juan Carlos Monge is a staff cardiologist at St. Michael's Hospital in Toronto and an associate professor at the University of Toronto. He shared his thoughts on the impact of this unintended consequence on his hospital:

> It is beyond comprehension that academic physicians who have taken the initiative for the last several decades to pool [their] own earnings to fund what government doesn't fund are now being penalized by a measure that — although not clearly directed at academic medical groups — nevertheless threatens our very existence and our ability to support research, advanced medical education and super-specialized clinical care.

So what's the nature of the impact of such a group medical structure?

In the context of St. Michael's Hospital, the partnership is formed by 150 physicians from the Department of Medicine. In this year alone, it has allocated $8.5 million of the doctors' own earnings to support teaching and research at St. Michael's Hospital.

Make no mistake, if this legislation remains as it is, the group would be forced to disband, as there is no legal structure under which it could otherwise function and do what it currently does.

Dr. Monge further asserts that any proposed solution around cost-sharing arrangements is neither adequate nor sufficient. He says:

> We need to pool and redistribute resources to support our academic mission — [which] is not the purpose of a cost-sharing arrangement, a financial arrangement which merely allows the distribution of the cost of doing business among the members of a group, something that falls very short of what we need to do and have been doing in some cases for almost 50 years.

Dr. Barry Rubin is a professor of surgery at University of Toronto; he is also Chair and Program Medical Director at the Peter Munk Cardiac Centre, and Chair of Mount Sinai Hospital University Health Network.

Dr. Rubin appeared just days ago at your Standing Senate Committee on National Finance and delivered a concise description of the problem this supposedly unintended consequence lays at the feet of the medical community. I seek your indulgence, as I will quote him at length:

> Canada is a world leader in medical education, innovation and research. Problem-based learning, the most effective method for teaching students, and competency-based assessment, a process for evaluating medical training, were largely developed in Canada and are now practised around the world.
>
> Canadian researchers are among the most quoted in scientific publications, and innovation developed by Canadian doctors ensures the ongoing evolution of our health care system. For example, Canadian doctors were the first to develop the pacemaker, the first to do a single lung transplantation and currently lead development of no-incision heart valve repair. We're also working on innovative approaches to use stem cells to treat arthritis and diabetes and cure these diseases, and to develop drugs to minimize brain damage after stroke.
>
> It's important to appreciate that the vast majority of medical teaching and research in Canada is done in teaching hospitals. It is also a fact that teaching and research activities are compensated far more poorly than the provision of clinical care, which involves seeing patients, doing operations and many other things.
>
> So the question arises: How does our health care system actually pay doctors to teach and do research. . .?
>
> The answer is by forming practice plans, where groups of doctors in teaching hospitals come together and pool their income. Practice plans typically include 20 to 100 and in my centre 360 doctors that work together, and these have been in place in Canada for the last 30 to 40 years .
>
> Through these practice plans, doctors who make relatively more money providing clinical care actually transfer some of that income to the doctors that make less money doing teaching and research . . . .

• (1650)

> This social enterprise is not designed to enrich the partners in the practice plan; it is designed to appropriately compensate doctors for the clinical work as well as the medical education and research that they do.
>
> In Canada, two-thirds of the support for research that is carried out by doctors in teaching hospitals is generated by redistributing the clinical income earned by some of these doctors.
>
> In addition, two-thirds of the 30,000 doctors that practice in Ontario were trained at a teaching hospital in Ontario, a pattern that holds true across Canada.
>
> Under the 2016 federal budget, if practice plans continue to redistribute funds to support innovation, teaching and research, incorporated members of those practice plans will have to share the small business deduction.
>
> Doctors in teaching hospitals recognize that alternate structures for their practice plans, such as cost-sharing associations, will have to be considered, because remaining as partnerships would financially penalize doctors that already transfer money to their colleagues to support teaching and research.
>
> The core issue with forming a new structure such as a cost-sharing association, which was an option proposed by Minister Morneau, is that practice plans will no longer have a viable mechanism to redistribute pooled clinical income that is required to support innovation, teaching and research.
>
> That is what led 2,000 doctors from across Canada to write to the Ministry of Finance and express concern about the 2016 federal budget. Currently, 50 practice plans in Ontario's 16 teaching hospitals are in the process of considering structures other than partnerships, in direct response to the changes contemplated in Bill C-29.
>
> If practice plans are not able to pay doctors to teach, who will train our future doctors?
>
> Who will do the research and lead the innovation that is needed to develop the new treatments and prevention strategies that are required to care for Canada's growing and aging population?

> Limiting the ability of groups of doctors to access the small business deduction has the potential to inadvertently destroy the fundamental mechanism that practice plans in teaching hospitals across Canada have used to support medical innovation, teaching and research for decades — the redistribution of income earned by doctors for doing clinical work.
>
> This has the potential to destabilize the foundation of the health care system that Canada is so widely known and respected for, and will impact our ability to lead medical innovation. In the final analysis, impairing the ability of doctors in teaching hospitals to innovate, educate and do research will have a lasting negative impact on the residents and citizens of Canada that we care for.

So let's look again at the depth and breadth of the issue of the small business deduction from the perspective of these doctors.

Physicians form group medical partnerships or group medical corporations to pool revenue so that they can redistribute from higher earners to lower earners to support medical research, teaching and specialized clinical services.

Physicians in academic health science centres fund two thirds of medical teaching and research from their own clinical earnings — that is to say out of their own pockets — because they are able to pool their earnings.

Physicians all operate a small professional business and as such are eligible for the small business deduction — in Ontario, at the combined federal and provincial tax business rate of 15 per cent.

Under the proposed rules, physicians in group medical corporations and group medical partnerships will not have access to the small business deduction. Thus in Ontario they will be faced with a combined federal and provincial general corporate tax rate of 26.5 per cent, while physicians in the community in cost-sharing arrangements — that is, where there is no need to pool income to transfer earnings to lower earners — will continue to have access to the small business deduction of 15 per cent.

Research by the Canadian Medical Association indicates that the group medical partnerships and group medical corporations will, if this measure passes, dissolve, thereby eliminating the ability to pool income. This in turn will mean a loss in funding that physicians are providing from their own earnings to support medical teaching, research and specialized services — thus constituting loss of money for research, teaching and specialized medical care and no additional tax revenue — making this proposed change nothing but illogical in the case of the medical community I am describing today.

I came across something of note while preparing my remarks that I believe is also noteworthy. Teresa Boyle wrote a story for the *Toronto Star* in May of 2012 entitled "How Ontario's doctors get paid." At that time, the report noted that Ontario was spending $11 billion a year on physicians. The report noted that the province also spent $1 billion on what it terms "alternative payment programs." It stated that these "programs are intended to encourage physicians to provide academic services such as teaching and research, work in underserviced areas and coordinate medical services." Thus, it seems such arrangements are in fact encouraged, at least by the Province of Ontario. This would appear, then, to work at cross purposes with the federal government's proposed changes to the tax regime that this bill enables.

In this regard, and in recognition of the similar sums from other academic hospitals that would be lost, to permit such a consequence is at the very least illogical and at best irresponsible — certainly not without undertaking greater consultation with the provinces and analyses of their funding formulae.

So, we have examined the matter from a medical perspective. Let us now hear the argument from a tax law point of view.

Kim Moody is Director, Canadian Tax Advisory, with Moodys Gartner Tax Law and a co-chair of the Joint Committee on Taxation for the Canadian Bankers Association and Chartered Professional Accountants Association. He, too, appeared as an individual before your Standing Senate Committee on National Finance and spoke to the proposed changes to the small business deduction.

As a recognized expert in this field, permit me to share his opinions of the efficacy of these changes:

> With respect to the small business deductions, I appreciate the underlying policy intent of trying to restrict access to the small business deduction to situations where its usage was not originally intended and to insist on the principle of one business, one small business deduction. That makes perfect sense. I have been a strong vocal and written critic of so-called planning that inappropriately multiplies access to the small business deduction.
>
> However —

May I have five more minutes, Your Honour?

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

Hon. Senators: Agreed.

Senator Eaton: Thank you, Your Honour. Mr. Moody continued:

> However, the proposals released by the Department of Finance and currently in Bill C-29 go far beyond simple targeting. The proposals are very far-reaching and apply to many routine situations where, in my opinion, they should not.

Unfortunately, I will skip a few things. Mr. Moody further said:

> Overall, the existing small business deduction rules are complex, currently. However, the amendments make such rules horrifically complex. As a tax practitioner, I expect complexity, and frankly I relish it. I like complexity, but I also need to reconcile this complexity with practical realities.

> As mentioned, I've been studying tax for over 20 years. This new proposed legislation, without a doubt, is within the top five in terms of complexity.

Given his views, Mr. Moody offered opinions to the committee for remedy of this situation:

> . . . ideally, the new small business deduction rules would be given a complete rethink. There are a number of different ways that the new rules could be redrafted in order to effectuate the purpose of this legislation . . . .
>
> . . . if a rethink is not in order, I believe some of the unintended consequences should be targeted and excluded from their application. I recognize that better targeted legislation might create more exceptions with one of those exceptions being the sectors and structures hit with those restrictions inappropriately.

Honourable senators, I think I will go directly to my amendment. I think you have the gist of what Mr. Moody was trying to say, namely that this tax is so complex in the way it's been structured that the most efficient way of dealing with the doctors would be to remove clause 44 completely and have a rethink and try and exclude doctors, researchers and medical teaching and come back again with another bill. This is what I'm trying to propose, senators, and I hope you will give it due consideration because it will really affect research and medical teaching in this country.

• (1700)

MOTION IN AMENDMENT

Hon. Nicole Eaton: Honourable senators, therefore, I move:

> That Bill C-29, as amended, be not now read a third time, but that it be further amended, on pages 50 to 60, by deleting clause 44.

The Hon. the Speaker: On debate on the amendment, Senator Harder.

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I was hoping that we would get to a vote on the bill as amended and report it to the house from the committee without an amendment, but having heard the amendment, I wanted to rise as soon as possible to object to the proposed amendment as presented by Senator Eaton.

The motion would amend a budgetary provision that closes a tax loophole commonly used for tax avoidance by high income earners, a policy that derives from the electoral mandate that was given the government in the campaign last year.

Closing this loophole is about ensuring fair taxes for all Canadians. It ensures that the wealthiest Canadians pay their fair share while strengthening the middle class by creating long-term economic growth. Closing this tax loophole will also save the federal treasury an estimated $70 million in revenue.

To be clear, this is a classic confidence measure in a budget implementation act, and it also raises money and derives from a specifically mandated reference in both the budget and in the election just past.

In fairness to all senators, it's important for me to outline that the consequence of passing this amendment would be to ensure that the other chamber and the government would not pass Bill C-29 as we would be amending it as of yesterday but would be undoubtedly returning it to this chamber with this amendment that is being proposed now not being accepted.

I'd like to get to the heart of the matter with respect to the amendment. Let me say at the outset that no one would disagree that small businesses are a fundamental part of our communities. They are important in providing goods and services, creating jobs and strengthening communities in many ways. To be successful, small businesses need a growing economy and strong consumer demand. We all know the importance small business plays in our Canadian economy, where small businesses are a huge basis for economic performance.

According to KPMG, Canada's business taxes are significantly at the lower end of the G7, and I would point out that they are 48 per cent lower than the United States.

Tax fairness also plays an important part in contributing to the effects of the economy. In this regard, the tax system needs ongoing adjustment to ensure that it is functioning as intended. Bill C-29 contains tax fairness measures to help ensure that everyone contributes their fair share.

It is in this spirit that Budget 2016 clarifies the original intent of the small business tax deduction, thereby preventing business owners, including professionals, from avoiding their fair share of taxes by using complex partnerships and corporate structures.

I'm aware that this measure has generated some public discussions and commentary by affected taxpayers, particularly, as the senator mentioned, in the medical community. However, the government has taken and continues to insist on the position that the changes made by clause 44 are appropriate to ensure that the small business deduction rules work effectively and fairly.

Honourable senators, at issue here is the use of the $500,000 small business tax deduction. Let me illustrate the loophole that Bill C-29 closes with an example.

Without this proposed measure, a business with 10 partners would be able to benefit from the small business rate on up to $5 million of income. Very simply, the measure in Bill C-29 clarifies that one business gets one $500,000 small business deduction — so one business, one small business deduction. That's good policy.

This measure was included in Bill C-29 following on last year's budget announcement of the government's intent, which is to prevent business owners from using complex partnership and corporate structures to make multiple deductions to the extent that some professionals — for example, lawyers, accountants and doctors — would seek to claim multiple deductions for a single partnership or corporate structure. This measure in Bill C-29 makes it clear that they cannot.

Honourable senators, it is important to understand what this proposed measure does and what it does not do. First, this proposal does not interfere in the ability of professionals to practise together in group structures or through professional corporations. If members of the professional corporation are partners of the partnership, the 2016 measure has no effect. The corporations already share the $500,000 limit.

Second, this measure does not specifically target medical professionals. It applies equally — that is, fairly — regardless of profession or industry. As I said, its purpose is simply to clarify the legislation to ensure that it respects the long-standing principle applicable to businesses in all sectors that one business is entitled to one small business deduction.

Moreover, the measure will only affect structures that attempt to utilize multiple deductions through the use of a partnership or a corporation. Let's take the above example of the 10 professionals. Under this amendment, each of them would be able to access the $500,000 deduction. If, for example, a group of doctors are partners of the partnership for their professional corporations and have contracted for services with a partnership, the 2016 measure would apply so that the corporations have to share the $500,000 limit. If the doctors are instead parties to a cost-sharing arrangement, the Budget 2016 measure will not apply.

The government is of the view that the measures put forward in Bill C-29 clarifying the purpose of the small business deduction are appropriate to ensure that the small business deduction rules work appropriately and fairly.

Further, what we are considering in this instance is an amendment that would seek to defeat a budget measure that was the object of a campaign promise. For example, I want to simply refer to the commitment made in the last election to "review all tax expenditures to target tax loopholes that particularly benefit Canada's top 1 per cent."

Honourable senators, the bedrock of the government's election platform was to help build the middle class and eliminate loopholes that severely tilted towards high income earners. This is consistent with what the promise of the election was and what the budget of 2016 proposed.

To follow up on the government's electoral commitment to close loopholes for the wealthiest Canadians, clause 44 was specifically announced in the government's budget in 2016. Most relevantly, at page 219 of the budget tabled in the other place by the Minister of Finance on March 22, 2016, the government clearly announced its intention to close this loophole:

> A concern on the domestic front is the ability of high-net-worth individuals to use private corporations to inappropriately reduce or defer tax. To help address this, and as early action in the context of the review of the tax system to be completed in the coming year, Budget 2016 proposes measures to:
>
> > Prevent business owners from multiplying access to the $500,000 small business deduction using complex partnership and corporate structures;

Thus clause 44 of this bill is at the heart of both the budget and the government's electoral platform — end of story.

Colleagues, I would invite you to defeat this amendment so that we can move quickly to pass Bill C-29, as amended last night and as reported in this chamber, so that we can send this bill as amended by the Senate back to the other place for appropriate action.

Some Hon. Senators: Hear, hear!

Hon. Carolyn Stewart Olsen: Senator Harder, would you take a question?

Senator Harder: Sure.

Senator Stewart Olsen: It's a clarification on what you were just saying. If a group is together for cost-sharing, then each of them could still claim the amount, or is it the other way around?

Senator Harder: If it's cost-sharing, they can share the expenses, but if it's a partnership where they are seeking the benefit of the small business tax credit, they must share that. As it is one business, it's one $500,000 deduction. They have a choice. This is closing up the loophole which would invite them to have it both at the corporate level and at their personal level.

• (1710)

Hon. A. Raynell Andreychuk: Senator Harder, when we heard from Mr. Moody, he indicated the following:

> With respect to the small business deductions, I appreciate the underlying policy intent of trying to restrict access to the small business deduction to situations where its usage was not originally intended and insist on the principle of one business, one small business deduction. That makes perfect sense.

I think that's what you were alluding to what the government is going to do. But he went on to say:

> Right now the rules I'll just say are workable.

They need to be changed, in other words.

> The amendments require you to dive into the sources of income of each company to see whether or not those sources of income on each different type of — for example, the bookkeeping example — you have to look at who are your customers, are you related to those customers? Whereas, right now the rules look at the source of income, yes, but the real test is, is it a business? Number one. And is that active business income earned in Canada? That's about as complex as it gets.
>
> Now, same test, but you've got to look at have you earned that money from a related party source, a non arm's length source? That's a tough thing to track and dive into, especially when you don't have a controlling interest in the firm.

His bottom line was that the intent is good, but the application of what the government has done, and I quote:

> I think the old cliché, let's kill a mouse with an elephant gun resonates with me. There is room for significant improvement in this area; no question about it. But, boy, the crossfire collateral damage that's being done here is quite significant.

His point is that we should do this, but it's going to be unworkable and people will be going away from this deduction, and it's going to be a net detriment to small businesses. They're going to be going to more lawyers and more accountants, and it's going to get more complex. At some point you're going to throw up your hands.

There are reasons where you separate your businesses, and that's what he was saying, if there's good business sense to do it.

So aren't we talking about an enforcement issue? Are we not making it more difficult, and that is where the unintended collateral damage is obvious about the teaching doctors, not those others that are combining and setting up clinics in my province and elsewhere. They are a small business, but these teaching institutes are the real issue.

Are you not worried about all that collateral damage, and shouldn't this amendment again see a little breath of fresh air and have the government look at it again if we're interested in young people, education and small business?

Senator Harder: I thank the honourable senator for her question. It gives me the opportunity to reiterate that the purpose of this measure is to close a tax loophole, to treat all small businesses, whether they are personal or corporate, the same with respect to the $500,000 tax credit.

It's clear by the commentary from outside and from this chamber that there will be consequences to this intended public policy, closing the loophole. And that intended policy is designed to ensure fairness and equity. If there are consequences in how research organizations structure themselves, I'm sure that there are other public policy responses other than leaving a tax loophole in place to address those concerns.

I do think it is incumbent upon all affected to recognize that a tax loophole has led to this unintended consequence, which is now being dealt with by this bill.

(Debate suspended.)

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, I know there are other senators who wish to enter debate on the amendment, but before proceeding I must interrupt the proceedings pursuant to Rule 9-6. The bells will now call in senators for the taking of a deferred vote at 5:30.

Call in the senators.

• (1730)

INCOME TAX ACT

BILL TO AMEND—THIRD READING

The Hon. the Speaker: Honourable senators, it was moved by the Honourable Senator Harder, seconded by the Honourable Senator Black:

> That Bill C-2, An Act to amend the Income Tax Act, be read the third time.

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

YEAS
THE HONOURABLE SENATORS

Baker	Hartling
Bellemare	Jaffer
Black	Joyal
Boniface	Lankin
Bovey	Lovelace Nicholas
Brazeau	Marwah
Campbell	Massicotte
Cools	McCoy
Cordy	Mégie
Cormier	Merchant
Cowan	Meredith
Dawson	Mitchell
Day	Moncion
Dean	Moore
Downe	Omidvar
Duffy	Pate
Dupuis	Petitclerc
Dyck	Pratte
Eggleton	Ringuette
Forest	Saint-Germain
Fraser	Sinclair
Gagné	Tardif
Gold	Wallace
Griffin	Wallin
Harder	Woo—50

NAYS
THE HONOURABLE SENATORS

Andreychuk	McInnis
Ataullahjan	McIntyre
Batters	Mockler
Beyak	Ngo
Carignan	Ogilvie
Doyle	Oh
Eaton	Patterson
Enverga	Plett
Frum	Raine
Housakos	Seidman

Lang	Smith
MacDonald	Stewart Olsen
Maltais	Tannas
Manning	Tkachuk
Marshall	Wells
Martin	White—32

ABSTENTIONS
THE HONOURABLE SENATOR

Greene—1

• (1740)

BUDGET IMPLEMENTATION BILL, 2016, NO. 2

THIRD READING—MOTION IN AMENDMENT NEGATIVED

On the Order:

> Resuming debate on the motion of the Honourable Senator Harder, seconded by the Honourable Senator Bellemare, for the third reading of Bill C-29, A second Act to implement certain provisions of the budget tabled in Parliament on March 22, 2016 and other measures;
>
> And on the motion in amendment of the Honourable Senator Eaton, seconded by the Honourable Senator Doyle, that Bill C-29, as amended, be not now read a third time, but that it be further amended, on pages 50 to 60, by deleting clause 44.

The Hon. the Speaker: Resuming the debate on the proposed amendment to Bill C-29.

Hon. Salma Ataullahjan: Thank you, Your Honour.

> . . . the new small business deduction proposals are simply unworkable, mark my words.

That is what Mr. Kim G. C. Moody, Director of Moodys Gartner Tax Law LLP, said in his testimony to the Finance Committee.

Honourable senators, today I rise to speak in support of the amendment proposed by the Honourable Senator Eaton. I will focus my remarks on the negative implications as it relates to medical group structures.

Medical group structures are organizations in which physicians pool incomes in order to provide more broad health care services, undertake research and provide medical education to young practitioners. Clause 44 seeks to amend section 125 of the Income Tax Act.

In section 125 there are subsections that govern the rules with respect to small business tax deductions. Under the current framework, professions that operate in group structures, specifically medical group structures, benefit from the small business tax deduction. Each individual partner of a group is entitled to one small business deduction. However, under the proposed amendments to section 125, the new rules would entitle only one partner of each partnership or group access to the small business tax deduction.

In his testimony before the Finance Committee, the Honourable Minister of Finance, Bill Morneau, said with respect to section 125:

> To be clear, what we are doing with respect to small businesses is clarifying that one small business gets one small business deduction, simply put.

While clause 44 intends to promote fairness and clarity with regard to small business deductions, it is in fact detrimental to physicians operating in partnerships such as group clinics, group hospitals and teaching hospitals.

The consequences of clause 44 are far reaching. It will have a negative impact on the ability of the medical group structures to provide group care to Canadians. It will negatively impact Canada's role in innovation and medical research. Finally, it will have a negative impact on the ability of physicians in teaching hospitals to train medical students.

The committee heard testimony and received letters from physicians across Canada expressing serious concerns about clause 44, including Doctors of Nova Scotia, a medical association representing 3,500 physicians in the province, who wrote a letter to the committee stating:

> It is critical for the federal government to comprehend that group medical structures have not been formed for taxation or commercial purposes. These structures were formed to deliver provincial health priorities, primarily in the academic health setting, such as teaching, medical research, as well as optimizing the delivery of patient care.

The Canadian Medical Association estimates that there are between 10,000 and 15,000 physicians in Canada that operate in a group structure. Furthermore, the CMA states that 90 per cent of doctors in Canada are essentially classified as small businesses because of how our health care system is set up.

Medical group structures are established to ensure more efficient care of patients. These structures allow Canadians vital access to one medical centre that meets a variety of medical needs. For example, a person requiring more than one type of medical care may have access to various treatments, as well as physicians with various levels of expertise, all in the same medical centre.

Dr. Richard Davies, a professor in the Cardiology Division of the University of Ottawa's Heart Institute, said in his testimony:

> Partnerships like ours also support excellence in areas that are clinically important but poorly remunerated. A good example of this is advanced heart failure patients, including those who would require heart transplantation and mechanical support devices. Physicians in better-paid sub-specialities who have joined these partnerships allow their clinical income to be redistributed . . . .

It is medical group structures that allow this type of efficient health care to take place. If the government is to remove the incentive that encourages formation of groups, it creates adverse effects on Canadians that rely on multi-level health care. Many of the Canadian Medical Association's members expressed concern to the committee over decreasing group care for patients across Canada.

The committee has heard multiple times that that medical group structures such as teaching hospitals support the education of young medical students and young practitioners. Dr. Barry Rubin, a medical director at the University Health Network, in his testimony, provided a better understanding about medical group structures and their role in education. He stated:

> It's important to appreciate the vast majority of medical teaching and research in Canada is done in teaching hospitals. It is also a fact that the teaching and research activities are compensated far more poorly than the provision of clinical care . . . .
>
> Through these practice plans, doctors who make relatively more money providing clinical care actually transfer some of that income to the doctors that make less money doing teaching and research . . . .
>
> . . . two thirds of the 30,000 doctors that practice in Ontario were trained at teaching hospitals in Ontario, and this pattern now holds true across Canada.

Physicians in group structures take time out of their practice to teach young medical students and practitioners. This form of cooperative learning is invaluable for our medical students. It provides them with real life medical experience. However, the physicians that do the teaching effectively reduce the amount of time they practise. To compensate teacher physicians for the lost practise time, practising physicians in medical partnerships transfer portions of their income. This form of income pooling guarantees that lower-paying positions are compensated accordingly. It also ensures that our medical students continue to receive world-class medical education.

Medical group structures encourage medical research projects through income pooling. We heard testimony that research and education careers are paid far less than practising clinical care. To incentivize medical research, medical group structures, again, transfer income from practising physicians to medical researchers as compensation for their research. This safeguards the ability of Canadian medical centres to undertake ambitious medical research projects.

Dr. Rubin, in a latter part of his testimony, pointed to the world-leading medical research that Canadian physicians in group structures have undertaken. He said:

> Canadian researchers are among the most quoted in scientific publications, and innovation developed by Canadian doctors ensures the ongoing evolution of our health care system. For example, Canadian doctors were the first to develop the pacemaker, the first to do a single lung transplantation and currently lead development of no-incision heart valve replacement. We're also working on innovative approaches to use stem cells to treat arthritis and diabetes and cure these diseases, and to develop drugs that minimize brain damage after stroke.

Evidence suggests that these breakthroughs in medical research are made possible by medical group structures. Individual practitioners focus most of their time on practising, not research. Medical group centres provide the necessary funding that make these breakthroughs possible.

Jack Mintz, Director, School of Public Policy at the University of Calgary, wrote that the higher tax rates deter individuals from starting new business ventures. These are the negative effects of taxation on entrepreneurial activity. Corporate and personal taxation affects small business in two ways. First, it inhibits individuals from starting new entrepreneurial activity. Second, it affects the investment decisions of small businesses.

• (1750)

It has been made clear to the Finance Committee by the medical community that clause 44 impedes efficient group medical care, medical research and education. The Canadian Medical Association provided to the committee statistics, noting that an estimated 61 per cent of physicians they surveyed would dissolve their group partnerships and that 75 per cent would lose partners because of clause 44. Ray Foley, Executive Director of the Ontario Association of Radiologists, expressed concern to the Senate Finance Committee about the lack of in-depth analysis undertaken by the federal government in this regard. Mr. Foley testified that his organization had met with officials from the Department of Finance and asked, "What impact analysis have you done to assess what clause 44 means to the roughly 100,000 doctors in the country?" The reply from the Department of Finance was simply that they did not perform any such analysis.

From a financial standpoint, the government claims that clause 44 will generate an additional $70 million in tax revenue from all small businesses, not just physicians. However, the medical community argues that group medical structures will disband and that physicians may re-enter individual practice. Consequently, small business deductions will continue to be claimed by each individual practitioner, thus resulting in no additional tax revenue for the government.

Less financially incentivized tasks are less likely to be accepted. The committee heard consistently from the medical community that with a move away from group structures, careers in medical research and medical training will also significantly decrease. Evidence supporting this statement was brought to the committee's attention by Dr. Richard Davies. Dr. Davies suggested that top earners or practitioners in his group earned three times as much as the lowest earners in the group.

Sole practitioners are consumed, in large part, with their practice. Therefore, they do not have time to train medical students or to assume extensive research projects. Evidence suggests, therefore, that the impacts of clause 44 have not been thoroughly considered by the federal government.

Physicians operating in group structures have zero control over the fees they collect. In Canada, the provincial governments set a cap on the fees that physicians can charge, which is unlike any

other small business. Imposing clause 44 on group medical structures forces them to make substantially difficult decisions. The first possible decision these groups can make is to simply absorb the extra tax burden levied on them and continue to operate within a group medical structure. The second option is to dissolve the group partnership, seek individual practice and still be entitled to the small-business tax deduction. Finally, the last option is to seek to move outside of Canada.

Clause 44, coupled with the current provincial health care frameworks, reduces the incentive for physicians to practise in Canada. If their fees are capped and tax incentives are removed, successful group medical structures like the Ottawa Hospital, Sunnybrook, CHEO and others will have a difficult time staying competitive with the United States in attracting and retaining highly skilled medical practitioners, researchers and other specialists. Mr. Ray Foley expressed this concern in no uncertain terms. Additionally, Mr. Foley worries that the physicians will choose to leave Canada for the United States, as many did in the 1980s, 1990s and early 2000s.

With an aging population, it is imperative that we continue to both attract and keep highly educated medical professionals. Furthermore, it is critical that we maintain our group medical structures.

We hold our physicians to the highest standards of education and training. We negotiate and cap their earnings so that all Canadians have access to the services they provide. Furthermore, we ask our medical community to undertake research and help to find cures for diseases. We must, therefore, have tax mechanisms in place that encourage physicians to create and grow group medical structures so that they can successfully meet all of their obligations.

I support the Honourable Senator Eaton's amendment and ask that the federal government consult with all professionals and implement a more targeted approach. Mr. Moody, a director at Moodys Gartner Tax Law, said:

> . . . if a rethink is not in order, I believe some of the unintended consequences should be targeted and excluded from their application. I recognize that better targeted legislation might create more exceptions, with one of those exceptions being the sectors and structures hit with those restrictions inappropriately.

We must ensure that our medical community continues to benefit from tax incentives that have been in place for more than 12 years. Furthermore, it would ensure that the group medical structures continue to remain competitive in their ability to compensate medical researchers and teachers. Canada is a world leader in medical research, and we must continue to do everything in our power to remain a world leader in medical research.

Hon. Elizabeth (Beth) Marshall: Honourable senators, I rise to speak to the amendment to Bill C-29. Bill C-29 was referred to the Senate Committee on National Finance in the fall. It's quite a large bill, and committee members spent a significant amount of time reviewing the various clauses. During committee meetings this fall on Bill C-2, Bill C-29 and Bill C-35, we consistently heard from witnesses that the tax code is extremely complex.

The last time Canada's tax code had a major overhaul was back in 1966, 50 years ago. All witnesses who testified said that the many amendments over the years have made the system unnecessarily complex and expensive, which brings me to clause 44 of Bill C-29 and the proposed amendment before us today.

Last Wednesday evening, tax expert Mr. Kim Moody appeared before the Finance Committee to discuss Bill C-29. Mr. Moody is a renowned Director of Canadian Tax Advisory with the tax law firm of Moodys Gartner. He is a chartered professional accountant. He made some general comments on Bill C-29 and then elaborated on the amendments to the small-business deduction rules, as per clause 44.

Mr. Moody stated that Bill C-29 contained significant amendments, with some of the amendments being quite controversial within the tax and business community. He stated that the bill contains amendments that tax the brain of even the most senior tax practitioners, himself included.

With respect to clause 44, he said he could appreciate the policy intent of the government of trying to restrict access to the small-business deduction in situations where it was not originally intended. However, he said Bill C-29 goes beyond simple targeting. He said the proposals are far-reaching and apply to many routine situations where, in his opinion, they should not. Overall, he said, the existing small-business deduction rules are complex, and Bill C-29, with clause 44, will make the rules horrifically complex.

He also said Bill C-29 ". . . is without a doubt within the top five in terms of complexity."

Like a true accountant, he summarized his comments and recommendations, and he put them into six comments. I'm just going to outline them here for you because they are fairly concise.

First, he says:

> . . . I agree that inappropriate small business deduction multiplication should be curtailed.

He said he's been an advocate of that for years. He said:

> The principle of one business, one small business deduction is a good one.

His second comment was:

> . . . the current proposals are far too broad and imperfect.

The third comment was that, ideally, he felt there should be a rethink of clause 44.

> Number four, failing a rethink, the new rules should be targeted much better with minimal crossfire collateral damage as a key objective.

> Number five, targeting should be broad-based and not exclude certain groups, sectors or businesses.

> Finally, number six, any rethink or targeting should include simplicity as a key objective.

Departmental officials also testified before the committee on December 2. To give you an idea of the complexity of clause 44, the briefing book prepared by departmental officials includes 14 pages on clause 44, while the clause itself in the actual bill is nine pages long.

Departmental officials briefed us on all amendments, and there was some discussion of the impact of clause 44 on medical practitioners and other professional groups. Departmental officials estimate that clause 44 in Bill C-29 will raise about $70 million in additional revenues.

• (1800)

The Hon. the Speaker: I apologize for having to interrupt you, but honourable senators, it now being six o'clock and according to rule 3-3(1), unless it's your wish, we will have to suspend.

Is it your desire, honourable senators, not to see the clock?

Hon. Senators: Agreed.

Senator Marshall: Departmental officials estimate that clause 44 in Bill C-29 will raise about $70 million in additional revenues. Of course that's a point I'm always asking. It seems when we went through every section of the bill, I asked if that would raise revenues or is it going to cost the government money? Every single section we looked at is going to raise revenues for the government.

I did question them about the accuracy of the $70 million figure, but they assured us that the costing for Bill C-29 was fully comprehensive.

However, the primary concern of the committee focused on the impact on professionals, especially health care providers. As indicated by Senator Eaton, changes may influence physicians to dismantle their health care clusters or move to another country with more competitive tax regimes.

During the meeting with departmental officials, we did discuss the impact on physicians and other professionals with respect to clause 44. I would like to reference a recent article in which David Dodge raises concerns about clause 44 in particular.

As most of you will know, David Dodge is a former Deputy Minister of Finance and a former Governor of the Bank of Canada. When he speaks, most people will listen. I'm going to summarize a couple of things that he was quoted as saying in an article that struck a chord with me. It starts off by saying:

> Donald Trump will cause an "enormous" tax competitive problem, warns former Bank of Canada governor David Dodge, who predicts that the new U.S. presidency will threaten Canada's ability to grow the economy by attracting and retaining professionals who earn six-figure salaries. . . .
>
> Mr. Dodge's comments come as doctors in Canada warn they've reached a tipping point in terms of high taxes and poor working conditions that will force many to consider packing their bags.

The article states that when the House of Commons Finance Committee looked at this bill, Wayne Easter, the Liberal Chair of the Committee, "had appeared sympathetic at times to the doctors' concerns during public hearings on a budget bill that contains a controversial clause that will limit some physicians' access to the small-business deduction.

There seemed like there was some recognition that clause 44 might be a problem.

Now, the Ontario Association of Radiologists said that many Canadian doctors will choose to work in the United States because of the federal tax change and that it is misleading for the government to tell low- and middle-income Canadians they won't be affected by the tax change, because many doctors are now considering whether to leave Canada.

The final point that I'd like to make with regard to the article is that NDP Finance Critic Guy Caron said he would like the Finance Committee on the Commons side to study whether the rate should continue to apply to professionals such as doctors and lawyers.

So it seems like there is some kind of recognition that clause 44 may be a problem.

The most disturbing testimony I heard during our committee meetings on the bill was the testimony from doctors. They informed us that they presently practise in group medical structures and that they use and benefit from the small business deduction. Senator Eaton elaborated on that in detail.

The Canadian Medical Association has indicated that it has heard from its members, and their research suggests that doctors will simply leave the group structure if they don't have the benefits of the small business deduction. These multi-specialty groups teach tomorrow's doctors, conduct research into cures and also research into new and safer procedures.

We were told that Canadian researchers are among the most quoted in scientific publications. Innovation developed by Canadian doctors ensures the ongoing evolution of our health care system. Senator Eaton and Senator Ataullahjan gave some examples. Canadian doctors were the first to develop the pacemaker, the first to do a single lung transplant, and currently lead development of no-incision heart valve replacement. They are also working on other initiatives.

We look at the bill from a financial perspective, but thing that struck me was what kind of impact this is going to going to have on our health care system. We hear of the different reports that are being released on the health care system in Canada. For example, a recent international survey was released that indicates Canada ranks below average in 19 out of 20 areas measured in the health care sector.

The Fraser Institute compared health care systems in 28 high-income countries. Canada was included, and it found that Canada is among the most expensive universal access health care systems in those 28 countries. It ranks third highest for expenditure on

health care as a percentage of GDP and fifth highest for health care expenditure per capita. Despite this level of spending, it has significantly fewer physicians.

So those are the issues that raise concerns with me. What is that clause going to do to our health care system? How will limiting access to the small business tax deduction affect our health care system? Do we really know? I don't know. Based on discussions that we had with Finance officials, I don't think they have a good handle on it.

I'm a former Minister of Health in Newfoundland and Labrador, and when I heard the testimony of the doctors, what struck me was what is this going to do to our health care system? There is going to be a certain part of our system that's at risk of being dismantled.

The testimony that we received from our witnesses has given me reason to doubt the wisdom of clause 44. For this reason, I am supporting the amendment.

Honourable senators, the new small business deduction rules should be given a complete rethink.

Hon. A. Raynell Andreychuk: Honourable senators, I too will support the amendment. Having just been added to the Finance Committee in the last number of months, it is something that I would suggest that all new senators, and perhaps some us who hadn't been on the Finance Committee, take the opportunity to do. It's a committee that shows where our dollars are and what the disconnect is with policy statements made throughout the government. Our job is to scrutinize department by department. I very much appreciate the leadership of Senator Smith and the members of the committee. I found that it works well. Many questions are asked. We come from different backgrounds, and the issues raised in the Senate Finance Committee are very important to the work of the other committees.

Senator Day has been a long-time member of the Finance Committee. I remember the long and probing speeches he gave on topics. I learned a lot from them for the other committees that I sit on. I became a better senator when I understood the finances and how they attach and often the unintended consequences. That's the word that keeps coming up every time I get to Finance.

I'm not going to repeat what the other senators have said. I heard the same testimony. It was as compelling to me.

Senator Marshall has pointed out that if the clause stays as is, that there will be increased revenue of approximately $70 million. That is if all the structures are the same and if there are no unintended consequences. The doctors are a portion of that, so the entire clause is $70 million.

Position that against the shortfall provinces are saying is in the health care system. Read all the material we have of the aging population, the needs and the growth in the needs within our population. We are going to jeopardize what is extremely unique. The doctors were very compelling in pointing out how unique this system is. We didn't hear as much as I would have liked to, but we heard that these plans of teaching institutes were really with the encouragement of the governments, and particularly it was pointed to Ontario.

• (1810)

It was not something that the doctors reached out for. It was something in the consultations with provinces 30 or 40 years ago when this plan of teaching institutes and bringing doctors together developed. Then, of course, when these changes to the small business incentive happened, that was an added incentive for doctors to be in that grouping. It works. Why would you jeopardize something that works well and brings excellence to us for a portion, maybe $16 million, when we're talking about billions of dollars needed and we are going to be negotiating a health accord? These are more than unintended consequences. This is the tipping point to me, a crisis.

I can't do any better than the senators before me on the compelling case that the doctors and the accountant, Mr. Moody, made. My concern is that we can herd through the finance consultations, but the consultations were reaching out to stakeholders and getting their opinions. There was no dialogue. There was no follow-up. They didn't get back what was going to be done so they could add it again.

I long for the days — and I think Senator Harder is probably the only one who will remember this — of the white papers and the green papers. It worked. There was a give and take. "This is what our policy will be," you get a reaction. "This is the direction we're going," you get a reaction. It seemed to me that we had a better sense of consultation than what we're doing today with opinion surveys and these other mechanisms.

I'm worried about what "consultation" means. We've seen it in this bill and we see it in others.

There's another issue. It was absolutely clear that we were in the Finance Committee and we were dealing with the Minister of Finance and his officials. They were quite rightly looking at financial issues, such as where they can increase revenue, where they can be more efficient in collecting revenues, et cetera. But the unintended consequences are in other ministries. Was the Minister of Health contacted? Was anyone brought to the finance group that ultimately made and drafted this bill? Was there any weighing of the cost, the revenue and the unintended consequences to the delivery of a medical system that I believe is fragile now and needs much more work? It is federal and provincial. We've heard today a lot about how we should consult better with the provinces, and certainly health system delivery is a provincial issue.

What troubles me — and this is advice to the Prime Minister just before Christmas — is that mandate letters were sent out to ministers to tell them what they should do. Increasingly I'm hearing that they are following these mandate letters, but it appears they're in silos. I'm concerned about where the crossover is. Where do they interconnect? Where are the planning committees that really bring it together and weigh the consequences from one ministry to the other so that we have a coherent policy that is in the best interests of Canadians? There are unintended consequences of small businesses having more to report and not knowing what they're doing.

One of the issues that caught me, beyond health, was the fact that when you set laws, there are fine lawyers, fine accountants and fine businessmen who want to diminish their taxes. So we can

call them loopholes or attempts to get a bottom line that's more to your liking, if I can put it in plain language. The problem was that small businesses started to create different partnerships and different corporations. It is true; it is probably only one business.

But equally, as Mr. Moody pointed out, there are businesses that legitimately spin off from the first one, and often women are in that case. It may be a family business where there is an opportunity to go off on your own and create a business. They will be trapped in this because they will look like they are part of the same business, but they will have to prove that they're a legitimate, different business. Those are just a number of examples.

I trust that we will take this amendment seriously, because we heard from experts about the unusual and great harm this measure will do to our health system. We owe it to Canadians not to fear any more than they already do about what's going to happen to them within a health system.

With small business, if we want to create jobs, if we want to do something for women, surely let's not get them trapped, as Mr. Moody said, in trying to answer questions that are impossible to answer and then they walk away. In my humble opinion, not being a finance expert or a health expert, I worry that we're always talking about unintended consequences. Surely we have a way of having the government reflect further on this clause as much as the other clauses.

I think this is a good bill. I think the intent was laudable. I just think implementation is where it fails. I rarely fault the government. Whichever government comes in has the right to put in what they believe is what they've heard from the people. Our job often, and particularly legal and constitutional experts like Senator Joyal will know, is to say if that's what you wanted to do, it's not going to be accomplished. We were forced into putting amendments in.

This, I believe, is one amendment in an area that should be withdrawn and given the opportunity for the government to get right. I don't believe their intention was to hurt the health system, but the practicality of it will.

We could say it will be fixed down the line, but we also know inertia takes over within governments with too many competing interests. Therefore, I think now is the time to put a halt on this and to make sure there are no unintended consequences of this severity now. Surely there will be others. We can deal with them. There will be loopholes upon loopholes that need to be plugged, but this is more than a loophole. This, I believe, is a danger to our health system, and we can't afford to do that to small businesses and small entrepreneurs.

I thank the honourable senator for moving the amendment. I will be supporting it.

Hon. Frances Lankin: Honourable senators, I appreciate the opportunity to speak to this amendment. I want to thank the honourable senators who have spent a long time at the committee looking at, examining and bringing forward their thoughts and ideas.

Senator Harder has spoken to the arguments around parliamentary convention, the policy intent and the commitment within the election campaign. I don't intend to go through those arguments.

I would like very much, however, to engage with the senators opposite who spoke, again let me say, in a very thoughtful way around the issues they raised both in terms of the concerns about the complexity of the tax system, and second, about the concerns of unintended consequences to the health care system.

May I say, first of all, that Senator Marshall and Senator Andreychuk both spoke about the need for perhaps an overall review of our tax system, our tax codes, as was spoken to, I understand, by the expert testifier Mr. Moody. I think that is a long overdue call, so I appreciate that and I endorse that.

I don't endorse the amendment, however, to carve out one section at this time. Most particularly, because the amendment has been argued for and supported for three reasons, the overwhelming reason being the effect on doctors in group practices. The other two reasons have been about encouraging — or not — entrepreneurial activities and the impact on small businesses and spinoffs, particularly the impact on women in those situations.

I think if you look at the discussion that took place and the analysis, such that we have, the issue of small business and small business spinoff in women are not people who are earning in the category or who are attempting at this point in time to use this loophole. It's a very specific group where we see the majority of this activity going on.

I also don't think, therefore, that this is going to inhibit entrepreneurial activity. Entrepreneurial activity in start-ups isn't typically the groups that find their way through the tax code and use these kinds of measures. Although entrepreneurial activity was put forward as a stand-alone reason to support this amendment, it was also talked about in conjunction with medical practice on a purely philosophical basis, as well as my practical understanding of medical practices in academic health sciences centres. This is not an entrepreneurial activity at all.

• (1820)

Let me come to the impact on the health system. A number of people have talked about this tax measure having been in place — and perhaps it was a loophole that people used — that encouraged people to come together, for doctors to form group practices in order to be able — it sounds almost virtuous — to do the education, research and clinical practice in a new and different way.

I would like to speak to this from my knowledge of the province of Ontario. I do know that it's similar in other provinces, but I can't speak with expertise from other provinces. I speak from my knowledge of the province of Ontario, having been Minister of Health in that province and having spent many years in negotiations — both as minister and as part of a government — with the Ontario Medical Association around the structure of the payment of physicians.

There are three basic types of payment schemes: fee for service, alternate funding plans and alternate payment plans. All of those are about payment.

It took many, many years to wrestle the system, all of us — the Ministry of Health, the Ontario Medical Association, hospitals and other interested parties, for example, universities in some circumstances of these alternate programs — to come to the table and determine what was in the best interest of our system.

The best interest of our system, and what people have spoken to most often tonight, has been the conjunction of clinical service, research, and education and training of our young doctors. I support that very much. That's why, as minister — and in supporting ministers that came after me in those negotiations — I worked toward the establishment of an alternate payment plan for academic health sciences. Academic health science centres are those university-connected hospitals in the province of Ontario — and it is similar in other provinces, but there's different nomenclature — that provide research, training and clinical services.

The alternate payment plan was negotiated among the parties: the Ministry of Health; the universities, in particular, medical schools within the universities; the Ontario Medical Association; and the academic health science centres, which are the research and teaching hospitals in the province. The alternate payment plan program was put in place to provide payment to physicians for clinical services, education and research. That is how doctors got paid. Doctors did not get paid by virtue of setting up a business within that medical grouping, coming together as parties to a contract in an academic health centre and then applying for a loophole, making use of that loophole and getting multiple deductions for a business. That was not what drove people to come together. It was not the policy basis. It is not an adjunct to the provincial funding of health care and the way in which we structure our health payments to physicians.

Physicians' payments are always a very controversial thing. Any minister of health is going to try to move away from fee for service and more towards an alternate payment plan that recognizes the independence of physicians and specialists in clinical practice but brings them to a group setting within a hospital. Across provinces, more and more you'll see family group practitioners coming together. You'll see other ways in which doctors will be paid — capitation per patient, for example. None of these were set up with making use of federal tax laws in mind. That's not how it's done.

I appreciate the concern — and I do genuinely appreciate the concern that's being raised. I don't share the sympathy that has been expressed by many for this being the only way that we are going to hold on to our doctors and to research and education in the activity. In fact, I have to tell you that I have not gone through a negotiation with doctors nor heard of any other government anywhere in this country go through a set of negotiations where the threat of fleeing to the U.S. isn't raised.

This threat is not raised by all doctors. It is not a ploy by all doctors. Most doctors are part of the health care system, and they're there because of the oath they have taken; they want to do good for people. But there are groups within the health care system who have for many years used this argument.

I hope I haven't shared this story with you already. If I have, I'm going to do it again. Senator Plett, I'm not sure you know that I have; you can tell me afterwards.

When I was Minister of Health, in the middle of negotiations with the Ontario Medical Association, I went to a radiology clinic for a particular procedure, only to see, as was repeated in doctor's office after doctor's office across the province, my picture on a poster saying, "Call this minister. Tell them we're going to leave and go to the United States if she doesn't give us more money." It didn't say that; it was much more sophisticated in the wording and in terms of how it went on, but it was in the middle of negotiations.

Everyone else was called by their number by the receptionist at the desk, but when I was to be called in, the doctor came out, looked around and saw me, and said, "Frances Lankin, come on in," essentially announcing to everybody in the room, as he stood beside the poster with my face and name on it, that I was there. I think it was a breach of my health privacy, but I wasn't concerned at that point in time. That doctor told me, "Leaving this country because of you, ma'am." That doctor is still practising in Ontario at this time.

That's one particular situation. I just want to say that there are many payment programs. There's a program for under-serviced areas in Ontario, which has been an incentive to attract doctors to under-serviced areas. There was at one time a famous ACIP, Ambulatory Care Incentive Program, which we put in place to help doctors focus on determinants of health and on prevention of illness. We offered an incentive if they could keep their capitated population of patients out of hospitals, out of acute care. It was a great idea, and it was intended to be an incentive for group practice.

I'm talking about the late 1980s, early 1990s. I'm old, so it goes back a long way. What happened is that a number of physicians set up sole practitioner practices in wealthy neighbourhoods in large Ontario cities and benefited from the health status of their population of patients within the area where they set up practice. We know that poverty, poor living conditions, poor nutrition and a range of other factors are determinants of health. Poor housing is a social determinant of health. There are also social determinants of health at the other end that determine, on average, that you're going to have better health.

These physicians were therefore serving a population base where they did nothing extra in terms of illness prevention and health promotion, and yet they got bonuses for keeping their client base out of the system.

We had to scrap that system. It was the Minister of Health before me who brought it in. I was sad to have to scrap it, but it was a system that was not meeting its intended consequences. It was a system that was in fact being abused, and when we took it away, we were told that many doctors would flee to the U.S.

This is the same thing. This is a tax provision. It was not designed to be used in a way that individual parts of a business could all claim it individually. It was not designed to augment the payment of physicians for the social good that we want them to do in alternate payment plans and in academic health science centres. It's something that people creatively found and now don't want to lose, and I understand why they don't want to lose it.

But please don't say this is a health care crisis. Please don't say that people are going to flee the country. It's an argument that I've heard and that I just don't believe. I won't say much more about the fact that a lot of times there is migration in both directions. Quite frankly, people make their decisions based on a lot more than just this. Some might make a decision based on this, but we are not at a crisis point.

Senators, I rose to speak against this amendment because while I think it's well intended by the honourable senators who heard these concerns and are responding to them, perhaps those concerns have been put forward in a manner that is reflective of a chronic way of presenting the issue that comes from some of the medical profession, some of the organizations that came before you — the Ontario Association of Radiologists, as an example. I don't think they are arguments without merit.

• (1830)

However, with respect to those arguments that the complexity of the tax code continues to grow as we move forward and make these amendments, I support those completely. I also support the argument that we should, perhaps through a study in the Finance Committee or through a general call on government, support the call for a review and overhaul of Canada's tax system.

Thank you very much.

Hon. Jane Cordy: Senator Lankin, would you take a question? My heart always goes out to somebody who used to be a Minister of Health. A friend of mine was Minister of Finance in Nova Scotia and he said that every time he thought his budget was balanced, the Minister of Health knocked on the door and that was the end of balance.

I agree with what you said earlier and what others have said. The tax code needs at least study and it probably needs a significant revamping, because it seems to get more and more complicated every year.

Would you find it unusual that we would be voting on an amendment that is suggesting that people use a tax loophole? I find that an unusual thing to vote in favour of. Senator Pratte, in answering a question earlier, made an excellent point when he said that if there's a need for funding for research or for collaboration, then let's deal with that, but let's not vote in favour of a tax loophole.

Senator Lankin: I agree with the premise of your question. The action of a Senate body to suggest that the answer to the problem of a complex tax code is to support the ability of people to make use of tax loopholes, particularly when we're talking about people at the very high end of the income scale, has a perversion to it, and it's one that I wouldn't support.

I support the policy intent of what the government announced in its budget and what it is attempting to do. I support the arguments around a parliamentary convention of why we shouldn't be doing this. I also disagree with the arguments that this is an appropriate way to remunerate physicians.

When alternative payment plans and academic health science centres were brought about — and like I said, it took many years to get people to the table — it was to provide flexibility and to merge funding sources into a holistic budget that allowed the partners to meet the goals of clinical services, research and education. That's where the payment lay.

I agree with those who say if, as is often the case, people believe that there isn't enough money in the system, the place for that discussion is at the negotiation table with the various medical associations across the country. It's not in our tax code.

Hon. André Pratte: For the benefit of those who were not part of the Finance Committee, I would like to say that I would feel very uncomfortable voting for the amendment. As a journalist, I learned very early on that it takes many witnesses to get the full story. We heard from the Department of Finance, the doctors and one tax expert. He was a very good witness because he gave us what we in journalism call "very good quotes" — very good clips — and that's very good when you do an article or a report on television or radio. He gave us very good clips.

As a matter of fact, he's against making an exemption for medical doctors. He thinks there shouldn't be any exception — that every kind of partnership should be treated the same. He just finds this is too complicated, but I would have liked to have heard from many more tax experts to see whether his opinion is shared by other tax experts. I would have liked to hear whether, for instance, medical doctors could have other ways of organizing their partnerships so that they should share their revenues in other ways.

Senator Eaton: We aren't rushing the bill. The government is.

Senator Pratte: Just one tax expert and just doctors consists of too little evidence to vote for the amendment.

To put that into perspective, the whole closing of this loophole would apparently save $70 million. That amount is not just for doctors; it's for every small business that uses this, as well as professionals like lawyers, accountants and medical doctors.

For argument's sake, let's suppose — and this is probably way overblown — but let's suppose that half of this money comes from doctors' partnerships. Let's say it's $35 million. Only in the Province of Quebec the budget for health care is $35 billion, right?

Senator Plett: Why bother saving my money then?

Senator Pratte: So $35 million or $70 million is a very small part of that. That kind of money will not create a crisis in the health care system. If that kind of money was needed to save the health care system after closing the loophole, provincial governments could very easily find that kind of money. As a matter of fact, we are not hearing the provincial governments complain about this clause and the closing of that loophole for some reason. Probably, they are not very concerned about this, right?

Some of us are accusing the federal government of improvising with this clause 44. By voting for this amendment, we would be improvising, so I will vote against this amendment.

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

Hon. Senators: Question.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: Do we have agreement on bells? Fifteen minutes. The vote will take place at 6:51. Call in the senators.

• (1850)

Motion in amendment negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk
Ataullahjan
Batters
Beyak
Carignan
Doyle
Eaton
Enverga
Frum
Greene
Housakos
Lang
MacDonald
Maltais
Manning
Marshall
Martin
McInnis
McIntyre
Mockler
Nancy Ruth
Ngo
Patterson
Ogilvie
Oh
Plett
Poirier
Raine
Seidman
Smith
Stewart Olsen
Tannas
Tkachuk
Wells—34

NAYS
THE HONOURABLE SENATORS

Baker
Bellemare
Black
Boniface
Bovey
Campbell
Cordy
Cormier
Cowan
Dawson
Day
Dean
Downe
Duffy
Dupuis
Eggleton
Forest
Fraser
Gold
Griffin
Harder
Hartling
Jaffer
Joyal
Lankin
Lovelace Nicholas
Marwah
Massicotte
McCoy
Merchant
Meredith
Mitchell
Moncion
Moore
Omidvar
Pate
Petitclerc
Pratte
Ringuette
Saint-Germain
Sinclair
Tardif
Wallace
Wallin
Woo—45

ABSTENTIONS
THE HONOURABLE SENATORS

Cools
Dyck
Gagné
Mégie—4

• (1900)

The Hon. the Speaker: Resuming debate on third reading of Bill C-29 as amended. Are honourable senators ready for the question?

Hon. Senators: Question.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: Is there agreement as to the length of the bell, honourable senators?

Hon. Senators: Now.

The Hon. the Speaker: Now. Honourable senators, the question is as follows: It was moved by Honourable Senator Harder, seconded by the Honourable Senator Bellemare, that the bill, as amended, be read the third time.

All those in favour of the motion will please rise.

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

YEAS
THE HONOURABLE SENATORS

Baker	Jaffer
Bellemare	Joyal
Black	Lankin
Boniface	Lovelace Nicholas
Bovey	Marwah
Campbell	Massicotte
Cordy	McCoy
Cormier	Merchant
Cowan	Meredith
Dawson	Mitchell
Day	Moncion
Dean	Moore
Downe	Omidvar
Duffy	Pate
Dupuis	Petitclerc
Dyck	Pratte
Eggleton	Ringuette
Forest	Saint-Germain
Fraser	Sinclair
Gagné	Tardif
Gold	Wallace
Griffin	Wallin
Harder	Woo—47
Hartling	

NAYS
THE HONOURABLE SENATORS

Andreychuk	McInnis
Ataullahjan	McIntyre
Batters	Mockler
Beyak	Nancy Ruth
Carignan	Ngo
Doyle	Ogilvie
Eaton	Oh
Enverga	Patterson
Frum	Plett
Housakos	Poirier
Lang	Raine
MacDonald	Seidman
Maltais	Smith
Manning	Stewart Olsen
Marshall	Tkachuk
Martin	Wells—32

ABSTENTIONS
THE HONOURABLE SENATORS

Cools	Mégie
Greene	White—4

• (1910)

[*Translation*]

TOBACCO ACT
NON-SMOKERS' HEALTH ACT

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Chantal Petitclerc moved second reading of Bill S-5, An Act to amend the Tobacco Act and the Non-smokers' Health Act and to make consequential amendments to other Acts.

She said: Honourable senators, I rise today in support of Bill S-5, An Act to amend the Tobacco Act and the Non-smokers' Health Act and to make consequential amendments to other Acts.

[*English*]

Honourable senators, I realize it has been a long and productive day in the chamber. I want to thank honourable senators in advance for the consideration they will bring to this very important bill being introduced.

When I was appointed last April as a senator, my main goal was to do everything that I could to help promote health for all Canadians, especially our youth.

This is how I came to speak in favour of Bill S-228, the proposed child health protection act from our colleague Senator Greene Raine. I am proud to sponsor this bill from the government. My doors will always be open when it comes to support for making Canada healthy no matter where the proposal comes from. That, after all, is my understanding of the meaning of being an independent senator.

Honourable senators, Bill S-5 has two main goals, but in the end it really wants to accomplish one thing: protect Canadians. It wants to help adults quit smoking or move to a likely less harmful option and protect our youth and kids from ever getting addicted to tobacco.

[*Translation*]

Its first objective is to standardize the appearance, size and shape of tobacco products and their packaging. Its second objective is to establish a new legislative and regulatory framework to address the risks and benefits of vaping products.

[*English*]

Honourable senators, despite 50 years of progress in the fight against tobacco, 3.8 million Canadians continue to smoke. Last year, approximately 115,000 Canadians became daily smokers. Smoking rates are up to four times higher among our First Nations and Inuit communities.

Tobacco remains the leading preventable cause of premature death and disease in Canada as 37,000 Canadians die each year from tobacco use. That is one person every 14 minutes.

While I was preparing my speech on this bill, reading about the devastating effects of smoking in Canada, the memory of my late grandfather came to me. Every time I would visit my grandfather, he would make me "galette á la mélasse" and he would always ask me who I beat in a race lately.

But the last time I saw him there was no "galette á la mélasse" and not too much talking. I had not seen him in over eight months and I was leaving for the Beijing Paralympic Games. He had been smoking every day since the age of 14 and he was now dying of a devastating lung cancer. The once tough truck driver was now lying on his bed with no strength, having lost so much weight that I could barely recognize him. He cried when he saw me, the only time in my life that I saw him cry. The only thing he could find the strength to say was, "Go get those medals."

Well, he would never get to see those medals. The very same day that I landed in Beijing, he died, leaving behind a wife that would never recover from his loss, children who went through months of caregiving, pain and anger, knowing that tobacco had taken years of his life, and then caused them to grieve for months.

That's what the statistics don't tell us. But we have to remember this: Every time someone dies from the effects of tobacco, a whole family goes through a tragedy that could have been avoided.

As we prepare to study this bill, I ask you to please keep this in mind: We are trying to save lives and everybody counts. Therefore, quite simply, we need to help those who are trying to quit, and we need to make sure that no one ever starts.

Among current adult daily smokers, 82 per cent began smoking in their youth by the age of 18. This is key: 82 per cent started before they were 18. That is the entry door to a lifelong problem. If we succeed in closing that door, those young adults and kids will not grow up into long-term smokers, and they will not die at a rate of 1 out of 2. This is crucial. Tobacco kills.

Let's be honest: It's also expensive. Honourable senators, smoking-related illnesses cost Canada's economy $4.4 billion each year in direct health care costs and $12.5 billion each year in indirect costs. That is almost $17 billion every year.

When the government launched the Federal Tobacco Control Strategy in 2001, Canada's tobacco control approaches were then innovative, bold and world-leading. The combined efforts of federal, provincial, territorial and municipal governments have been crucial in Canada's success to date. But we also must admit that, from a federal perspective unfortunately, our innovation has slowed and so have the results. Indeed, Canada has lost its place as a world leader in tobacco control. I believe that we need to get back to being the best. We owe it to our youth.

Honourable senators, we need to do more to protect Canadians and respond to the national public health problem of tobacco use. It is for this reason that the government is seeking to modernize its approach and to further strengthen tobacco control. This bill is a key element of this new strategy.

Through Bill S-5, the government has committed to implementing plain and standardized packaging for tobacco products to make tobacco packages and products less attractive and by virtue of that make sure that our young adults are not induced to the use of tobacco. Packaging is now one of the very few remaining channels available to the tobacco industry to promote their products. Research shows that the tobacco industry uses the packaging to attract new smokers by creating positive associations and expectations for consumers. For example, packages with creative openings and shapes are perceived as being more contemporary and modern.

Honourable senators, research shows that promotion through tobacco packages and products is especially effective with adolescents and young adults. As you know, this is the time when brand loyalty and smoking behaviour is being established.

[*Translation*]

Internationally, the world leaders in tobacco control are moving toward measures focused on the neutrality and standardization of tobacco products.

Four years ago, Australia was the first country to table plain packaging measures. These measures apply to all tobacco products and are part of an approach that is considered the most complete to date. The United Kingdom, Ireland, France and Hungary have also adopted plain packaging measures and are at different stages of their implementation.

With Bill S-5, the government is proposing to amend the Tobacco Act so as to extend the ban on promoting tobacco products and brand elements to include promotion on packaging, with the exception, of course, of those authorized by the Act or the regulations. The measures to introduce plain packaging of tobacco products will be implemented by regulation, a process that is already under way.

• (1920)

From May to August of this year, Canadians and other stakeholders were consulted on the manner of making plain the appearance, shape and size of tobacco product packaging.

Of the 58,000 responses received during this consultation, 92 per cent were in favour of plain packaging. This was one of the highest responses for this type of consultation.

Once Bill S-5 has received parliamentary approval, Health Canada can begin developing draft regulations based on the comments collected, while also taking into account the international lessons learned. These draft regulations will first be published in the *Canada Gazette* and Canadians and other stakeholders will have another opportunity to give their opinions on the proposal.

[*English*]

Bill S-5 ensures that compliance with the new packaging requirements does not result in the loss of registered trademarks. That's a question that comes back often, so I would like to take this opportunity to clarify that there has been no finding of a breach on intellectual property rights in any of the

other countries that have already implemented plain and standardized packaging. There have also been no findings to date that it is inconsistent with any international trade agreement.

So this is what Bill S-5 will do when it comes to tobacco and plain packaging, but the bill also addresses a new evolving reality: vaping products. Since 2008, Canada and the world have seen a rise in the popularity of vaping products.

Honourable senators, you may be wondering what exactly vaping products are. Vaping products are a relatively new technology by which a device turns a liquid into an aerosol that is inhaled and exhaled by the user. These vaping liquids contain additives such as flavourings and may or may not contain nicotine.

I myself was not too familiar with vaping, as you may guess, and I had never seen such a device before or how they were sold, packaged and advertised. That is why, while studying this bill, I first checked out vaping stores online. I have to say that certain websites I consulted actually seemed very serious and well done, whereas some others left much to be desired. I even read some comments referring to it as the "Wild West."

I also decided to visit a vaping store in Montreal. I wanted to see for myself what this new reality is. Let me just say, from a very personal point of view, that this bill, in my opinion, is critically needed. Vaping products are vast. Information on these products is very inconsistent. Advertising often targets not only teenagers but kids, really, and something has to be done.

Even the salespersons, when I told them a little bit about this bill, actually welcomed the legal framework and clarity that it would provide around a product they believe in. So this bill comes at a time when it's really needed, to say the least.

There has been extraordinary growth in the use of vaping products. Vaping products are now offered in various shapes, sizes and formats. This raises concerns for policy-makers around the world because of the lack of conclusive scientific data on the potential harms and benefits of these products. Let me explain.

Vaping products have become popular among Canadians as cessation products, tobacco alternatives and recreational products. Twenty-six per cent of our youth aged 15 to 19 have tried a vaping product. This is really concerning because exposure to nicotine through the use of vaping products could potentially lead to nicotine addiction, to the use of tobacco products and the renormalization of smoking behaviours. Like I said earlier, we have to close that entry door and keep it closed.

On the other hand, while scientific evidence is evolving, it is clear that vaping products may bring some public health benefits if they reduce tobacco-related death and disease by helping smokers quit or switch to a likely less harmful source of nicotine.

Now, let me be honest: If it were up to me, as you may guess, no one would ever touch nicotine or tobacco. But as one of my colleagues told me on this point, perfection is the enemy of the good, and vaping products seem to be emerging as a likely less harmful alternative.

Since I became the sponsor of this bill, I have had many citizens writing me and telling me stories of how, after trying everything from patches to hypnosis, vaping products were the only thing that worked for them. Their touching stories seem to match with the emerging science.

[*Translation*]

Honourable senators, Bill S-5 would regulate vaping products based on the powers already prescribed in the Tobacco Act, the Food and Drugs Act, and the Canada Consumer Product Safety Act, which are statutes administered by Health Canada.

At present, vaping products containing nicotine or alleging therapeutic benefit must be approved by Health Canada before they can be sold. However, the fact is that even if none of these products has been approved, they can still be found on the Canadian market.

[*English*]

The current federal legislative framework is not well designed to address the potential harms and benefits of vaping products.

The Standing Committee on Health undertook a study of vaping products and issued — this was in 2015 — a report recommending the adoption of a new legislative approach to vaping products. That report was brought back in this session of Parliament, and the government tabled its response in the other place in September this year. That response included a commitment to introduce legislation.

Honourable senators, this bill strikes a balance between the harms from vaping products if they entice youth to develop a nicotine addiction and the public health benefit if they contribute to reducing tobacco-related death and disease. This is why the government is proposing a flexible regime, one that can be adjusted as the science on vaping products develops.

Some might ask, "Well, why not wait until the evidence is 100 per cent conclusive?" My personal view on this, after everything I have looked at and everybody I have heard from, is that the evidence is strong enough now, both for the health benefits and the risks, to go ahead and allow adults access if they want help to quit smoking and keep our youth away from using nicotine.

Now, here are some key provisions in this legislation with respect to vaping products. Bill S-5 includes a broad definition of vaping products to deal with both liquids and devices and to address future innovations in this product category. The bill also covers both nicotine-containing and non-nicotine-containing products.

[*Translation*]

With regard to our objective of protecting young people, this bill would of course ban the sale of vaping products to persons under the age of 18. Sale of vaping products and tobacco products through vending machines would be prohibited. Bill S-5 would also regulate remote sales to young persons, including of course

online sales; to avoid these products falling into the hands of persons under the age of 18, the age and identity of the consumer would be verified upon delivery of the vaping products. This measure would support the efforts of the provinces, which require every transaction to be done in person.

• (1930)

What we want is to prevent young people from having access to vaping products, while allowing adults, smokers in particular, to have access to a potentially less harmful alternative to tobacco products.

[*English*]

Bill S-5 also includes restrictions on the promotion of vaping products focused on protecting youth from inducements to use vaping products. For example, this legislation prohibits advertising that could be appealing to youth.

Another feature of Bill S-5 is the prohibition on the promotion of flavours that are appealing to youth, such as candy, or also ingredients that may suggest health benefits.

Honourable senators, these provisions recognize that some adults prefer flavoured vaping products, but also that flavours may draw youth to vaping, something that we want to avoid. These provisions also recognize that the use of certain ingredients, like vitamins, might give an impression that vaping products with vitamins may have a health benefit that is not supported by available evidence.

This bill also includes flexibility, as the list of prohibited flavours may be modified through regulation if evidence suggests that other flavours appeal to youth. This is how Health Canada will respond to the industry's innovation.

In addition, Bill S-5 includes regulation-making authority to, among other things, require health information and warning messages on vaping product packages and refills.

Honourable senators, Health Canada is looking to ensure through regulations that vaping products have health warning messages that are commensurate to the risk of the products. For example, warnings could be similar to those that we find in the United States and that read "Nicotine is an addictive chemical."

[*Translation*]

Bill S-5 also includes provisions that require the manufacturers and importers to regularly submit to Health Canada information on their products, their sales, and the research they do where required by regulation. These provisions are important because they will help the government make informed decisions.

Bill S-5 also includes measures to provide adults, smokers in particular, access to a potentially less harmful alternative to cigarettes, by creating a second channel to market for vaping products with nicotine without requiring manufacturers and importers to go through a pre-market approval process.

[Senator Petitclerc]

[*English*]

Honourable senators, this is because this bill recognizes that vaping products are a product for which scientific evidence is still emerging but which the currently available information suggests will have a substantially different health risk than deadly cigarettes.

More specifically, this legislation would remove vaping products with nicotine that are not marketed for a therapeutic purpose from the scope of the Food and Drugs Act. The idea behind it is that it is Health Canada's belief that vaping products should not be less accessible than conventional tobacco products.

This bill does, nevertheless, maintain a pathway for manufacturers to develop and seek approval to market vaping products as therapeutic products. This is important, especially if the industry can prove that vaping products help people to quit smoking.

Bill S-5 also amends the Canada Consumer Product Safety Act in order to specify that certain vaping products, whether they contain nicotine or not, are subject to the safety provisions of this Act. In other words, the vaping products industry would have to submit a report to Health Canada in the event of health-related incidents or safety-related issues involving these products, including in the case of serious injury.

As you may have read yourselves, the explosion of vaping products has caused serious harm. The vaping products industry would also be required to inform Health Canada in the event of any recalls or other measures taken by other levels of government, or even by other countries, for human health and safety reasons. Health Canada could also initiate a recall if there are grounds to believe that a vaping product presents a danger to human health and safety.

Bill S-5 would enable Health Canada to use existing authorities under the Canada Consumer Product Safety Act to enforce the prohibition of products that pose a danger to human health or safety.

This bill would also enable Health Canada to put in place regulatory measures to reduce health and safety risks related to vaping products by requiring, for example, child-resistant packaging to help protect children from nicotine poisoning.

Together these measures will help protect the health and safety of people who choose to use vaping products. Again, Bill S-5 strikes a balance between the harms from vaping products if they entice youth to develop a nicotine addiction and the potential public health benefit if they contribute to reducing tobacco-related death and disease.

Provincial and territorial governments continue to call for federal leadership on vaping products. Their approach does not address all of the risks associated with vaping products and does not provide a uniform level of protection for all Canadians. The new federal approach would complement existing provincial and territorial legislation and establish a framework for jurisdictions that do not yet have vaping legislation in place.

Honourable senators, finally, Bill S-5 amends the Non-smokers' Health Act to ensure that the law is clear that where tobacco use is prohibited in federal workplaces, so is vaping.

This bill also includes modern and harmonized compliance and enforcement provisions for both vaping and tobacco products. The Tobacco Act's compliance and enforcement authorities are not right now all aligned with recent statutes, including the Canada Consumer Product Safety Act. Modernizing and harmonizing authorities will help support the work of Health Canada inspectors in ensuring compliance with the Tobacco Act and its regulations.

[*Translation*]

Inspectors will be granted several new powers, including the power to carry out their duties remotely using telecommunications and to require manufacturers to keep records that can be consulted and copied by an inspector during an inspection. Inspectors could require adequate proof of identity from the individuals responsible in order to establish who they are dealing with, for example.

[*English*]

In addition, Bill S-5 aligns, as appropriate, offences and punishments for vaping products and tobacco products.

All of these authorities are consistent with inspection authorities found in other modern legislation.

Honourable senators, Bill S-5 is an important piece of Canada's tobacco-control agenda and is important to help address one of our most challenging and enduring public health problems.

Protecting youth is essential. As I have already mentioned, 82 per cent of current adult daily smokers smoked their first cigarette by the age of 18. This is deeply concerning as youth are so vulnerable to the effects of nicotine, often becoming addicted more quickly than adults.

• (1940)

No one wants their children or grandchildren to start smoking. With this bill, we can help make sure that this never happens. To me it's quite clear and basic: If you don't start the habit, you don't die from it.

We must do everything that we can to keep our youth from the dangers of tobacco and from lifelong nicotine addiction. We owe it to them to protect them the best that we can, and this is one way to do it.

We must also do more to help those Canadians who regularly use tobacco and the one-in-two long-term smokers who will die from a smoking-related disease. Tobacco is still robbing people of years of their lives; it is still robbing families of their loved ones.

Deep down, I still to this day believe that tobacco has robbed me from the pride of showing my medals to my grandfather.

The time for change is now, both to take more action on tobacco but also to better regulate a game-changing technology known as vaping products.

I hope, honourable senators, that you will support me in referring this legislation to committee for further study.

[*Translation*]

Hon. Claude Carignan (Leader of the Opposition): Would the Senator take a question?

Senator Petitclerc: With pleasure.

Senator Carignan: Thank you, Senator, for your lively speech. It touched me deeply, since I myself lost my father at the age of 57—27 years ago now—to smoking-related lung and throat cancer. This is an issue that is very dear to me.

On the same day you delivered your speech, we receive the report called *A Framework for the Legalization and Regulation of Cannabis in Canada*. The report seems to draw some parallels with the legislation or regulation of cigarette packaging and advertising. Listening to your comments about vaping, it seems to me that Bill S-5 goes much further in terms of control, advertising and access than what is proposed in the report on the legalization of marijuana. What is your position on this difference? Does the report not go far enough on marijuana, or do the vaping rules go too far?

Senator Petitclerc: I have in fact today read the report to which you refer. There are indeed certain differences. You will understand that, as the sponsor of this bill, I am truly interested and invested in it, and what seems to me really important so far as vaping is concerned is the protection of young people. That is really the key to the whole discussion about advertising and packaging. Just how far will we go, compared with tobacco?

At the moment, from the data we have, the risks of vaping are potentially less significant than those of smoking. We have to try and find a balance. What everyone is in agreement on, what is true as well for the legalization of marijuana and cannabis, is that our young people have to be protected.

I find the image of the gateway very important. We have to make sure we do everything in our power to make vaping products less appealing to young people, because they contain nicotine.

At the same time, what is interesting about Bill S-5 is that we have to try to find a balance, because it presents a lower risk than tobacco. We must keep this door open for those people who are trying to stop smoking. We know quite well that, in the end, temporary recourse to vaping is better for your health than smoking your entire life. This is a product that can be beneficial for inveterate smokers, even though it can be dangerous for an innocent young person.

It is all rather complex, and in fact my response is that I am very eager to explore this report thoroughly and identify potential commonalities between it and Bill S-5.

[*English*]

Hon. Frances Lankin: Would the honourable senator accept another question?

Senator Petitclerc: Yes.

Senator Lankin: Thank you very much.

A number of senators will have received in the last couple of days a correspondence from organizations such as the Non-Smokers' Rights Association, Physicians for a Smoke-Free Canada, Ontario Coalition for Action on Tobacco and Quebec Coalition for Tobacco Control.

Along with the correspondence they have attached a confidential presentation from Imperial Tobacco, which was leaked by an industry whistle-blower. The documentation suggests that organizations such as Canadian Convenience Stores Association and the National Coalition Against Contraband Tobacco are active lobbying organizations which have relationships with Imperial Tobacco, and that this is an orchestrated campaign.

I think no one has problems with lobbying. I think the question is transparency and knowing relationships.

So this group has pointed out that the Canadian Convenience Store Association is currently opposing the banning of menthol in tobacco and the plan to require plain and standardized packaging. They call for transparency and call for legislators, when hearing from representatives from organizations such as this, to explore and probe to understand the relationship to tobacco companies. Although in previous attempts these organizations have not answered the question, I wonder if you will undertake at committee stage to probe these relationships so that legislators on the committee will know who, in fact, is bringing forward the objections.

[*Translation*]

Senator Petitclerc: I thank you for the question.

[*English*]

This is a very crucial point. As sponsor of the bill, the policy in my office was anybody that wants to meet we're going to meet with them and listen to everybody, and we did.

It will be no surprise to anybody that the anti-tobacco control groups are very organized and well-funded organizations, and they do have very strong strategies.

My first comment is that we as senators, and especially in the committee, have to be very aware of that, cautious and always asking questions and doing our homework. On every report that I got, all the data and research, my first question was what is the source? Can we dig a little more? Who is behind that data?

Transparency, as you said, is key. It is not the scope of this bill to deal with that directly, but when we do take this bill into committee, we have to keep in mind the importance of getting all the facts, including transparency facts.

To me, it's about making sure that we help Canada stay healthy. If we push a little more in terms of what you mentioned, and ensure that more transparent information gets to the public, this is also in their health interest. I think we have a responsibility in that regard, not only for this bill but for the longer term.

• (1950)

Hon. Yonah Martin (Deputy Leader of the Opposition): Would Senator Petitclerc take another question?

Senator Petitclerc: I would be happy to.

Senator Martin: Senator, I appreciate the work you put into preparing for your speech today and in beginning our second reading debate. I didn't know some of the information you presented. First of all, the word "vaping" sounds somewhat exotic, so I can see how youth might be quite attracted to it.

I am concerned when you talk about this gateway. You're trying to close the gateway and prevent youth from smoking. Yet I feel that with this bill, by creating a separate class of products, these vaping products, we're actually creating another gateway or expanding the gateway; it's another gateway for them to potentially become smokers. That really concerns me.

We already have so many issues around tobacco, and I have many questions and concerns about what's being proposed in this bill. Who drove the government to look at this issue? Was it driven by industry? What consultations were done? You said there's a lack of scientific evidence, so I'm curious about what the medical industry is saying about creating a whole class of products. You mentioned the industry, so I'm curious: What do you mean by "industry"? Could you also expand on the consultation process that led to this bill being tabled?

Senator Petitclerc: There are a number of elements. In fact, when I first came upon this bill, I had some of the same questions that you have. Why is it important to put some sort of legal and regulatory structure around vaping products? I didn't know what they are; I didn't know how much they are used and how they are used.

The reason this bill is so important, quite simply, is that it's happening already. There should not be vaping products with nicotine on the market, but it's happening; they're everywhere. It's time to ensure that they are safe products, and it's time to ensure that we know who is using them and how they are advertised.

This is the thing that overwhelmed me when I started to look online, when I went to a vape store. You see all the different devices. I meant to talk about this earlier, but I went to a vape

store. They have Hello Kitty vaping pens with matching iPhone cases. Clearly, this is targeted to teenagers and youth. The public consultation was about plain and standardized packaging, but this packaging for vaping products was made by the government.

Mostly, this is about the realization of what is happening now and the need to ensure that it is structured and regulated, and that our children and teenagers do not have access to these products.

As I was writing this speech, I wanted to obtain data with a stamp on it that would tell me there is scientific evidence that this will help people to stop smoking. As I understand it, the reality is that there is more and more scientific evidence that this is a less harmful product, and we need to get that data recognized, some of which is international.

This is already happening, and we need to protect Canadians. I was going to say "young Canadians," but we need to protect everybody, adults and youth, right now. We cannot wait until we get all the evidence. When you start to read about this, you will understand in your conscience that we have enough data.

[*Translation*]

The Hon. the Speaker *pro tempore***:** Senator Petitclerc, your time is up. Would you like five more minutes?

[*English*]

Senator Petitclerc: I was finished answering.

Hon. Donald Neil Plett: Would the honourable senator take another question?

Senator Petitclerc: I will, with pleasure.

Senator Plett: I find myself quite amazed that this government has finally brought forward legislation that I really agree with and support the initiative. As I said when I supported Senator Mitchell, hell has probably frozen over.

However, I do find it strange that a government that is so concerned about our health in terms of cigarette smoking and vaping — and I share their concern; I lost my father, my mother-in-law and a brother-in-law to lung cancer. Whether this was related to smoking, I don't know. They were all not young people but not old either.

I support any initiative in this regard, but here is a government that wants to change smoking habits and is saying, "Don't buy a package of Player's cigarettes anymore. We'll give you a marijuana joint; smoke that instead." I think there's a fair bit of inconsistency here. Nevertheless, we'll leave that for when I speak on the bill.

Senator, I thank you for your speech. My question is for you to explain something. When you talk about the number of deaths, I thought I heard you say in English that it was 14 deaths, and in French the translation was 45.

Senator Petitclerc: No. I said a lot of numbers. It's one person every 14 minutes.

Senator Plett: That's what I meant, 14 minutes; and the translation said every 45 minutes. So it's 14 minutes.

Senator Petitclerc: Maybe it was my mistake, but it's the same in both languages.

Senator Plett: Fair enough. My question was whether it was 14 minutes or 45 minutes.

Senator Petitclerc: It's 14 minutes.

(On motion of Senator Plett, debate adjourned.)

THE SENATE

MOTION TO SUSPEND THE PROVISIONS OF THE ORDER RESPECTING ADJOURNMENT ON WEDNESDAY, DECEMBER 14, 2016, AND TO AUTHORIZE COMMITTEES TO MEET DURING SITTING OF THE SENATE ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I move the motion that was noticed earlier this day:

> That the provisions of the order of February 4, 2016, respecting the time of adjournment, be suspended on Wednesday, December 14, 2016 and that the Senate can continue sitting until 6 p.m.

MOTION IN MODIFICATION

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, pursuant to rule 5-10(1), I ask leave of the Senate to modify the motion by adding the following:

> That committees of the Senate scheduled to meet from 4:15 p.m. to 6 p.m. be authorized to meet tomorrow, even though the Senate may then be sitting, and that the application of rule 12-18(1) be suspended in relation thereto.

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

Hon. Senators: Agreed.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to, as modified.)

• (2000)

CRIMINAL CODE

BILL TO AMEND—THIRD READING—MOTION IN AMENDMENT ADOPTED—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carignan, P.C., seconded by the Honourable Senator Martin, for the third reading of Bill S-230, An Act to amend the Criminal Code (drug-impaired driving).

And on the motion in amendment of the Honourable Senator Baker, P.C., seconded by the Honourable Senator Eggleton, P.C.:

That Bill S-230 be not now read a third time, but that it be amended in clause 2,

(*a*) on page 2, by replacing lines 5 and 6 with the following:

"that is designed to ascertain the presence of alcohol in the blood of a person or of drugs in a person's body and that is approved for"; and

(*b*) on page 3,

(i) by replacing lines 3 and 4 with the following:

"be made to determine whether the person has a drug in their body; or", and

(ii) by replacing lines 8 and 9 with the following:

"to determine whether the person has a drug in their body.".

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, this is on the amendment that was two and became one, as honourable senators will recall Senator Baker's amendments yesterday. I would like to speak on those, because I took the adjournment on those amendments because they hadn't been printed and circulated. I wanted to have an opportunity to see the amendment.

I have had a chance to do so, and I've spoken to the proposer of the amendments and the proposer of the motion itself, Senator Carignan, and he is in agreement with the amendment that was proposed by Senator Baker, and I have seen them and I have no objection to them.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion in amendment agreed to.)

The Hon. the Speaker: On the main motion. On debate, Senator Sinclair.

Hon. Murray Sinclair: Thank you, Your Honour. I move that this matter be adjourned in my name.

(On motion of Senator Sinclair, debate adjourned.)

FOOD AND DRUGS ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Stewart Olsen, seconded by the Honourable Senator Johnson, for the second reading of Bill S-214, An Act to amend the Food and Drugs Act (cruelty-free cosmetics).

Hon. Don Meredith: Thank you so much, honourable senators. I know the time is far spent, and I don't want to keep you here. Given my background, I can keep people going for two hours, but I will try not to do that.

I am delighted to rise to speak briefly on Bill S-214, the cruelty-free cosmetics act. The sponsor of this bill is Senator Stewart Olsen. Senator, this is my gift to you, as we look toward Christmas.

As an animal lover, I believe they are our friends and our companions. They deserve to live their lives as nature intended, free from confinement and abuse.

That is why I support Bill S-214, which adds new definitions to the Food and Drugs Act to set out exactly what cosmetic animal testing means, and finally updates Canadian animal testing

standards to match those of our counterparts in the European Union, Israel, New Zealand and Brazil, to mention a few.

As my honourable colleagues Senators Baker and Cools have done, I would like to refer back to particular sections of the bill for your illumination, as I know some of you need some energy right now.

The act may be cited as the cruelty-free cosmetics act. It amends sections 2, 16 18.1, 18.2 and 18.3 of the Food and Drugs Act.

Clause 2 of the bill states:

> **2. Section 2 of the *Food and Drugs Act* is amended by adding the following in alphabetical order:**
>
> "animal testing" means the topical application or internal administration of any substance to a live non-human vertebrate to evaluate its safety or efficacy.
>
> "cosmetic animal testing" means the topical application or internal administration of any cosmetic or ingredient of any cosmetic to a live non-human vertebrate to evaluate its safety or efficacy for the purpose of developing or manufacturing a cosmetic.

I want to drop down to proposed section 16.1 in clause 4 of the bill:

> **16.1** No person shall conduct or cause cosmetic animal testing to be conducted in Canada.

This is something I want to bring to your attention, honourable colleagues. Clause 5 of the bill adds proposed section 18.1:

> **18.1** No evidence derived from animal testing conducted after the coming into force of this section may be submitted or used to establish the safety of a cosmetic or an ingredient of a cosmetic under this Act or the regulations.

Why do I bring that to your attention? Because Health Canada depends on the Food and Drugs Act to set safety rules and labelling requirements, as well as the classification. This is so important to Canadians.

Honourable colleagues, the reason why I brought this forth is that there are other methods, which I will go into shortly. According to the Humane Society International and the Animal Alliance of Canada, many of these jurisdictions — New Zealand, Brazil, the European Union and Israel — have also imposed marketing restrictions prohibiting the sale of cosmetic products or ingredients that have been subjected to new animal testing anywhere in the world.

The Food and Drugs Act says, and I quote:

> ***cosmetic*** includes any substance or mixture of substances manufactured, sold or represented for use in cleansing, improving or altering the complexion, skin hair or teeth, and includes deodorants and perfumes . . . .

That means that practically every hygiene product found in a Canadian household may be tested on animals thousands of times before making it to market, sometimes following outdated methods.

Honourable colleagues, I promised to be brief and I will be. But I wanted to bring to your attention — and my colleague, Senator Stewart Olsen, has spoken to it as well — that new and more effective ways have been developed to test the effects of chemicals on humans, eliminating the need for animal testing. One example of this is called cell-based or in vitro testing. It comes from the Latin *in vitro*, which translated means "in a glass, in a tube or in a dish."

Honourable colleagues, these recognized methods have been cost-effective. This and other recognized non-animal safety assessment methods are generally less expensive and less time-consuming than their animal-based counterparts, which sometimes take months or years to conduct, at costs of tens to hundreds of thousands of dollars.

Honourable colleagues, the time has come to end cruelty against animals in Canada.

Senator Stewart Olsen, I was hoping that you would hear, "Hear, hear!"

Honourable senators, more than 200,000 animals suffer and die every year to enhance beauty and hygiene products. This bill, I believe, will stop this inhumane practice and give these animals life, not death.

• (2010)

Honourable colleagues, I hope you will support this bill as it moves forward to the Standing Senate Committee on Social Affairs, Science and Technology for further in-depth study.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Stewart Olsen, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

TENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the tenth report of the Standing Committee on Internal Economy, Budgets and Administration, entitled Senate budget 2017-18, presented in the Senate on December 12, 2016.

Hon. Leo Housakos moved the adoption of the report.

He said: Honourable senators, as Chair of the Standing Senate Committee on Internal Economy, Budgets and Administration, I am pleased to present you with the Senate's Main Estimates for 2017-18.

On April 21, 2016, the Subcommittee on Senate Estimates was re-established with an expanded mandate to examine the funding allocations of the house officers and caucuses.

On October 27, 2016, the subcommittee was further authorized to examine and report on any supplementary estimates, including new funding requests for the current fiscal year 2016-17, as well as the Main Estimates for 2017-18.

The subcommittee met four times to review the funding requirements from the Senate administration and separate submissions from the Leader of the Government in the Senate and the Leader of the Senate Liberal Caucus and the Honourable Senator Elaine McCoy on behalf of the Independent Senators Group.

The subcommittee heard from a total of 19 individuals, including members of the management teams from the Senate and International and Interparliamentary Affairs. The subcommittee heard from representatives from each directorate on their operational and financial needs as well as their justification for changes, if any, to their 2017-18 budgets.

The Subcommittee on the Senate Estimates recommended a proposed total budget of $103,152,365, up from $90,115,308 in the previous fiscal year. This translates into a 14 per cent total budget increase.

There are two types of budgets within the Senate's overall resource envelopes — statutory and voted. The primary difference is that a shortfall in the statutory budgets at year end would be covered by Treasury Board. The significant changes being proposed for each category of budgets are a net increase of $2,450,672 in the statutory budget as a result of an increase of $940,590 to the senators' basic and additional allowances and pension budget, $746,500 and $194,090 respectively; and an increase of $1,031,341 for senators' travel due to the increase of numbers of senators; and an increase of $478,741 to the Employee Benefits Plan resulting from the adjustments to the overall personal cost and changes in the Treasury Board rates.

The voted budget items that pertain to the work of senators represent an increase of $10,141,552. This includes an increase of $8,467,940 to senators' research and office expense budgets. This will provide for an increase in the SRO budget from $185,400 to $222,480. For the 2016-17 fiscal year, the funding was based on an average of 98 senators. For 2017-18, the average is based on 103 senators with the assumption that all vacant seats in the Senate will be filled, factoring in senators planned retirements throughout the year.

There is an increase of $1,472,000 to the Senate house officer and caucus expense budgets. This includes a $647,600 increase to the budget of the Leader of the Government in the Senate allocated in the previous year's Main Estimates, which had been set at $852,400 but reduced to $400,000 during the 2016-17 fiscal year. The total budget proposed for 2017-18 is therefore $1.5 million.

The other increases include an amendment to the formula for the caucus expense budgets for the Senate Liberals, the elimination of the $7,000 fund for senators who are not members of a caucus and an economic increase of 1.8 per cent applied to the house officers and caucus expense budget except for the aforementioned requests received from the Leader of the Government in the Senate and the Leader of the Senate Liberals; an increase of $201,612 to the Speaker's budget, which by the way colleagues has not been increased in the last 10 years.

Also part of the voted budget, funding for the Senate administration represents an overall increase of $448,833. Some of the elements of that budget include an increase of $364,376 to the International and Interparliamentary Association to further engage international counterparts and deepen understanding of global issues. This increase includes economic increases, reclassification and temporary funding for conferences; a temporary increase of $150,000 for the Clerk of the Senate's office to host the Canada One Fiftieth Symposium and Legacy Project; a decrease of $229,249 to abolish the Director General Parliamentary Precinct Services Office; an increase to the Office of the Law Clerk personnel budget of $157,500 to create the position of Deputy Law Clerk and Parliamentary Counsel; a decrease to the Corporate Security Directorate proposal budget of $1,171,000 due to changes in the mandate of the Corporate Security Directorate and the Parliamentary Protective Service; an increase to the Property and Services Directorate Operations and Maintenance budget of $262,800 to continue its contract with Canada Post to provide mail and packaging, screening and sorting; an increase of $262,621 for the Information Services Directorate for salaries and operating budgets net of expired temporary funding; an increase of $275,000 for IT equipment for senators; an increase of $125,000 for annual support and maintenance of the Senate Storage Area Network; an increase of $141,942 for additional resources for front line delivery capacity; an increase of $136,710 for in-room backup digital recording system; an increase of $113,969 for two other projects — the Joint Parliamentary Network and Legislative System Renewal projects; and a decrease of $530,000 for expired temporary funding; an increase of $647,785 for 14 other Senate administrative salaries and operating budgets funding requests.

In closing, I wish to take this opportunity to thank the members of the Subcommittee on Senate Estimates who did an amazing job in conducting such an in-depth review, as well as all my fellow members of the committee, the Senate administration and senators' staff for their work on the Senate Main Estimates for the upcoming 2017-18 fiscal year.

Honourable senators, I will urge all of you to support the adoption of the report.

[*Translation*]

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): I would like to ask you a question or two.

The first has to do with the figures you just mentioned. I am not seeing them in Appendix A or B of the report. Can you send those tables to us as Appendix C?

Senator Housakos: Absolutely, Senator Bellemare. I am not sure why the figures aren't there.

Senator Bellemare: They aren't in the report.

I have another question about senators' allowances and pensions. In the 2016-17 Main Estimates, the figure goes up from $18,716,000 to $19,657, 000, which represents a 5.03 per cent increase. Does that five per cent really include the pension increase, or is it just an accounting adjustment?

• (2020)

[*English*]

Senator Housakos: My understanding is that it is a counting over because we're still using the same structure for the pension plan as was approved by the Senate and the House of Commons in the previous budget. So I don't believe there's an augmentation. I think it's just in the natural course.

Hon. Frances Lankin: Senator Housakos, I am aware that there was a meeting earlier in the week of the Subcommittee on Senate Estimates. This is a process question. Have their deliberations and decisions been included in this report or does that go to Internal Economy later this week? Will there be a subsequent report coming back before the end of this week?

Senator Housakos: The report was approved by Internal Economy last week. As per the rules of Internal Economy, once the report is prepared and the Senate Chamber is sitting, I have to table the sub-estimates in chambers.

There is ongoing work with sub-estimates in terms of a proposal from the Independent Senators Group in terms of funding. I'm expecting that report to be filed at Internal Economy Thursday. I remind the chamber, as per the guidelines and *Rules of the Senate*, Internal Economy does have authority to approve the requests from Estimates. We have the full authority to do so when the chamber doesn't sit.

In this particular instance, the estimates were prepared, and as per the guidelines, I tabled them in the chamber. If we rise, as it's expected we might rise on Thursday, it's highly unlikely estimates will be prepared in time to be tabled in the chamber; thus the approval by Internal Economy will be sufficient for that budget to go forward.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

STUDY ON MATTERS PERTAINING TO DELAYS IN CANADA'S CRIMINAL JUSTICE SYSTEM AND REVIEW THE ROLES OF THE GOVERNMENT OF CANADA AND PARLIAMENT IN ADDRESSING SUCH DELAYS

EIGHTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the consideration of the eighth report of the Standing Senate Committee on Legal and Constitutional Affairs, entitled *Delaying Justice is Denying Justice: An Urgent Need to Address Lengthy Court Delays in Canada*, deposited with the Clerk of the Senate on August 12, 2016.

Hon. Paul E. McIntyre: Honourable senators, I rise today to speak on the eighth report of the Standing Senate Committee on Legal and Constitutional Affairs, entitled *Delaying Justice is Denying Justice: An Urgent Need to Address Lengthy Court Delays in Canada*.

First and foremost, I wish to thank the chair of the committee, Senator Bob Runciman, and all of the committee members for their input and in particular the diligent work that led to the creation of this report.

On January 28, 2016, the Senate of Canada authorized the Standing Senate Committee on Legal and Constitutional Affairs to undertake a study on matters pertaining to delays in Canada's criminal justice system. The committee was also authorized to review the roles of both the Government of Canada and Parliament in addressing those delays.

From February through May 2016, the committee heard from 75 witnesses during public hearings in Ottawa, Halifax and held fact-finding meetings in Nova Scotia. The witnesses had an in-depth knowledge of our criminal justice system and the manner in which it operates. According to the witnesses, delays are a significant problem in Canada.

On August 12, the committee tabled its interim report. It focuses on an urgent need to address lengthy court delays. In its report, the committee basically examined three issues, namely, the consequences of delays, the causes of delays and ways to address those delays.

As pointed out in the report, the consequences of delays have an impact not only on victims and witnesses, but also on accused persons, the bail remand system and the justice system. The impact is such that the consequences can be serious.

For example, under our criminal justice system, a person charged with an offence has a constitutionally guaranteed right to be tried within a reasonable period of time as guaranteed under section 11(b) of the Charter. The denial of that right can have serious consequences. Under those circumstances, a judge may order a stay of proceedings and charges may be dismissed.

On that issue, the committee report reads as follows:

Three very recent Supreme Court of Canada decisions [i] in which stays of proceedings were ordered due to unreasonable delays highlight the urgency of addressing this issue. In *R v. Jordan*, the majority set out a new framework which focuses on encouraging all participants in the criminal justice system to cooperate in achieving "reasonable prompt justice."[ii]

The Supreme Court set out a presumptive ceiling beyond which delays are presumed to be unreasonable, unless exceptional circumstances [iii] are alleged by the Crown. This ceiling is 18 months for cases tried in the provincial court and 30 months for cases in the superior court (or cases tried in the provincial court after a preliminary inquiry).

If the Crown cannot rebut the presumption of unreasonableness, a stay of proceedings will follow. A transitional framework applies to cases currently in the system to attempt to avoid a post-*Askov* catastrophe where 50,000 charges were stayed. The minority concluded that the majority's approach exceeds the role of the Court and that creating fixed or presumptive ceilings "is a task better left to legislatures." [iv]

Also, the minority warned that the majority's new framework and transitional provisions "will not avoid the risk of thousands of judicial stays of proceedings." [v]

The committee also learned that the causes of delays are complicated and complex. Some arise from inherent challenges, both contemporary and constitutional, in the nature of our adversarial criminal law system.

The committee is respectful of judicial independence and is mindful of the role played by both judges and chief judges. This being said, the committee recognizes that lack of robust case and case flow management by the judiciary may be the most significant factor in contributing to delays. Efforts must be made by all relevant stakeholders to address this issue by developing and sharing successful management tools and practices.

Therefore, the committee's first recommendation calls on the Government of Canada to work with the provinces, territories and the judiciary to examine and implement best practices in case management to reduce the number of unnecessary adjournments and ensure criminal proceedings are dealt with more expeditiously.

Our justice system can only function efficiently when there are enough judges to handle criminal proceedings in a timely fashion. The committee is aware of the need to fill justice vacancies in provincial courts across the country. This situation requires urgent attention from the Government of Canada.

The committee's second recommendation is for the Government of Canada take immediate steps to ensure that a system is in place to make the necessary judicial appointments to provincial superior courts as expeditiously as possible.

• (2030)

In its interim report, the committee also urges the federal, provincial and territorial governments to work together to address trial delays. It is a matter of national importance. More resources should be invested to modernize Canada's justice system. New innovative solutions need to be explored and put into practice across the country to address delays.

The committee's third recommendation calls for the Government of Canada to show leadership in working with provincial and territorial governments to help share best practices concerning megatrials, restorative justice programs, therapeutic courts, shadow courts and integrated service models for courthouses, and to help implement these in appropriate circumstances.

Witnesses also discussed technological solutions, such as computer systems that facilitate disclosure or permit counsel to more efficiently deal with routine matters to help modernize court proceedings.

Discussions also centred around the manner in which accused persons are monitored in order to avoid detention in remand centres. Therefore, electronic monitoring of accused persons, as an alternative to remand, should be put into practice as soon as possible.

The committee's fourth recommendation calls for the Government of Canada to take the lead and invest greater resources in developing and deploying appropriate technological solutions to modernize criminal procedures.

Since the tabling of this report, Canadians have learned that at least two murder cases have already been thrown out as a result of the Supreme Court of Canada's *R. v. Jordan* decision, and more requests for stays of proceedings have been made across the country.

The Senate Legal and Constitutional Affairs Committee is desirous of the Supreme Court of Canada clarifying its rules that set guidelines for trials for accused criminals and has invited the federal Minister of Justice to seek guidance on how the new constitutional time limits should be applied.

Honourable senators, time is of the essence.

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I ask leave that, as this item had been

adjourned in the name of Senator Runciman, that it return in his name, with your indulgence.

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

Hon. Senators: Agreed.

The Hon. the Speaker: The matter remains adjourned in the name of Senator Runciman for the balance of his time.

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

STUDY ON ISSUES RELATED TO THE GOVERNMENT'S CURRENT DEFENCE POLICY REVIEW

SEVENTH REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE ADOPTED

Leave having been given to revert to Other Business, Reports of Committees, Other, Order No. 4:

On the Order:

> Resuming debate on the motion of the Honourable Senator Lang, seconded by the Honourable Senator Griffin:
>
> That the seventh report of the Standing Senate Committee on National Security and Defence, entitled *UN Deployment: Prioritizing commitments at home and abroad*, deposited with the Clerk of the Senate on November 28, 2016, be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the government, with the Minister of National Defence being identified as minister responsible for responding to the report.

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak on the Standing Senate Committee on National Security and Defence's most recent report entitled *UN Deployment: Prioritizing commitments at home and abroad*. This report is part of the committee's wider study to examine and report on issues related to the defence policy review presently being undertaken by the government.

[*Translation*]

In 1957, Lester B. Pearson won the Nobel Peace Prize for his efforts to send a UN peacekeeping force to Egypt in response to the Suez Crisis. Since then, the international community has relied on Canada's leadership and know-how whenever a conflict occurs in the world.

[*English*]

Since the days of Lester Pearson, UN peacekeeping has changed. Today's missions are undertaken when often there is no peace to keep. These missions are more about peace support and the protection of civilians than they are about traditional peacekeeping.

The committee's report, *UN Deployment: Prioritizing commitments at home and abroad*, identifies several possible areas for Canada to play a significant role in UN peace support operations, including non-military contributions that can strengthen governance, rule of law and assist in conflict prevention abroad.

The committee learned that we need to take a whole-of-government approach. General Jonathan Vance told us about how our military is ready to take on UN peace missions. However, he told us that soldiers alone cannot solve conflict, saying that:

> . . . in most instances the nature of the conflict and the things you can do about it, maybe 20 per cent of it can be managed by the military. The other 80 per cent speaks to root causes, speaks to challenges of the nations they are dealing with, and no matter how much military force you put at it, it's unlikely to solve the root causes.

Recognizing this reality, our committee has made eight recommendations.

[*Translation*]

Our first recommendation states that our government must obtain Parliament's consent before any deployment. Our second recommendation states that our government must clearly articulate the rules of engagement for our military personnel before they depart on a mission.

Now that we are once again getting involved in peacekeeping operations, we need to ensure that our military and police are able to defend themselves from harm.

We also need to ensure that they are able to take action to protect civilians from harm or abuse since the goal of modern peacekeeping operations is to keep civilians safe. It is therefore essential that our rules of engagement reflect that reality.

[*English*]

Our third recommendation states that Canada expedite the implementation of Resolution 1325, that it encourages the inclusion of more women in all aspects of peace support operations, and that it ensures that Canadian and United Nations personnel deployed receive extensive training related to the women, peace and security agenda.

United Nations Resolution 1325 and other sister resolutions recognize the unique contribution women can make to the peace process. As of now, only 4 per cent of uniformed personnel taking part in peace operations for the UN are women. However, honourable senators, in Canada women make up about 15 per cent of our Regular Force.

Several witnesses told our committee that Canada can offer skilled female military personnel for both UN headquarters and field operations. We can also assist with the implementation of

Resolution 1325 by implementing gender-sensitive approaches in our contributions to the United Nations.

For example, the United Nations has been looking to member countries to promote gender training for troops, which would allow them to better approach the complex gendered situations in UN peace operations.

Assisting the UN in creating gender-sensitive approaches to disarmament, demobilization and reintegration will also ensure that host countries will allow for women to engage in civilian life following conflict. This will help to change the culture of the UN and to spur progress on the implementation of this very important resolution.

[*Translation*]

Our fourth recommendation states that, in recognition of the additional burden that a deployment to a francophone nation will have on Franco-Canadians, the government will develop a strategy to better support these men and women and their families.

On that subject, I would like to point out that, today, about half of UN troops currently deployed on peacekeeping operations are working in francophone countries. The witnesses that we heard from agreed that, now that we are once again getting involved in UN peacekeeping missions, deployments to francophone countries would put an extra burden on the francophone units in Canada. It therefore goes without saying that this will have a major impact on the Royal 22e Régiment and the 5 Canadian Mechanized Brigade Group.

Our fifth recommendation states that the government must allocate resources to military personnel returning home from operations, especially those who develop post-traumatic stress disorders.

• (2040)

[*English*]

Testimony before the committee taught us that many of the personnel who had participated in peace missions during the 1990s had come ". . . back to Canada badly scarred, physically and psychologically, from the experience."

Our lessons in Afghanistan especially underline the need to support our troops suffering from PTSD. As of today, more soldiers have died from suicide since the end of deployment than died while they were in theatre.

Honourable senators, we all know that we cannot leave these brave Canadians alone when they need us the most. They gave us their best years. We now should do no less.

[Senator Jaffer]

[*Translation*]

Our sixth recommendation calls on Canada to develop partnerships with regional organizations such as the African Union in order to promote conflict prevention and capacity building. The use of force in dealing with hostile groups is just a small part of United Nations peacekeeping operations. It goes without saying that once the threat is removed, conflict prevention and mediation play a major role in obtaining lasting peace.

[*English*]

In the words of General Jonathan Vance:

> The use of force should never be done just for the sake of using force. . . . We set conditions for better things to happen.

However, to develop that lasting peace, we must address a wide variety of different areas. Governance, the security sector, economic ability and the rule of law are just a few examples of the many different areas that must be addressed if a lasting peace is to be achieved.

With that said, we have several international partners who can assist us as we attempt to restore stability worldwide. Specifically, regional organizations like the African Union can be a powerful force in encouraging peace.

As organizations that are integrated in the area and have considerable manpower, regional organizations take on the greatest risk and offer the most personnel for missions. However, many of these regional organizations are struggling with significant capacity challenges, even as they play that major role in restoring stability. At this time, many countries lack the necessary training and expertise in conflict prevention and capacity building.

Canada can play a significant role in equipping these regional organizations with the tools they need to become powerful allies in the fight to sustain global peace.

Over the course of our study, witnesses appeared before us to explain that we have a base of experience and motivated civilians who can help with the capacity-building process. By sharing this expertise, we can empower regional organizations to become a strong shield against conflict.

Our seventh recommendation states that Canada should establish a peace support operations training centre to assist in training military police and civilians inside and outside Canada. Modern peace operations involve the entire spectrum of conflict, from traditional peacekeeping to war-fighting operations to understanding the capabilities and capacity required before, during and after the conflict.

As of now, Canada does not have the same level of expertise and ability to teach this comprehensive approach to UN peace operations that was enjoyed previously when the Pearson Peacekeeping Training Centre was operational.

Establishing a peace support operations training centre would allow us to return to our roots in sharing our experience with the world and learning from our international partners.

Our eighth and final recommendation urges Canada to work with the UN Secretary-General to define and implement a framework to prosecute sexual exploitation and assault, human trafficking, abuse of minors and prostitution, which have occurred during UN peace support missions.

During our study, our committee was informed of the mounting concerns about sexual abuse by peacekeepers and the fact that this is now a serious issue that the United Nations is trying to address.

Unfortunately, many of those responsible for those horrible acts are able to enjoy impunity for these crimes despite their serious nature. This happens because the UN requires the consent of the accused member state to use its disciplinary process for sexual exploitation and abuse. Since this consent is almost never given, those responsible for sexual exploitation and abuse are tried in their member country rather than by the UN or another under international law.

The criminals responsible for sexual exploitation and abuse are often let go without any punishment. Furthermore, member countries often refuse to give the UN the means to launch investigations and legal proceedings, meaning that there is often no way to ever know what happened.

While the UN has already stated that they are now adopting a zero-tolerance policy regarding this very serious issue, Canada can play a role in ensuring that personnel guilty of such crimes are held accountable. Our military and law enforcement institutions have a very robust system in place to deal with sexual misconduct. We can bring our expertise in addressing sexual exploitation and assault to the rest of the world and help other countries develop similar strategies.

Back in the days of the Pearson centre, we were already helping other countries fight this issue. I urge the government to let Canada resume its role in helping to put an end to the impunity that those responsible for sexual exploitation and assault enjoy.

Honourable senators, I am very pleased that Prime Minister Trudeau and Minister Sajjan intend to play a greater role in the UN peace support operations. I strongly urge them to consider our eight recommendations as they re-engage with UN peace support operations.

Canadians rightfully take pride in their long history of peacekeeping. Canadians wearing the UN's blue helmets are still remembered around the world as a symbol of global peace.

Honourable senators, Canada has the equipment, expertise and personnel that could help UN peace support operations in an era when there is often no peace to keep in conflict zones. We also have the knowledge and personnel who can help ensure that peace will remain in these conflict regions for years to come after the threats have been handled.

Honourable senators, let us urge our government to use these strengths and create lasting change to help those in the world who need us most.

May I ask that this report be adopted now, because we would like to send it to the minister.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

THE SENATE

MOTION TO INVITE THE GOVERNMENT TO MARK THE ONE HUNDRED AND FIFTIETH ANNIVERSARY OF CONFEDERATION BY STRIKING A COMMEMORATIVE MEDAL TO RECOGNIZE THE INESTIMABLE CONTRIBUTION MADE BY ABORIGINAL PEOPLES TO THE EMERGENCE OF A BETTER CANADA— DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Moore:
>
> The Senate invite the Government of Canada to mark the 150th anniversary of Confederation by striking a commemorative medal which, with the traditional symbols of Canada, would recognize the inestimable contribution made by aboriginal peoples to the emergence of a better Canada; and
>
> That this medal be distributed, among others, to those persons who contributed to improving the living conditions of all Canadians in a significant manner over the last 50 years.

Hon. Serge Joyal: Honourable senators, I would seek the concurrence of the chamber to reset the clock on this motion. The very subject of it is related to the one hundred and fiftieth anniversary of Canada. When we resume our sitting at the end of January, we will be, of course, in the year of celebration, and it will be more opportune to debate the subject of this motion then rather than tonight.

With your concurrence, honourable senators, I would seek the authorization of the chamber to do that.

• (2050)

The Hon. the Speaker: Honourable senators, as this is the second adjournment of this matter for Senator Joyal, leave is required. Is leave granted?

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(On motion of Senator Joyal, debate adjourned.)

MOTION TO URGE THE GOVERNMENT TO TAKE ALL NECESSARY STEPS TO BRING INTO FORCE BY ORDER-IN-COUNCIL THE PROVISIONS OF C-452—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Boisvenu, seconded by the Honourable Senator Dawson:
>
> That the Senate urge the government to take all necessary steps to bring into force as soon as possible by order-in-council the provisions of C-452 *An Act to amend the Criminal Code (exploitation and trafficking in persons)*, chapter 16 of the Statutes of Canada (2015), which received royal assent on June 18, 2015.

Hon. Daniel Lang: Your Honour, I would like to move the adjournment of this particular item in my name.

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

Hon. Senators: Agreed.

(On motion of Senator Lang, debate adjourned.)

[*Translation*]

COURT CHALLENGES PROGRAM

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Chaput, calling the attention of the Senate to the Program to Support Linguistic Rights, the importance of ensuring public financing of court actions that seek to create a fair and just society and to the urgent need for the federal government to re-establish the Court Challenges Program.

Hon. Raymonde Gagné: Honourable senators, given the hour, I am certain that I am not the most popular senator this evening. However, I promise that I will be brief.

Honourable senators, I would like to participate in this inquiry which is at the 14th day and its third adjournment in the name of Senator Maltais, who asked me if he could say a few words at the end of my speech. Therefore, I am asking that you give him leave to do so.

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

Hon. Senators: Agreed.

Senator Gagné: I am taking part today in the inquiry launched by Senator Maria Chaput on the Program to Support Linguistic Rights. Senator Chaput drew the attention of the Senate to this subject last December, following the decision made by the newly elected government to restore the Court Challenges Program. I rise today to speak to this matter because there have been relevant developments since the inquiry was launched. I believe it would be useful and pertinent for the Senate, as the house of Parliament charged with protecting minorities, to be made aware of this new information.

First, we should note that the last federal budget tabled in the spring of 2016 provided $5 million a year in funding for the Court Challenges Program. The Standing Committee on Justice and Human Rights of the other place also decided, on February 23, to conduct a multi-phase study on access to justice, with the first phase consisting of a study of the Court Challenges Program.

My intention is not to dwell on each and every recommendation in the report, but rather to raise the principles underlying the recommendations that are particularly meaningful to us here in the Senate. I think it's important to reiterate the absolute importance of this program, as well as encourage reflection about its contents and terms and conditions.

First, the House of Commons Standing Committee on Justice and Human Rights recommends, in section D of its report, expanding the scope of the program relative to its most recent iteration. In the last three recommendations regarding the renewed Court Challenges Program, the committee recommends also allowing funding for challenges based on federal laws, such

as the Official Languages Act, and of course funding for challenges based on the linguistic obligations set out in other federal laws. That is recommendation 11.

It also recommends funding for challenges based on section 7 of the Canadian Charter of Rights and Freedoms in support of equality rights cases on a stand-alone basis. That is recommendation 12.

Furthermore, the committee recommends funding for the challenging of provincial and territorial laws, providing that the cases are national in scope and impact. That is recommendation 13. I believe that expanding the scope is a positive step, since any request for funding would be examined very carefully to determine its importance and the relevance of the cause.

Another one of the committee's recommendations, the second one, raises some doubts in my mind. The committee recommends that the program be, and I quote:

> . . . an independent and autonomous entity . . .
>
> . . . housed in a federal government department or agency, such as the Canadian Human Rights Commission.

The committee also added:

> Issues related to capacity, accessibility and public perceptions of independence must be taken into account in determining the appropriate department or agency.

I believe that this proposal should be given further consideration. Can the government really house a program that provides funding for litigation against it?

I am happy that the Senate or the Standing Senate Committee on Legal and Constitutional Affairs will most likely be called upon to consider these issues in the near future when it examines the terms and conditions of a new Court Challenges Program.

I would particularly like to draw your attention to a specific aspect of the program that was mentioned in this study and that I believe affects the purpose of the Senate. All of the stakeholders and the committee recognize the importance of ensuring the sustainability of the program. The committee noted that, since its creation in the late 1970s, the Court Challenges Program has been cancelled twice and its administration was relocated a number of times.

It is also important to note that the implementation of the current Language Rights Support Program, or LRSP, is the result of an out-of-court settlement between the government and the Fédération des communautés francophones et acadienne, following the government's decision to abolish the Court Challenges Program. Let's not forget that the media often refers to this program as "the oft-cancelled Court Challenges Program."

The committee recommends enshrining the Court Challenges Program in legislation in order to enhance its sustainability and ensure that any government seeking its cancellation would require the approval of Parliament. Senator Chaput proposed the same thing in her speech on this inquiry in December 2015, citing legal expert Michel Doucet. I fully support this proposal. The reinstatement of such a program, which affects the exercise and advancement of Charter rights, warrants an act of Parliament. The issue must be examined by both chambers. We must not forget that the Court Challenges Program was abolished as a result of a minister's decision, without a vote in Parliament.

The committee rejects the idea of enshrining the Court Challenges Program in the Constitution because of the inherent complications of making changes to the Constitution, as well as the idea of giving this program a foundation with its own endowment fund, because of the significant costs associated with it. The committee acknowledges that simply enacting legislation is not a perfect solution because one statute can be undone by another. Honourable colleagues, I would say that this is where the Senate has a specific role to play.

If, indeed, a Court Challenges Program reinstated by an act of Parliament is one day under threat of being eliminated by a new bill, I believe that it might be up to our chamber to ensure that reason is heard and that the government, regardless of its political ideology, recognize the importance of this right that citizens have not only to use the courts to clarify and expand their rights, but also to have the necessary resources to do so.

The right to justice cannot be relegated to theory alone. The government, as a guarantor of peace, order, and good governance, must ensure that access to justice can be achieved in practice. The Court Challenges Program is not a panacea, but it is still essential.

You understand, honourable senators, how I might fear the legislative agenda of a government that would put obstacles in the path of those seeking access to our courts.

The final annual report of the Court Challenges Program, that of 2006-07, before the program was abolished, explained it as follows:

> Charter rights and freedoms must be significant and purposeful. As guardians of the Constitution, courts alone are entitled to determine the scope and significance of these rights and freedoms. If affected parties cannot use courts, then what is left of access to justice or the protection of our fundamental rights and freedoms?

• (2100)

With very few exceptions, any legal action taken against the government is quite lopsided. Very few litigants have the financial resources needed to stand up to the government. This is especially true in the case of vulnerable individuals who want to raise a Charter challenge to denounce some form of discrimination. How can anyone justify wanting to deprive these litigants of financial support in those circumstances? Does this not reveal some degree of insecurity regarding the quality of the laws being challenged? This should be enough to give the Senate pause, especially since this chamber is meant to protect the interests of Canada's minorities.

Some Hon. Senators: Hear, hear!

Hon. Ghislain Maltais: Honourable senators, I will be brief. Giving Senator Gagné a chance to address this inquiry once again also gives me a chance to pay tribute to Senator Chaput, who devoted her entire career to defending minorities.

She was sincere. Senator Chaput and Senator Charette-Poulin were exactly the kind of people you would expect to defend minority rights. Why is it that, now, after 150 years of history, we have to draft legislation to ensure compliance with the *Canadian Charter of Rights and Freedoms*? Something is wrong here. People invoke the *Canadian Charter of Rights and Freedoms* when they need to do so, and those who really need it often have to go to court to have the Charter enforced. It's a Gordian knot.

As long as the powers of the Canadian Charter of Rights and Freedoms are not brought to bear directly, there will not be justice. Senator Gagné, I focused at length on recommendation 12 of the report, which deals with equality rights. You know as well as I do that I was outraged when it was suggested that there are second languages in Canada. I spoke about it from Newfoundland and Labrador to Vancouver because there are no second languages in Canada. We have two official languages.

Unfortunately, we have forgotten the languages of indigenous peoples, who were the first to arrive. Why are the people who were forced to learn one official language, or both in some cases, and no longer have the right to their own languages, not protected by this charter? Who is defending them? Why does this situation even exist? I would like to take this opportunity to thank our chair for allowing us to travel to British Columbia, where we were able to see for ourselves the situation of minority languages in an area where another language is the language of the majority.

I also want to take this opportunity to extend a special thank you to Senator Jaffer from British Columbia for the wonderful welcome she gave to committee members. It was an extraordinary experience for the members of the Standing Senate Committee on Official Languages, and we were able to share some experiences. For example, we visited a school where the yard was a 10 foot by 16 foot slab of concrete used by 28 children. Right beside it there were hundreds of acres belonging to the Canada Lands Company.

The Government of British Columbia came to an agreement with the school boards, but they were up against Canada Lands senior officials who could not care less that children were playing on asphalt and that they had not seen a blade of grass in years. It is unfair that when for once there is an agreement between the province and the school boards, we should have to contend with a federal agency. The matter should be resolved as a matter of course by the Canadian Charter of Rights and Freedoms, which protects the rights of these people, these children. This is unacceptable.

We are getting ready to celebrate Canada's 150th anniversary and I agree with Senator Joyal that we should create a medal to mark the occasion. Like you, I have a medal from the 125th anniversary, but we probably won't get one for the 175th. We must stand united to mark Canada's importance. There are only Canadians in this country. Unfortunately, whenever we forget that, injustices are created when it comes to language or education.

Today, we must pass legislation to defend the provisions of the *Canadian Charter of Rights and Freedoms*, central to Canada's value as a nation. How can we not apply its provisions? Today I would like to pay tribute to all these women and all these men who have struggled to make every government understand this for 150 years. Unfortunately, we keep getting the same answer. Let this 150th anniversary give us a reason to become truly Canadian and give everyone a chance to live in equality. Such is the recommendation of the 12th report. Let us apply it as soon as possible. That is my wish, Mr. Speaker. Thank you.

Hon. Senators: Hear, hear!

(On motion of Senator Joyal, debate adjourned.)

LEGAL AND CONSTITUTIONAL AFFAIRS

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF THE REPORTS OF THE CHIEF ELECTORAL OFFICER ON THE FORTY-SECOND GENERAL ELECTION

Hon. Serge Joyal, pursuant to notice of December 8, 2016, by Senator Runciman, moved:

> That, notwithstanding the order of the Senate adopted on Tuesday, November 1, 2016, the date for the final report of the Standing Senate Committee on Legal and Constitutional Affairs in relation to its study on the reports of the Chief Electoral Officer on the 42nd General Election of October 19, 2015 and associated matters dealing with Elections Canada's conduct of the election be extended from December 31, 2016 to March 31, 2017.

He said: Honourable senators, this motion is proposed by Senator Runciman, the Chair of the Standing Senate Committee on Legal and Constitutional Affairs. Since Senator Baker, the Deputy Chair of the committee, had to step out of the chamber for a moment, it is up to me to seek your consent to postpone the tabling date of the report the committee is preparing until after the Chief Electoral Officer's report is tabled.

That is why we are asking that the date of December 31, 2016, be changed to March 31, 2017. That way, we will be able to fulfil our legal responsibility to assess the impact of the law following each general election and to report back to the chamber.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*English*]

INCREASING RATES OF VIOLENCE IN CANADA'S URBAN CENTRES

INQUIRY—DEBATE ADJOURNED

Hon. Don Meredith rose pursuant to notice of November 1, 2016:

> That he will call the attention of the Senate to the increasing rates of violence in Canada's urban centres and to the causes of this increase, and to some possible strategies to deal with this serious problem.

He said: Honourable senators, this inquiry, as I've put it forward, has been so very important to me with respect to the violence that's been taking place in our urban centres. I'm still doing my research, so I would ask that this inquiry be adjourned for the balance of my time.

(On motion of Senator Meredith, debate adjourned.)

CANADIAN TEMPORARY FOREIGN WORKERS PROGRAM

INQUIRY—DEBATE ADJOURNED

Hon. Don Meredith rose pursuant to notice of November 1, 2016:

> That he will call the attention of the Senate to the Canadian Temporary Foreign Workers Program, including the living and working conditions of workers and their access to health care.

He said: Honourable senators, again this inquiry is very important. Senator Black has inquired about the importance of this program in Canada. Again, I'm still doing my full investigation, so I would ask that this be adjourned in my name for the balance of my time.

(On motion of Senator Meredith, debate adjourned).

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

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