



DEBATES OF THE SENATE

1st SESSION



42nd PARLIAMENT



VOLUME 150



NUMBER 140

OFFICIAL REPORT
(HANSARD)

Thursday, September 21, 2017

The Honourable GEORGE J. FUREY,
Speaker

CONTENTS

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

Debates Services: D'Arcy McPherson, National Press Building, Room 906, Tel. 613-995-5756
Publications Centre: Kim Laughren, National Press Building, Room 926, Tel. 613-947-0609

THE SENATE

Thursday, September 21, 2017

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

WORLD ALZHEIMER'S DAY

Hon. Kelvin Kenneth Ogilvie: Honourable senators, I rise in the chamber to mark World Alzheimer's Day, which takes place today, September 21. It is a day celebrated all over the world by people raising awareness of the impact of Alzheimer's disease in society.

The theme this year is Remember Me, to highlight the importance of early detection and diagnosis of dementia. Dementia presents a looming health and social crisis in Canada, yet too often diagnosis is made too late.

Some 564,000 Canadians live with dementia. By 2031, the number of Canadians with some form of dementia will be approximately 1 million. By 2050, there would be 131 million people living with dementia worldwide.

The impact of this disease alone on the health care of Canadians will hit like a tsunami. By 2040, it is projected that the direct and indirect costs of caring for dementia patients in Canada will rise to \$293 billion. That's billion with a "b."

This Senate has brought forward a studied analysis of the issue in Canada. In November of 2016, the Social Affairs, Science and Technology Committee, which I chair, tabled a report, *Dementia in Canada: A National Strategy for Dementia-friendly Communities*. The committee's report made 29 recommendations aimed at helping the growing number of Canadians who have or will develop some form of dementia and those who will care for them.

Most recently, Bill C-233, An Act respecting a national strategy for Alzheimer's disease and other dementias, received Royal Assent on June 22 of this year. But there is more work to do.

We must continue to address the stigma and misinformation that currently surround dementia.

On this special day, I encourage you to reflect on Canadians touched by dementia now and in the future. And let us continue as legislators to bring about positive changes in their lives. Thank you.

THE HONOURABLE SHARON CARSTAIRS, P.C., C.M.

CONGRATULATIONS ON INVESTITURE
INTO THE ORDER OF CANADA

Hon. Jane Cordy: Honourable senators, I rise today to congratulate our former colleague Senator Sharon Carstairs, who a few weeks ago was invested into the Order of Canada. For the past 50 years the Order of Canada has been one of our nation's highest civilian honours and is awarded for outstanding achievement and dedication to the community and service to the nation.

Sharon has been made a recipient of the order in recognition of her contributions and decades-long advocacy regarding the issue of palliative care. Since her mother's death in 1980 she recognized the need for a health care system no longer fixated on curing people and sending them home but on allowing them dignity and comfort dying.

Throughout her career Senator Carstairs has travelled to many countries to examine systems of palliative care to determine what we should be providing for those who are ill here in Canada. She has authored four reports on the subject, and she has been a tireless advocate for the development of a national strategy to provide treatment and relief of pain. She recognized the need for counselling and support for the mental stresses experienced not only by patients but also by their caregivers and their families.

While there has been improvement in the area of palliative care, with 35 per cent of the population having access compared with just 5 per cent in 1995, we know there is still a need to further develop a national framework. The recent assisted dying bill further underlines the need for better options for an aging population. Particularly important to consider is access to care in remote areas as well as for indigenous communities. It is due to this lack of access that Senator Carstairs has reaffirmed her commitment, stating:

... I can't stop; I have to keep going; I have to keep moving the agenda further.

One particular effort which has been significant is her input in the development of the Canadian Virtual Hospice. This website provides resources and makes available a clinical team who is on hand to answer questions from patients and their families. The site has attracted as many as 1.6 million online visitors a year since 2001.

Honourable senators, we are all aware of the fact that it is not a question of if we die but rather when we die. I believe we owe a great deal to Senator Carstairs for her efforts in making that transition to death a smooth and comfortable one for Canadians, whether they are the patient or whether they are watching a loved one pass away.

Senator Carstairs has said:

Palliative care isn't about death; it's about living well until the very end.

Senator Carstairs embodies this sentiment, and I am delighted to see her recognized for her efforts. It is an honour that is well deserved. I want to congratulate Sharon on receiving the Order of Canada, and I want to thank her for being a champion in the field of palliative care for so many years. Thank you.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Robert Pitfield, Member on the Board of Directors for Canada's Business Development Bank; and Mr. Anatol Von Hahn, Member on the Board of Directors for Canadian Tire Corporation. They are the guests of the Honourable Senator Marwah.

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

Hon. Senators: Hear, hear!

BRITISH COLUMBIA WILDFIRES

EXPRESSION OF THANKS FOR FIREFIGHTERS AND FIRST RESPONDERS

Hon. Yuen Pau Woo: Honourable senators, over a long and hot summer, British Columbia has experienced the largest wildfires on record, with over 1.5 million hectares, mostly in the interior, devastated by more than 1,200 wildfires. Starting last April the fires have surpassed a previous record of 8,950 square kilometres in 1958. A state of emergency was declared and extended four times by the provincial government, ending only last week.

At their peak, the fires forced approximately 50,000 British Columbians to evacuate their homes. On a cumulative basis, over 65,000 people have been evacuated to date, with many returning to scorched homes. As we meet, over 100 wildfires continue to burn.

The economic impact of this year's unprecedented wildfires has been immense. Not including other provincial and federal agencies, the B.C. Wildfire Service's current estimates place the cost of fighting fires this year at over \$510 million. Furthermore, a major sector of B.C.'s economy has suffered considerably. Tourism, most notably in the Okanagan Valley, the Kootenays and the Cariboo Chilcotin, was adversely affected, resulting in many households and businesses enduring extensive losses. The impact on many of our farmers has also been destructive with the horrible loss of their farms and livestock.

• (1340)

The time to take stock and rebuild has been a slow process for all of those directly impacted, especially with fires still burning in those areas.

Over 20 First Nations in B.C. were affected by the wildfires, resulting in extensive evacuations of their communities. First Nations firefighters have been at the forefront and the front lines of the emergency response and relief efforts. Indeed, there is a large reservoir of indigenous technical knowledge in fire management practices, such as controlled burning. These practices serve to eliminate scrub, litter, deadwood and dry growth, all of which are major causes of wildfires. Prescribed burning also renews growth, clears brush and creates natural fire guards, benefits that have been well known by generations of indigenous fire-keepers.

It is important that First Nations are properly recognized for their contribution to fire mitigation and prevention. There is a requirement also for long-term sustainable funding for First Nations in the development of emergency preparedness and response to further fire risks.

Colleagues, I know that I speak for the entire chamber when I extend my deepest appreciation and gratitude to the over 4,000 firefighters and first responders who have been at the front lines in the struggle to contain this year's extreme and unrelenting wildfires.

In addition to the women and men of the B.C. Wildfire Service, firefighters from across Canada and from abroad have assisted in fighting the fires. Senators, we cannot underestimate the serious toll that fighting wildfires has taken on these individuals. On behalf of the upper chamber of Canada, we thank all of these heroes.

[*Translation*]

COMMEMORATION OF CANADA'S ROLE IN THE FIRST WORLD WAR

Hon. Serge Joyal: Honourable Senators, August 15 marked the centennial of the Battle of Hill 70 near the city of Lens, France, in which the Canadian Forces were engaged from August 15 to 20, 1917, during the First World War.

I believe it is important to draw your attention to this event because it was the first time in the history of Canada's army that our country's troops were solely under Canadian command and managed to capture a strategic position that the Germans had occupied in this mining area of northern France since the beginning of the war.

[*English*]

I think it is important to draw your attention to the commemoration that took place in August of the victory of the Canadian troops on August 20, 1917, when they were for the first time solely under Canadian command in the town of Lens, a stronghold at the time of German forces.

Let us remember what happened in 1917 on the Western Front in France, where Canadian troops had been fighting for over two years. At the beginning of April of that year, the four divisions of the Canadian Army united to participate in the Battle of Vimy Ridge, which took place from April 9 to 12 under the command of British Lieutenant-General Julian Byng.

Two months later, in June 1917, Major-General Arthur Currie, an impressive Canadian soldier, was promoted to lieutenant-general as the head of the Canadian troops. Three Canadian Army divisions were then grouped together under the exclusive Canadian command of Arthur Currie. They launched an attack against the German forces which had transformed the town of Lens into an impressive fortress.

Currie was astute. Instead of attacking the town directly, he planned to take a strategic hill close by named Hill 70 because it was at the height of 70 metres above sea level, and from there pounded the enemy.

The battle lasted five days in August and proved to be a costly victory; 5,700 Canadian soldiers fell victim to enemy fire, mustard gas and flame-throwers.

Regrettably, this chapter of the First World War was thereafter largely forgotten, but fortunately it did not fade away entirely. Some years ago a group of Canadians believed it essential to commemorate the sacrifice and victory so important for the recognition of the birth of a Canadian Army under Canadian command.

They undertook a project to erect a monument commemorating this landmark victory. They collected \$8 million from over 200 contributors, all private donors, and commissioned a monument in the form of a towering 14-metre high obelisk. The town of Loos-en-Gohelle donated the land, and the monument was erected last year by the Governor General.

I shared the privilege of having supported the project and of being at the ceremony with Retired Colonel Mark Hutchings, the person who spearheaded the initiative with Robert Baxter, and was in the company of several descendants of the soldiers who gave their lives at the Battle of Hill 70 over 100 years ago.

[*Translation*]

This is an historic moment for our country—one worthy of commemoration.

[*English*]

So that we will never forget.

THE HONOURABLE ROSA GALVEZ

LAC-MÉGANTIC TRAGEDY

Hon. Elaine McCoy: Honourable senators, I take great pleasure today in rising to acknowledge one of our remarkable new senators. Her name is Rosa Galvez. Just 10 days ago she began the Canadian Society for Civil Engineering National Lecture Tour to speak about the Lac-Mégantic oil spill tragedy and its horrific aftermath.

Senator Galvez, as we all know, is an expert in environmental impact and risk evaluation and had conducted a study on the environmental impacts of the catastrophic oil spill following the train derailment in Lac-Mégantic. She will be part of a remarkable 18-city lecture tour in Canada to present what

happened and to outline the significant efforts made to rebuild the community and its environment. Her recommendations going forward will have long-lasting influence on the lives of many people, not just the residents of Lac-Mégantic.

This impressive honour is given to prominent civil engineers who have earned wide recognition and respect amongst their peers. It's given on topics of special importance and interest. Senator Galvez will be the second woman ever given this honour and only the third environmental civil engineer to win this award.

Please join me in congratulating our colleague Senator Galvez on this important initiative and honour.

Hon. Senators: Hear, hear!

INTERNATIONAL DAY OF PEACE

Hon. Marilou McPhedran: Honourable senators, I wish to echo the tributes to both Senator Carstairs and Senator Galvez, but I also want to remind us that today is the United Nations International Day of Peace.

Yesterday, I saluted civil society leading on the citizen's treaty against nuclear weapons by the signing in front of the Peace Tower. Today I wish to highlight the importance of concrete action towards disarmament. Even as our Prime Minister addresses the UN General Assembly today, I want to urge Canada to get back in the room.

Yesterday I read into the record the motion that was passed in 2010 by both the House of Commons and the Senate, a motion to recognize the need for prohibition of nuclear proliferation and to affirm Canada's active diplomacy towards nuclear disarmament.

Honourable senators, my last words yesterday may have been cut off, so I repeat: During the historic signing of the treaty in July, Canada was not even in the room. Canada is a leader on the world stage on issues of gender equality, human rights and human security, but we have lost our way as a leading nation to achieve our human rights goals because we cannot achieve our human rights goals without a firm stance on disarmament and peace.

The theme for today is "Together for Peace: Respect Safety and Dignity for All." That is an aspirational statement grounded in human rights. It is impossible to achieve under the growing threat of nuclear war.

Canada can regain international leadership in countering nuclear proliferation and de-escalating threats on the Korean Peninsula, threats that extend to every one of us in Canada.

I was at the UN with students last year when our Prime Minister, the Right Honourable Justin Trudeau, promised "Canada is back!" Our government has stated that the world "needs more Canada." And yet that promise of leadership when it comes to nuclear prohibition is very hard to see today. Canada stands apart from the other 120-plus countries that are poised to ratify the new treaty, countries that Canada will be looking to for support for its 2019 bid for a seat on the UN Security Council.

• (1350)

There is a role for Canada to set the tone in this phase using its perceived neutrality and peacefulness to prompt parties to the table to achieve a diplomatic solution that is agreeable to all major parties. Change in international law does not happen overnight. It requires years of applying pressure through declarations, norm-setting, treaties and many other measures.

The norm on nuclear prohibition has been in development for 70 years and Canada should be safeguarding the tradition of advocating for nuclear prohibition.

Canada cannot rely on the United States for defence. Diplomacy and international law is our first line of defence.

Honourable senators, in closing, just minutes ago, our Prime Minister gave a speech to the United Nations General Assembly stating:

We can't build a better world unless we work together . . . protect the vulnerable, and stand up for the things that matter most.

Nuclear disarmament has to happen now for us and for our future generations.

[Translation]

ROUTINE PROCEEDINGS

PRIVACY COMMISSIONER

2016-17 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the 2016-17 Annual Report of the Office of the Privacy Commissioner of Canada, on the *Personal Information Protection and Electronic Documents Act* and the *Privacy Act* entitled *Real fears, real solutions: A plan for restoring confidence in Canada's privacy regime*, pursuant to the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, s. 25 and to the *Privacy Act*, R.S.C. 1985, c. P-21, s. 38.

[English]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTEENTH REPORT OF COMMITTEE TABLED

Hon. Leo Housakos: Honourable senators, I have the honour to table, in both official languages, the seventeenth report of the Standing Committee on Internal Economy, Budgets and Administration, which deals with international travel.

THE SENATE

MOTION TO AFFECT QUESTION PERIOD ON SEPTEMBER 26, 2017, ADOPTED

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

That, in order to allow the Senate to receive a Minister of the Crown during Question Period as authorized by the Senate on December 10, 2015, and notwithstanding rule 4-7, when the Senate sits on Tuesday, September 26, 2017, Question Period shall begin at 3:30 p.m., with any proceedings then before the Senate being interrupted until the end of Question Period, which shall last a maximum of 40 minutes;

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

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

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

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

Hon. Senators: Agreed.

[Translation]

Senator Bellemare: Honourable senators, I wish to inform you that Minister Amarjeet Sohi will be joining us next week.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[English]

THE SENATE

NOTICE OF MOTION TO CALL UPON THE GOVERNMENT OF MYANMAR TO END VIOLENCE AND GROSS VIOLATIONS OF HUMAN RIGHTS AGAINST ROHINGYA MUSLIMS

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

That the Senate call upon the government of Myanmar:

1. to bring an immediate end to the violence and gross violations of human rights against Rohingya Muslims;
2. to fulfill its pledge to uphold the spirit and letter of the *Universal Declaration of Human Rights*; and
3. to respond to the urgent calls of the international community and allow independent monitors entry into the country forthwith, in particular Rakhine State; and

That a message be sent to the House of Commons requesting that house to unite with the Senate for the above purpose.

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF THE EFFECTS OF TRANSITIONING TO A LOW CARBON ECONOMY

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

That, notwithstanding the order of the Senate adopted on Thursday, March 10, 2016, the date for the final report of the Standing Senate Committee on Energy, the Environment and Natural Resources in relation to its study on the transition to a low carbon economy be extended from September 30, 2017 to June 30, 2018.

NATIONAL FINANCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY THE MINISTER OF FINANCE'S PROPOSED CHANGES TO THE INCOME TAX ACT RESPECTING THE TAXATION OF PRIVATE CORPORATIONS AND THE TAX PLANNING STRATEGIES INVOLVED

Hon. Anne C. Cools: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(j), I give notice that, later this day, I will move:

That the Standing Senate Committee on National Finance be authorized to examine and report on the Minister of Finance's proposed changes to the *Income Tax Act* respecting the taxation of private corporations and the tax planning strategies involved, in particular:

- income sprinkling,
- holding passive investments inside a private corporation, and
- converting income into capital gains;

That the committee take particular note of the impact of the Government's proposed changes on:

- incorporated small businesses and professionals,

- economic growth and government finances,
- the fairness of the taxation of different types of income, and
- other related matters; and

That the committee submit its final report to the Senate no later than November 30, 2017, and retain all powers necessary to publicize its findings for 180 days after presenting the final report.

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

Hon. Senators: Agreed.

The Hon. the Speaker: Accordingly, the motion is placed on the Notice Paper for later today.

QUESTION PERIOD

FINANCE

SMALL BUSINESS TAX

Hon. Larry W. Smith (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate again today, concerning the tax changes for small businesses brought forward by the Minister of Finance.

As all honourable senators are aware, through last year's Bill C-2, the federal government introduced a 33 per cent marginal tax rate that applies to income exceeding \$200,000, the 1 per cent. We heard repeatedly that this tax increase would pay for a \$3 billion tax cut for the middle class, a group, by the way, which the government still cannot define.

In fact, page 16 of the report released by the Department of Finance on Tuesday showed that personal income tax revenues decreased by \$1.2 billion in 2016-17.

Faced with a deficit of \$18 billion, plus I think the \$3.5 billion from the non-spent infrastructure money and lower than expected revenue, the government is now attempting to offset this by proposing to tax the investment income of small business owners up to a rate of 73 per cent.

Could Senator Harder please explain to all honourable senators how this is fair?

Hon. Peter Harder (Government Representative in the Senate): Again, I thank the honourable senator for his questions on these matters.

The Government of Canada is engaged in a consultation process to ensure that the tax code, particularly that aspect of the code that deals with private corporations, is understood and is fair to all Canadian workers.

In that context, the Minister of Finance and the Minister of Small Business have engaged and continue to be engaged in a broad set of consultations. Those consultations will lead to a government statement of intent at some point in the future. But the basis of the paper being put out is to ensure a fair treatment of our tax code so that Canadians can be assured their contribution to the tax structures that are in place are both fair and appropriate.

• (1400)

Senator Smith: I would suggest to Senator Harder that there is nothing fair about a 73 per cent tax that hurts local businesses and jeopardizes their future, while publicly traded corporations continue to pay 55 per cent on their passive investment income.

A new survey released this morning by the Canadian Federation of Independent Business illustrates the deep concern regarding the tax changes Mr. Morneau has proposed. In this survey, 88 per cent of business owner respondents indicated that the proposed changes will make it more difficult for their small businesses to grow and create jobs.

Honourable senators, 76 per cent of business owners said they believe the federal government does not understand the impact these tax changes will have on small businesses.

Will the government listen to the outcry from farmers, plumbers, mechanics, pizza shop owners, tour operators and many, many others and reconsider these unfair tax changes?

Senator Harder: Again, I thank the honourable senator for his question. He references the CFIB report, which of course reflects the survey of its members. There are other Canadians who have spoken with other perspectives. That is the point of a consultation period, and that is what the government is engaged in. At some point in the future the government will come to its own conclusions and bring forward a series of recommendations, or not, that will ensure the tax code is fair and appropriate for all income groups.

JUSTICE

JUDICIAL APPOINTMENT PROCESS—COURT DELAYS

Hon. Paul E. McIntyre: Thank you, Your Honour. My question is for the Government Representative in the Senate.

Senator, on February 15 of this year I asked you a question regarding the high number of judicial vacancies across our country in relation to the Supreme Court's *Jordan* decision. An answer was provided to me earlier this week, for which I thank you.

When I originally raised this issue back in February, I pointed out that there were 60 judicial vacancies across Canada waiting to be filled at that time. As of September 1 there were 57 vacancies for federally appointed judges, which is not all that different from the number of vacancies in February.

Could the Government Representative in the Senate tell us when the Minister of Justice will finally fill these vacancies and thereby lessen the chances that more cases will be stayed due to the timelines set out in the *Jordan* decision?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question and his ongoing interest in the issue of judicial appointments. I want to point out for all senators that the government has taken a number of significant steps to ensure that the process for appointing judges is transparent and accountable to Canadians and promotes greater diversity on the bench.

To date, the Minister of Justice has appointed or elevated 109 judges across the country and appointed 22 judges in the territories. These appointments continue to reflect an unprecedented level of diversity achieved through this new appointment process.

Fifty-six per cent of the judicial appointments of this government are women. That's up from 35 per cent under the previous government, and the minister looks forward to making more outstanding jurist appointments in the very near future.

Senator McIntyre: Senator, I'm confident that you will bring this matter to the attention of the Minister of Justice. In speaking with the minister, could you also bring to her attention the report filed by the Senate's Legal and Constitutional Affairs Committee in June of this year on court delays?

The reason I'm raising this with you is that the committee produced an excellent report under the guidance of our recently retired colleagues Senator Runciman and Senator Baker. As you know, the committee made 50 recommendations to alleviate the strain on our court system, and most of the recommendations focus on steps that need to be taken by the federal Minister of Justice. As outlined in the committee's report, one of the reasons for the court delays is the lack of federally appointed judges.

Senator, could you please inform us whether the Minister of Justice is aware of the committee's report? Has the Minister of Justice read the report? If so, does the minister intend to follow the committee's advice, particularly regarding the need to fill judicial vacancies?

Senator Harder: I thank the honourable senator for his question. When the report was tabled in this chamber, I did raise it with the minister to bring it to her attention. I am sure that she has read the report and is reflecting on its recommendations, and while the processes have been under way, there are and continue to be judicial appointments made subsequent to that report being tabled. But I will take this question as an opportunity to engage the minister directly yet again.

NATIONAL DEFENCE

MILITARY JUDICIAL PROCESS

Hon. Colin Kenny: Thank you, Your Honour. Honourable senators, I have a question for the Leader of the Government in the Senate.

My question is about the Canadian military summary trial process and the denial of Charter rights to members of the Canadian Armed Forces.

Under the summary trial process, the commanding officer of the accused individual presides over the tribunal. The summary trial process, such as it is, has no rules of evidence. It also allows the presiding officer to infer guilt should the accused refuse to answer questions that may incriminate him or her. It totally lacks the right to protection from self-incrimination. It does not require a transcript or proceedings, which makes an appeal impossible.

Finally, the assisting officer — a person assigned to be helpful to the accused — is not a lawyer and does not have the benefits of solicitor-client privilege. And the most egregious is the ability of the presiding officer to sentence the accused to confinement for up to 30 days in a ship or a barracks with the possibility of a criminal record.

What plans does the government have to bring this military legal process of the Canadian Forces into line with the Canadian Charter of Rights and Freedoms and those afforded to other Canadians?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. I will endeavour to seek an answer from the appropriate authorities and raise it personally with the ministers.

PUBLIC SAFETY

OMAR KHADR—SETTLEMENT AGREEMENT

Hon. Denise Batters: Honourable senators, my question is to the Leader of the Government in the Senate.

Senator Harder, the Trudeau government made a secret deal with confessed terrorist Omar Khadr reportedly worth \$10.5 million. We don't know the actual amount because your government decided to keep the agreement secret.

What is the Trudeau government trying to hide? Is it the amount of money you're actually paying to Khadr? Perhaps his sizeable legal bills are in addition to the \$10.5 million tax-free sum. Certainly, you're trying to hide the precise timing of the deal. Given the information came out July 3, it's a certainty that the Trudeau government made the deal with Khadr before July 1. I guess they didn't want the PM and his Liberal MPs booed off stages across the country on Canada Day.

It's also highly probable that the secret Khadr deal was struck before Parliament rose in late June. You don't just arrive at a \$10.5-million deal and pay out all the money overnight.

What was the date the secret Trudeau-Khadr deal was reached? Did your government make the deal before Parliament rose and hide it to avoid a barrage of scrutiny from the Conservative opposition in Question Period and from the national media?

And Senator Harder, does this agreement contain details about how this massive payment to a confessed terrorist will be paid? Specifically, does the secret Trudeau-Khadr deal refer to Tabitha

Speer's judgment? Did the Trudeau government actually assist Omar Khadr in structuring the deal and \$10.5-million payment in such a way that Khadr could evade that widow's legitimate claim to every single cent he received?

Canadians have waited months for these answers.

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

Let me remind this house that yes, the government did announce a settlement that was reached in bringing Mr. Khadr's civil case to a close. To be clear, this settlement is about one thing only — the acts or omissions of the Government of Canada after Mr. Khadr was detained. That was the issue.

• (1410)

The Supreme Court already found that Mr. Khadr's rights were violated, and protracted legal proceedings have cost millions of dollars and could cost more were they to continue, with virtually no chance of success, given the Supreme Court's findings.

The fact is that when the Government of Canada violates any Canadian Charter right, we all end up paying for it. That is the case here, and, as with any negotiated settlement, the details are confidential.

Senator Batters: Senator Harder, it is not by necessity that the Khadr deal was confidential. Many agreements are disclosed after they are reached. The Trudeau government here made a deliberate choice to keep it secret; \$10.5 million buys a little leverage with the payee. The government could have, and should have, insisted that openness and transparency about this massive payout was necessary information for Canadian taxpayers.

So, Senator Harder, I'll ask you again: What is the Trudeau government trying to hide in this secret deal? Is it the actual amount of the multi-million dollar payout, the precise timing of the deal, how the deal was structured to evade Tabitha Speer's judgment, or all of the above?

Senator Harder: Let me repeat that what we are dealing with is a situation where the Government of Canada has violated Charter rights. The Government of Canada, at the time, was not a Liberal government and the succeeding governments that have been involved. The precedents in this case have been followed with respect to the negotiations, the nature of the agreement, and the fact is that that agreement remains, as appropriate, confidential.

[*Translation*]

NATURAL RESOURCES

ENERGY EAST PIPELINE

Hon. Pierre-Hugues Boisvenu: My question is for the Leader of the Government in the Senate. In June, I gave a speech on the economic advantages of the Energy East pipeline for New Brunswick and Quebec in order to support my colleague Senator Mockler. You no doubt remember.

The construction of this pipeline is vital because it will create thousands of jobs in Quebec and New Brunswick. It will pour billions of dollars into the public coffers of the two provinces, and be extremely beneficial to Quebec's trade balance with the U.S. We would be able to keep our money here at home rather than exporting it to Africa and Europe.

However, we know that the Governor of Maine, Paul LePage, has never been shy about his desire to have the pipeline pass through Maine rather than through southern Quebec and New Brunswick. Does the Leader of the Government know of any dealings between the Government of Canada and the U.S. government to change the route of the pipeline so that it would go through Maine, thus exporting our jobs to the United States rather than keeping them in Quebec and New Brunswick?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question on this matter. As senators will know, the Government of Canada believes in a competitive and sustainable natural resource sector and that good projects ought to go ahead when they have the full confidence of Canadians.

The government has approved the pipeline and infrastructure projects that will lead to job creation while, at the same time, protecting our oceans and pricing carbon pollution, and working with indigenous peoples is, of course, a priority in the context of pipeline policy.

I would say with respect to the Energy East pipeline that the government has made it clear that TransCanada's request is a business decision for it to take, and the government has made it equally clear that climate considerations will be part of the review process. That is what is underway, and we will await what private sector decisions are made.

[*Translation*]

Senator Boisvenu: Can the Leader of the Government assure us that the temporary suspension of the environmental assessment for the Energy East project being conducted by BAPE and the National Energy Board is not related to talks between Canada and the U.S. government to have the pipeline pass through the United States rather than through Quebec and New Brunswick? This decision would make these provinces into oil importers rather than oil exporters.

[*English*]

Senator Harder: I simply want to point out to all senators that the suspension requested by the TransCanada corporation is a business decision that it has taken, so that it will review and make whatever business decisions it intends on making after a review process.

[*Translation*]

INTERNATIONAL TRADE

CANADA-EUROPEAN UNION COMPREHENSIVE ECONOMIC AND TRADE AGREEMENT

Hon. Claude Carignan: My question is for the Leader of the Government in the Senate. The Canada-European Union Comprehensive Economic and Trade Agreement comes into force today. When this agreement was concluded, former Prime Minister Harper committed to paying farmers, dairy farmers in

particular, \$350 million in compensation for the shortfall resulting from the influx of European cheeses on the Canadian market.

Today, we learn that the portion of compensation that was reserved for dairy farmers, \$250 million, was allocated in the span of three weeks to projects submitted by the farmers. The Union des producteurs agricoles is calling for more compensation money. It says that the Trudeau government reneged on Ottawa's commitment when it decided to convert the compensation envelope into an investment program aimed at making industry more competitive. The envelope that was put aside by the Harper government was meant to compensate farmers, while that of the Trudeau government is for investing in productivity. It is not really the same thing. It does not really have a net zero effect for dairy farmers, especially those in Quebec.

Does the government plan on increasing its envelope in order to provide compensation to dairy farmers in light of the arrival of European cheeses on the Canadian market?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question and for the support that he and others have given to the negotiations and to the treaty itself coming into force. As I referenced in the question the other day, this is an important landmark in Canada's free trade experience. This is a high-quality agreement. The Government of Canada has set aside significant funds to compensate for the sectors that are impacted in the implementation. Those levels of compensation are significant and are designed to ensure that the productivity of the sectors is enhanced as a result of the opportunities, as well as the challenges, from the competition that is now free of a tariff.

With regard to the particular question the honourable senator is asking, I will make inquiries, but it is my understanding that the funds available are very specifically targeted to ensure the well-being and evolution of the industries that are affected so they can better take on the challenges of the free trade agreement.

• (1420)

ORDERS OF THE DAY

STATISTICS ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Jane Cordy moved second reading of Bill C-36, An Act to amend the Statistics Act.

She said: Honourable senators, statistics play a critical role in democratic societies. Information is essential to understanding ourselves, our past and our future. Ensuring the integrity and quality of this information is vital. That is why I am pleased today to rise as the Senate sponsor for Bill C-36, An Act to amend the Statistics Act.

Businesses, civil society, researchers, the public, policy-makers and governments all rely on data. The integrity and accuracy of that data is essential to properly plan for services to improve social conditions and to help businesses grow. That is why the statistical information produced by government must be of the highest quality while remaining impartial and relevant to meeting stakeholder needs.

Ensuring the collection of good data is essential for making informed decisions about the services that all Canadians rely upon. I'm talking about housing, education, public transportation, skills training and so on. Again I will state: It is essential that the statistical information produced by government be high-quality and trustworthy.

Indeed, there is widespread agreement internationally that statistical agencies must operate with a high level of professional independence from day-to-day government interference.

Honourable senators, what is meant when I refer to "independence?"

In the context of national statistical organizations, it means ensuring that decisions about methods and operations are based exclusively on professional considerations.

This includes all aspects of the production of statistical information. It also means ensuring that these organizations are free from interference by government or outside interests. That's how Canadians can be confident that the statistical information produced on their behalf is impartial and of the highest professional quality.

Internationally, approaches to independence vary. The Netherlands, Ireland and New Zealand, for example, have explicit provisions on independence within their legislation. Statistics Netherlands is considered an autonomous body, while the United Kingdom Statistics Authority is a non-ministerial department that reports directly to Parliament.

Regardless of how countries around the world establish independence with their statistics collecting agencies, they all follow a common set of international principles.

Two important documents that outline these international best practices and principles are the United Nations "Fundamental Principles of Official Statistics" and the Organisation for Economic Co-operation and Development's "Recommendation on Good Statistical Practice", which Canada helped draft.

Canada endorses these documents, and the proposed amendments to the Statistics Act outlined in Bill C-36 are aligned with these documents.

The amendments to the act will ensure that the information produced by Statistics Canada continues to be accurate, reliable and of the highest quality. They will also ensure that Canadians can continue to trust the impartiality of the statistics collected on their behalf.

Traditionally, Statistics Canada has been recognized by governments as an arm's-length agency with little direct involvement by the minister overseeing it. However, the agency's independence from political interference is not currently protected in legislation.

The decision in 2010 to replace the 2011 mandatory long-form census questionnaire with the voluntary National Household Survey exposed this vulnerability in the Statistics Act.

As colleagues may recall, the Minister of Industry at the time made the decision to eliminate the 2011 long-form census and publicly stated that he had been advised by the Chief Statistician that a voluntary survey could yield the same quality data as the mandatory long form. Not only was that statement factually untrue, the Chief Statistician also never gave that advice. In fact, he gave the opposite advice. The Chief Statistician of Statistics Canada ultimately resigned in protest over the claims made by the minister.

While the legislation allowed for the government of the day to make a key decision on a statistical matter, the effect was to raise concerns about the agency's independence and about the risks this created with respect to the quality of data produced by Statistics Canada.

Without the long-form census of 2011 there is a significant gap in statistical data for that census year. Many stakeholders were deprived of information they historically relied on to make informed policy decisions at the local and municipal levels of government.

The proposed amendments in Bill C-36 strike a balance to enshrine into law the long-standing convention of independence in statistical matters conferred to Statistics Canada and safeguard against political interference while still maintaining the overall authority over the agency of the Minister of Industry.

The proposed amendments will protect the quality, impartiality and professional integrity of the information Statistics Canada produces.

Honourable senators, let me take this opportunity to outline the proposed amendments contained in this bill.

Under the current act, the minister responsible for Statistics Canada has overarching authority for decisions about the agency's operations and methods for gathering, compiling and producing statistical information. In practice, this authority is delegated to the Chief Statistician.

Bill C-36 will amend the Statistics Act to formally make the Chief Statistician responsible for all operations and decisions related to statistical products. The minister will remain accountable to Parliament for Canada's national statistical agency.

Under our Westminster system of governance, an elected official must remain accountable to Parliament and to Canadians for the quality and relevance of statistics produced by the government on behalf of every Canadian.

This is essential to ensure the statistical system remains relevant, responsive, cost-efficient and sensitive to the burden placed upon Canadians required to fill out census surveys.

Bill C-36 ensures that the minister retains authority over what statistics are collected, and it enables the minister to issue directives on the broad scope of the statistical program.

The proposed amendments will also put in place expanded measures to ensure greater transparency around ministerial directives by empowering the Chief Statistician to publicly request written direction before acting on the minister's directives on statistical programs.

Concern was raised in the other place about whether the bill adequately addresses the issue of political interference in the direction of statistical matters in the agency, which, as we witnessed in 2010, led to the resignation of the Chief Statistician.

Having reviewed the legislation closely, I believe that Bill C-36 strikes the right balance and does adequately address this concern.

Bill C-36 amendments will ensure that all decisions related to the mandatory or voluntary nature of surveys are made by the Chief Statistician. These decisions will be based on his or her professional consideration of what is best from a scientific perspective.

The bill also requires the Chief Statistician to advise the minister when he or she decides to make a survey mandatory. This is necessary because there are political implications to mandatory surveys and because Statistics Canada is a publicly funded agency that must remain accountable to Canadians.

To be clear, the bill does authorize the government to make a recommendation to the Governor-in-Council — that is, cabinet — to issue directives on methods, operations and procedures when it is deemed in the nation's best interest to do so.

The directives would need to be tabled in both Houses of Parliament within 15 days, leaving no doubt as to who made the decision and why that decision was made and allowing for the process of political accountability and public scrutiny to take place.

The political risks involved in abusing this authority would ensure that this authority is only used in exceptional circumstances.

• (1430)

Canada is not an exception when it comes to government oversight over matters that have political implications. Because of possible political implications, many countries that have independent statistical offices to ensure government has final say over the decision to make a survey mandatory.

Another significant change in Bill C-36 is the creation of a new Canadian statistics advisory council. This new council will replace the existing National Statistics Council. Established in 1985, the up to 40-member National Statistics Council is a non-legislated consultative body with the mandate to advise the

Chief Statistician in setting priorities and rationalizing Statistics Canada programs. Currently, there are 32 sitting members who serve in the public interest without remuneration.

This council has made important contributions to the work of Statistics Canada, including helping to revise and update this new Statistics Act. But its mandate, structure and composition have not evolved to match the changing nature and demands of the statistical system and Statistics Canada or the level of transparency that is expected today.

The new advisory council is meant to be strategic and much more focused, responsive and nimble than the current broad consultative body. It will focus on the overall quality of the national statistical system to ensure the system continues to meet the needs of Canadians. It will examine the relevance, accuracy, accessibility and timeliness of the information produced by Statistics Canada. It will provide advice to both the minister and the Chief Statistician in a transparent manner. Furthermore, it will complement the comprehensive advisory committee structure already in place at Statistics Canada, including the seven provincial-territorial committees.

Among these, the Federal-Provincial-Territorial Consultative Council on Statistical Policy ensures that all provinces and territories have an effective voice on statistical matters. Statistics Canada also has 13 advisory committees in various subject matter areas, which include nearly 200 members from every province and territory and a cross representation of Canadian society.

To improve transparency, the new council will publish an annual report, accessible to Canadians, on the state of the national statistical system. It will consist of a chairperson, the Chief Statistician and up to nine additional members who will also be appointed by the Governor-in-Council in an open and transparent manner.

Statistics Canada maintains an exceptional reputation both within Canada and internationally for its professional quality of data, methods and response rates. This is in no small part due to the excellent work of the members of the National Statistics Council. I would like to thank the many members of the last 30 years for the work they have done not only to make Statistics Canada the envy of the world but also for their contributions to the development of this bill.

Honourable senators, Bill C-36 will also make changes to the appointment parameters of the Chief Statistician. He or she will be appointed through an open, merit-based selection process in accordance with the government's approach to handling Governor-in-Council appointments. The term of their appointment may not exceed five years during good behaviour. No longer will the Chief Statistician serve at the pleasure of the minister. The Chief Statistician can only be removed from their position for cause by the Governor-in-Council. The appointee will also be eligible to be reappointed for one additional term not to exceed five years.

This change will further strengthen the independence of the Chief Statistician in his or her decision making. These amendments to the Statistics Act have been drafted to increase Statistics Canada's independence, protect its professional

integrity and ensure the responsibilities of the minister and the Chief Statistician are more clearly defined than they are presently.

Honourable senators, there are other important elements to this bill. It is very rare, but there have been instances over the years in which Canadians refuse to provide information related to the census or other mandatory surveys. There is a general consensus that the penalty of imprisonment is disproportionate to the offence of not answering questions on a census or mandatory survey. Bill C-36 therefore removes from the act the penalty of imprisonment for those who do not comply with mandatory requests for information. However, Canadians who do not comply with the act will continue to face the possibility of fines up to \$500.

The updated act will also allow the transfer of census records after 92 years to Library and Archives Canada. This will apply to all censuses of populations conducted from 2021 onwards. For censuses taken in 2006, 2011 and 2016, and for the 2011 National Household Survey, the records will be released, where consent has been given, to Library and Archives Canada after 92 years. This change in the act will make a rich source of information available to historians, genealogists and other researchers.

Finally, the bill updates some of the language in the act to reflect technological advances in data-gathering methods. That includes the use of electronic rather than paper questionnaires. These amendments will ensure that Canadians can continue to rely on the integrity and accuracy of the data produced by their national statistical agency.

Honourable senators, the amendments in this bill were developed in consultation with many Canadian and international experts and statistical gathering agencies and organizations. Some of those consultations include Statistics Canada's former Chief Statisticians, the Organisation for Economic Co-operation and Development, the OECD, as well as former heads of the statistical offices of the United Kingdom, New Zealand and Australia.

The government also conducted a review of statistical legislation in the United Kingdom, New Zealand, Australia, the United States, the Netherlands and Ireland. These consultations ensured that various approaches and international norms were considered in drafting this bill. For example, I mentioned earlier that the Netherlands, Ireland and New Zealand have explicit provisions on independence within their legislation. Bill C-36 ensures this independence by assigning the responsibility for statistical methods and operations to the Chief Statistician.

As I mentioned earlier, I believe Bill C-36 strikes a fair balance by maintaining overall authority of the agency with the minister, by ensuring the government has a final say over the decision to make a survey mandatory. And similar to the practice in many countries, Bill C-36 maintains the government's responsibility to determine the scope and the content of the censuses. The government also worked closely with stakeholders across the country in developing this legislation.

Statistics Canada consulted extensively with the National Statistics Council and the Federal-Provincial-Territorial Consultative Council on Statistical Policy. The agency also engaged with 16 other federal departments that are major users of its information. They all support increasing the independence of Statistics Canada.

Honourable senators, reinforcing the integrity and independence of Statistics Canada is an important objective. The Minister of Innovation, Science and Economic Development's first act as minister was to restore the mandatory long-form census, which reflected a key priority in his mandate letter.

Canadians responded overwhelmingly to the return of the long-form census in 2016. In fact, at the briefing on Bill C-36 this afternoon, one of the senators who attended said that when she went online to answer some of the questions, she couldn't get on because so many people were responding. They appeared to be very pleased that the long-form census had returned.

Honourable senators, the 2016 population census was the most successful in our country's history. This clearly demonstrates Canadians' engagement with regard to the census program. We know that Canadians place a high value on having accurate and reliable information for evidence-based decision making that affects their everyday lives.

• (1440)

Honourable senators, high-quality, reliable and accurate information is essential if we are to make informed decisions as legislators. That's how Canadians identify challenges and opportunities. That's how they set goals, implement solutions and measure progress.

High-quality information is also essential to modern democratic governance. It enables Canadians to hold the government accountable. It also helps governments make informed decisions about the services and programs on which Canadians rely.

In conclusion, honourable senators, I believe that the amendments contained in Bill C-36 will enhance and protect the independence and professional integrity of Statistics Canada. They will increase transparency and accountability. They will ensure that the collection, analysis and presentation of statistical information are based strictly on scientific considerations.

Honourable senators, I look forward to informed debate on Bill C-36, both here in the Senate Chamber and at committee.

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

Senator Cordy: Yes.

Senator Lankin: Thank you very much. I appreciate your presentation and sponsorship of this. In principle, I completely agree and look forward to looking at the detail and hope to examine that as it goes through the second reading and committee process.

I'm interested in whether or not the department or the minister has given any information or sense to you or those who have attended the briefing of what happens to the gap period when we didn't have the long-form census. What, if any, is the ability to recapture or contrast and compare during that period of time?

I was working in the community sector: social, health and education services. It's not just the government that uses this data to plan services; many local community research organizations require best evidence. They do not have the capacity to conduct that kind of research. We thought it was an absolute shame on Canada and our commitment to evidence-based policy development when we lost access to this valuable data and public service.

Is there anything that bridges that gap, or is that just a dead period, dead air and, as I said, a shame?

Senator Cordy: Senator Griffin raised that very comment at the briefing meeting that we had, although I think she was even more forceful than you. Indeed, as I told her at that time, I agree wholeheartedly.

Here we have that period of time when the amount of information we have is not as useful as it could be because, as you said, many small organizations can't afford to conduct this kind of research. It's expensive, and they don't have the people in their organizations to be able to do it. Many are volunteer organizations within communities that really look forward to gathering the statistical information that's available on housing, on the labour force within their communities, on minorities in their communities and a wide variety of information that could be gathered from that.

I don't think anything can be done because what happened was you had to check off a box on your census form that you would allow this information to be passed on in 92 years' time, and if you didn't check either a "yes" or a "no" in the box, then it was deemed to be a "no." So a lot of people may not have checked the box at all or didn't pay much attention to it, and then there are people who, for one reason or another, checked off "no."

There will, in 92 years' time or less, 70 or 80 years' time, definitely be gaps. It's pretty hard to go back, when people were asked to check off a box, and say, "I know you checked off 'no,' but we're going to release it anyway."

I think that it's impossible to gather that information that is lost to historians.

Hon. Yonah Martin (Deputy Leader of the Opposition): Will the senator take a few more questions?

Senator Cordy: Yes.

Senator Martin: Thank you for your second reading speech. I heard you say several times that the aim of this bill is to ensure greater transparency and openness and to enhance the current regime that we have.

I'm just curious, senator. The current National Statistics Council has broad representation from across the country and from across various sectors, which enables it to provide a well-rounded national perspective.

What was the rationale for the proposed new Canadian statistics advisory council, where three provinces and/or territories would lose an opportunity for representation? Ten versus 13 is only a three-seat difference. How could this council of 10, that would exclude three provinces and/or territories, provide a national perspective when it isn't representing the entire country?

Senator Cordy: That's a very interesting question. I was wondering about that also. In fact, it was up to 40, but currently there are 32 members. Four provinces and territories were not represented. So it really didn't represent all the provinces and territories. One would expect that with 32 that could easily be done. Also, the majority of the people on this board were men, so it really was not reflective of Canadian society.

So when you look at it changing to 10, one of whom is the chair of this committee, I think that would go back to your answer, that the previous board was not reflective of Canadian society, nor did it represent all the provinces and territories.

There are a lot of provincial and territorial boards that represent the provinces' interests to Statistics Canada, and there are a lot of boards with specific interests. For example, one group would deal specifically with agriculture issues for which Statistics Canada would provide information so that the agricultural communities from across the country would be represented.

If this bill passes, the new board, which will be 10 people, will be more open and transparent. There were no minutes from the meetings of the previous board. In my speech I did thank them for their contribution over the past number of years. They were also instrumental in the development of the changes to this bill, to the amendments.

The new board, if this bill passes, has to keep minutes, and they will be public minutes. This new board of 10 people has to present an annual report. So all of that, what they're doing, how they're responding to Statistics Canada, advice that they're giving to Statistics Canada, would be included in the annual report. The previous board had no minutes and no annual report.

Your question is a really good question, it was not reflective of Canadian society. It did not represent all the provinces and territories.

Senator Martin: In the spirit of openness and transparency, which all of us do support, are there assurances to Canadians and to our opposition caucus that the appointees will indeed be selected in a way where the openness and transparency will be clear, that they will not be partisan appointments, as we have seen with some other appointments? I won't name names, but we know what I'm referring to. Are there such assurances, and were these questions asked about the process of selecting these advisory council members?

Senator Cordy: That's another great question. Indeed it will be an open and transparent process. It will be by order-in-council, but it will be an open and transparent process.

(On motion of Senator Martin, debate adjourned.)

DISTINGUISHED VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of our former colleague, the Honourable Doug Roche.

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

Hon. Senators: Hear, hear!

[*Translation*]

ADJOURNMENT

MOTION ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of September 20, 2017, moved:

That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, September 26, 2017, at 2 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to.)

• (1450)

[*English*]

JUDICIAL ACCOUNTABILITY THROUGH SEXUAL ASSAULT LAW TRAINING BILL

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Seidman, for the second reading of Bill C-337, An Act to amend the Judges Act and the Criminal Code (sexual assault).

Hon. André Pratte: Honourable senators, like all of us in this chamber, I support the aims of Bill C-337, which are to ensure that judges who preside over sexual assault trials have a better understanding of the legal subtleties pertaining to this criminal offence, that they are more sensitive to the difficult situations

facing victims, and that they are educated about the still-too-prevalent negative myths and stereotypes affecting these complainants.

However, just because a bill has commendable goals, it does not mean that it is necessarily a good bill. In this instance, not only do I believe that the bill's provisions fail to meet its stated purpose, they risk being detrimental to our justice system.

We know, because she has said so publicly, what the sponsor of the bill in the House of Commons, Ms. Rona Ambrose, would have wanted to do. She would have wanted Parliament to require all federally appointed judges to undergo training on sexual assault law. She was told, however, by legal drafters that this would be a direct attack on judicial independence. "Unfortunately," said Ms. Ambrose, "Parliament can't tell sitting judges what to do," to which I firmly respond, "On the contrary. Fortunately, Parliament cannot tell sitting judges what to do."

I want to stress that judicial independence is not some arcane principle that only constitutional scholars care about. Judicial independence underpins the entire justice system. Judicial independence underpins the Canadian constitutional framework that guarantees our most fundamental rights. Without it, without the certainty that judges hearing every single one of their cases are free from any influence whatsoever, confidence in the justice system would crumble and then collapse. Canadians would begin taking justice into their own hands.

[*Translation*]

Furthermore, there can be no real justice or democracy if the justice system is not independent of the executive and of Parliament. Otherwise, how could Canadians possibly have confidence in the court process if they need to defend themselves against some oppressive measure adopted by the government or the parliamentary majority? A system where the executive or Parliament tells the courts what to do is called a dictatorship—perhaps a popular dictatorship, but in any case, it is not a democracy.

Lastly, a federation is not authentic if the courts are not free from any and all influence from central and regional governments as they exercise the role of final arbiter between the two levels of government.

Since she was unable to require all federally appointed superior court and appeal court judges to undergo training on sexual assault law directly, Ms. Ambrose decided to take an indirect approach, which, I say again, is entirely commendable. Her proposal, then, was to impose this training on any lawyer who applies for a position on the bench at the federal level. Unfortunately, as is so often the case when one tries to do something indirectly that cannot be done directly, Bill C-337 caused another kind of problem.

The Office of the Commissioner for Federal Judicial Affairs receives about 500 applications every year. Of that number, only around 50, about one in 10, are actually appointed to the bench. If this bill were to pass, it would mean that, every year, a few hundred lawyers would have to take training intended for the

very small minority of them who would actually become judges and hear sexual assault cases. This would be a considerable waste of resources.

When he appeared before the House of Commons Standing Committee on the Status of Women, Marc Giroux, the Deputy Commissioner of the Office of the Commissioner for Federal Judicial Affairs, stated the following:

If education is to be provided before applicants become judges — that is, during the assessment process — and to a large number of candidates, our concern is that it will be more difficult to ensure they are properly educated, and that such training will not be exhaustive enough.

Mr. Giroux also added that “the assessment of candidates may be delayed.”

Given the delays in the appointment of judges, an issue that was raised again just today, additional delays are certainly the last thing the justice system needs.

[*English*]

There is a second problem with Bill C-337. The bill is obviously a response to the shameful remarks and decisions of certain judges.

This, of course, brings to mind former Justice Robin Camp, who resigned after the Canadian Judicial Council recommended his removal.

This also brings to mind judges in the *Al-Rawi* and the *Blanchard* cases.

In the first case, the judge, during his ruling about a case involving a woman who was sexually assaulted, remarked that “clearly, a drunk can consent.”

In the second case, an indigenous woman, who was the victim of sexual assault, was kept in custody during the preliminary hearing and was transported on two occasions in the same prison van as the man who had assaulted her.

In these three cases, the judges appeared to demonstrate either a lack of understanding of sexual assault law or a callous disregard for the physical and psychological harm done to the victims of assault, or both.

This is what is behind the idea requiring judges to undergo training on sexual assault law. The problem is that the three judges involved in these highly publicized cases are provincial court judges. Bill C-337 does not apply to them but instead to federally appointed judges.

This seems incongruous with the fact that a vast majority of sexual assault cases are heard by provincially appointed judges. This means that action needs to be taken, first and foremost, at the provincial level. While I can appreciate that this is frustrating for us as federal legislators, this does not justify passing legislation that goes after the wrong target.

Now, this does not mean that nothing can be done at the federal level. After all, superior and appeals court justices do hear a certain number of sexual assault cases. They sometimes manifest the same attitude as some of their provincial counterparts, such as Manitoba Court of Queen’s Bench Justice Robert Dewar, whose remarks about a case heard in 2011 showed a clear lack of sensitivity towards victims of sexual assault, according to the Canadian Judicial Council.

• (1500)

In a landmark ruling this past summer, the Alberta Court of Appeal has highlighted numerous flaws in the model jury instructions applied in sexual assault cases, stating:

... problematic jury charges reduce the entitlement of individuals to the equal recognition and protection of the law. This inequality falls most heavily on women since sexual assault has been, and continues to be, largely a gender-based crime.

According to the court:

... the time has come to push the reset button for jury charges in this country for cases involving an alleged sexual assault.

It is my understanding that the Canadian Judicial Council’s Committee on Jury Instructions will review its model instructions in light of this very important ruling.

Moreover, due to pressure, which has stemmed precisely from the elaboration of Bill C-337, the Canadian Judicial Council has announced that the four weeks over two years of training for new judges, which includes courses on social context and sexual assault law, will now be compulsory for all appointees. This new requirement makes the heart of Bill C-337 superfluous.

The bill would also require the Canadian Judicial Council to present a detailed report on the sexual assault law training it provides to judges. This report would have to state “the number of sexual assault cases heard by judges who have never participated” in this kind of training. The purpose of this provision is obvious: It is to trap delinquent judges and bring their rulings into question.

Unless the aim is to undermine the credibility of the justice system, this is not the way forward. A judge who has or has not taken this or that training will not necessarily render a good or bad ruling in such and such a case. There is only one way to challenge the merits of a ruling, and that is by way of an appeal to a superior court, not by waging a vendetta in the court of public opinion.

There is a well-established way to challenge a judge’s competence, a way that works, which worked in the case of former Justice Camp specifically, and that is to bring a complaint to the Judicial Council. Otherwise, if legislators, statistics in hand, want to go after judges, they are clearly jeopardizing the institutional independence of the judiciary.

[Translation]

That being said, the Judicial Council itself agrees that it must do a better job of communicating with the public about the training judges receive. For that reason alone, the debate on Bill C-337 will have been useful. Judicial independence is no excuse for lack of transparency. The Council committed to detailing in its annual report the seminars it offers to judges and the number of judges who participate in available training.

As introduced in the other place, the bill required written decisions in sexual assault cases. A number of witnesses pointed out that such a requirement could result in additional delays in a justice system that is already much too slow, so MPs agreed to amend the bill as follows: "The reasons shall be entered in the record of the proceedings or, if the proceedings are not recorded, shall be provided in writing." That is essentially the status quo. Decisions can be rendered orally or in writing at the judge's discretion. In other words, this clause in Bill C-337, as I understand it, is basically pointless.

[English]

Now the idea behind wanting to impose written rulings was to make the court's decisions in sexual assault cases more readily available to the public, to the media and to academics. But again, Bill C-337 was aiming at the wrong target. The problem is not that judgments are rendered orally or in writing. The problem is that provinces do not publish, for example, on the Internet all decisions rendered by the courts. However, there is nothing we as federal legislators can do about that, for this falls under the administration of justice, which is a matter of provincial jurisdiction.

The legislation before us is so fundamentally flawed that it is difficult for me to see how it could be fixed through amendments. Now that being said, as a free and democratic society, we must endeavour to protect and, when needed, restore the most basic principles of fairness and equality before the law. This places me in a dilemma because as I said earlier, I share the necessary goals that are the aims of Bill C-337.

Ensuring that sexual assault victims — individuals who have suffered incomparable trauma — are treated equitably, fairly and objectively by our justice system is fundamental.

Therefore, although I have serious reservations about the piece of legislation before us, I cannot bring myself to vote against Bill C-337 at this moment. In the hopes that it can somehow be salvaged in committee, I will abstain at this stage.

Hon. A. Raynell Andreychuk: The senator raised a number of questions, and I thank you for your consideration of this bill.

The Hon. the Speaker: Your time has expired. Are you asking for five more minutes to respond to questions? Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Andreychuk: I apologize, Your Honour. I thought the senator was well within his time. I was quite involved in listening to his comments.

I thank you for putting out some of the issues that you have indicated, but one question that has been referred to me is that you seem to place a lot of confidence in the Canadian Judicial Council planning this new training process.

Do you know when they will be putting this in, because it is a hope for, and in anticipation of, the future?

Were groups consulted that are directly affected; community groups with relevant experience in training around sexual assault and have been involved in the delivery of training of judges in the past? Will they be involved in this training at all or will it be simply within the Canadian Judicial Council?

Senator Pratte: Thank you for the questions. My understanding is that, first of all, the training that was not mandatory is now mandatory. That is in place now; the training is four weeks long. It will be six weeks long over two years.

The council is, as I understand it, in a dilemma as far as consulting with victims groups or any groups. If they begin consulting with victims groups, there are other victims groups, not only sexual assault, but other crime victims groups and others, who will want to be consulted by the council, and that could cause a problem.

However, they do consult experts, academics, and use documents produced by victims groups. I will not defend the council as to whether their training is good or not, but I know that they are sensitive to victims' concerns. I've talked to them long enough to understand that they are.

My main concern is that the bill addresses the question in the wrong way; that is, we're trying to address a question that is mainly at the provincial judges' level, and we will go train all applicants to become federal judges. A very small minority will become judges. A very small minority of them will ever hear sexual assault cases, which to me is a waste of resources that we cannot afford.

Senator Andreychuk: I don't think Bill C-337 is attempting to tell judges how to train judges. The bill expresses the concerns of the community. The administration of justice and the respect for our courts is a public issue, and if we don't have confidence in the courts to deliver a sense of justice, we will be in trouble. So it is a fine line of the independence of the judiciary, but Parliament has a role to play within the judicial system. It does so every day. We pass laws here all the time instructing judges.

• (1510)

The question is, are we interfering with their decisions? No, but we are equipping them to make the decisions within the competence of the Canadian law. The confidence is something we should look at as we study it, and I appreciate you're not going to obstruct the bill in any way going into committee for in-depth study.

I have been in provincial court. If you don't have a written record, how do you put forward the confidence to the public? We run through many cases orally and otherwise at all levels. Surely in this day and age, with the technical services that we have, judgments should be given there. That's the only way the public

will understand what the court meant, and you're sitting next to a judge of many years. Their role is to explain the law and how it applied and why it applied to you so there is confidence that the decision has merit and will be taken seriously by the public, by the person involved in the case, and the whole administration of justice and our society benefits.

The problem that was brought in the bill is that these decisions are not known, and they're hidden away from any transparency and accountability. It is only our legal scholars such as Professor Elaine Craig, who have spent a lifetime ferreting out these problems, but the victims of these sexual assault cases are amongst us.

Why do you think it is such a hardship and delay to have a written record with today's technology?

Senator Pratte: Again, I share the objective. I sometimes wonder why I decide to attack those subjects when I'm discussing them with a former judge and sitting beside another former judge, and I'm not even a lawyer.

I share the objective, but the problem is not whether or not the judgment is written. For instance, in Quebec they've decided not to publish judgments that are not written, but that's an issue of administration of justice, that's a provincial issue, and we cannot, as a federal Parliament, impose on provinces whether or not they want to put money into publishing those judgments.

(On motion of Senator Fraser, debate adjourned.)

SCRUTINY OF REGULATIONS

SECOND REPORT OF COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE ADOPTED

On the Order:

Resuming debate on the consideration of the second report of the Standing Joint Committee for the Scrutiny of Regulations, entitled *Accessibility of Documents Incorporated by Reference in Federal Regulations*, presented in the Senate on March 30, 2017.

Hon. Joseph A. Day moved:

That the second report of the Standing Joint Committee on the Scrutiny of Regulations entitled *Accessibility of Documents Incorporated by Reference in Federal Regulations*, presented in the Senate on March 30, 2017, 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 Justice being identified as the minister responsible for responding to the report.

He said: Honourable senators, I feel I owe you a bit of an explanation in regard to this report and the next one, because it is a similar situation. As you just heard, I have moved that the report be adopted. This came from the Joint Committee on the Scrutiny of Regulations. The same report went to the House of Commons. Because our representative on the committee has changed — Senator Pana Merchant had been our representative,

and I've taken over from her — this matter has moved less quickly in the Senate than it did in the House of Commons. These two reports have been passed in the House of Commons, and once they are passed by both committees, we can start dealing with the request for a response that appears in each of the reports.

The second report is the first I will deal with. It is under No. 17 on the Order Paper. It deals with an issue that I have noticed, a creeping increase in this practice by the government, and that is the incorporation — and this deals with regulations, but I've also seen it in the budget implementation legislation that we have dealt with, where there is an incorporation by reference, rather than writing in what the law is. You say, "Well, the law is as per some other document that you have to go looking for." That's called "incorporation by reference."

That gets even worse when it's an incorporation by reference that says, "as exists from time to time." So something being referenced, like the standard for building a house, "as exists from time to time" means that the individual, the public, has to go looking for when these amendments were passed to these standards that had been incorporated by reference in this regulation.

The joint committee found this not to be acceptable, and over time, the government came around to agreeing and made some changes. The changes appear in section 18.3 of the Statutory Instruments Act, and they're in this report.

The problem is that it is felt by the joint committee that the changes that were made are not adequate. I'll explain the inadequacy very briefly by looking at the recommendations for further steps that should be taken.

Recommendation 1:

That the *Statutory Instruments Act* be amended in order to require that incorporation by reference should be used only where it would be impracticable to do otherwise.

In other words, let's not encourage this type of activity of incorporating by reference and making it impossible for the citizen to know what the law is.

Recommendation 2:

Recognizing that Francophones and Anglophones must have equal access to the law, that the *Statutory Instruments Act* be amended to require incorporated materials to be made available in both official languages.

What has happened in the past is that the regulation is in French and English, but the incorporated document has only been in one official language. And that is still the case today, and that is deemed to be unacceptable. If you agree with me that we should accept the report, that is one of the recommendations that will be going to the minister, and hopefully the minister will take some action.

Recommendation 3:

That the Statutory Instruments Act be amended to require that regulation-making authorities —

— whoever incorporates by reference —

— make all incorporated materials available for consultation by the public, free of charge . . . There have been examples where certain regulations have been incorporated by reference, and you have to pay a significant amount of money to acquire them. It's not uncommon to see incorporation by reference of documents in the United States: Canadian regulations incorporating by reference, standards and processes in the United States, only in one language, and the individual has to pay a significant amount of money to get a copy of those standards.

• (1520)

It's being recommended that this is the law of Canada, and it should be available in Canada free of charge to any citizen who wants to be able to know what he or she is expected to do.

The final one is that there should be some sort of registry so you know where to go to find these incorporations by reference. All of these seem very logical and somewhat esoteric, but very important when you consider, from the principle point of view, that the citizens should not be charged with a law or a regulation unless he or she has some way of knowing what that law is. In the past, we said you're deemed to know what the law is, but you can't be deemed to know what the law is when it's not readily available to go and find it.

Honourable senators, I am requesting that, at this time, we adopt this report so that we can then hear from the minister and move on with this matter in Scrutiny of Regulations.

Hon. Joan Fraser: Would Senator Day take a question?

Senator Day: Certainly.

Senator Fraser: I'm really glad that the Scrutiny of Regulations Committee is looking at this subject. I've thought that for a long time that incorporation by reference was an absolutely abominable system of governance.

It is abominable no matter how you look at it, but doubly so when what is being incorporated by reference is a regulation passed by another country. That strikes me as an utter abdication of Canadian sovereignty. Could you be a little more specific about what this report says, if anything, about the incorporation by reference of foreign regulations?

Senator Day: Thank you, Senator Fraser. You can see in the report the discussion that it must be in both official languages, and some other countries don't have it in both official languages. It's not translated, obviously, in the regulations because it just says "regulation" in the United States' list of regulations. That could be in French and English because that's prepared in Canada, but the regulation itself is in one language.

I agree with you, wholeheartedly. I have never liked this. We deal with it here because it's in statutes as well as the regulations.

The other part that really bothers me is, from time to time, you adopt a regulation that exists day one, as it exists from time to time, which means that whenever it's amended those amendments automatically apply.

Senator Fraser: Even if they're foreign amendments?

Senator Day: Even if they're foreign amendments. In the Statutory Instruments Act that is still allowed. But what we're trying to do is put some limits on this and say, "You have to make them available in both official languages," there should be a registry and you shouldn't have to pay for it to know what the law is.

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

Some 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.)

SCRUTINY OF REGULATIONS

THIRD REPORT OF COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE ADOPTED

On the Order:

Resuming debate on the consideration of the third report of the Standing Joint Committee for the Scrutiny of Regulations, entitled *Marginal Notes of federal Acts and regulations*, presented in the Senate on March 30, 2017.

Hon. Joseph A. Day (Leader of the Senate Liberals) moved:

That the third report of the Standing Joint Committee on the Scrutiny of Regulations entitled *Marginal Notes*, presented in the Senate on March 30, 2017, 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 Justice being identified as the minister responsible for responding to the report.

He said: Colleagues, this is similar to the previous item, only it deals with another issue but it is one of those steps in the scrutiny of regulations. The committee, acting on behalf of Parliament, is dealing with the executive and the bureaucracy to try to work out some of these issues that are not acceptable from our point of view.

This one deals with marginal notes. Marginal notes are being used more frequently than in the past. If you look at regulations, you'll see little marginal notes in a different print on the side explaining or talking about what this section relates to and the note might refer you to some other part of the regulation.

The marginal note was not intended to be part of the interpretation of the regulation itself. It was there only to help. The problem has arisen because of the use of digital presentation in consolidation of laws digitally and electronically. This has resulted in the marginal note being located in another place, with the same script, and it looks like it's part of the regulation itself. That's what this is all about, saying, "Please give it a different script, make it clear that it's not part of the body of the regulation but is rather there to help, or stop using them — one or the other. That's a choice for the government, but right now it's not an acceptable situation because it's confusing. All this has arisen because the government was given the authority to digitize the regulations and consolidate them.

One other little point on this is that this is not just in the future, but also is for all regulations enacted before the law came into effect as well. So everything can be consolidated and digitized, and the problem is just compounded now because all of these marginal notes are just in the body.

We're working on trying to get that sorted out but we need some support from Parliament that we, as parliamentarians, consider this to be a serious problem that needs rectification.

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 ENCOURAGE THE GOVERNMENT TO MAKE PROVISION IN THE BUDGET FOR THE CREATION OF THE CANADIAN INFRASTRUCTURE OVERSIGHT AND BEST PRACTICES COUNCIL—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Bellemare, seconded by the Honourable Senator Enverga:

That the Senate — in order to ensure transparency in the awarding of public funds and foster efficiency in infrastructure projects in the larger context of economic diversification and movement toward a greener economy, all while avoiding undue intervention in the federal-provincial division of powers — encourage the government to make provision in the budget for the creation of the Canadian Infrastructure Oversight and Best Practices Council, made up of experts in infrastructure projects from the provinces and territories, whose principal roles would be to:

1. collect information on federally funded infrastructure projects;

2. study the costs and benefits of federally funded infrastructure projects;
3. identify procurement best practices and of risk sharing;
4. promote these best practices among governments; and
5. promote project managers skills development; and

That a message be sent to the House of Commons to acquaint that House with the above.

Hon. Donald Neil Plett: Honourable senators, I move the adjournment of the debate in my name.

(On motion of Senator Plett, debate adjourned.)

• (1530)

MOTION TO AMEND RULE 12-7 OF THE RULES OF THE SENATE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Ringuette, seconded by the Honourable Senator McCoy:

That the *Rules of the Senate* be amended by:

1. replacing the period at the end of rule 12-7(16) by the following:

“; and

Human Resources

12-7. (17) the Standing Senate Committee on Human Resources, to which may be referred matters relating to human resources generally.”; and

2. updating all cross references in the Rules accordingly.

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I stand today to speak in favour of Senator Ringuette's motion to amend rule 12-7 of the *Rules of the Senate* to create a Senate standing committee on human resources. I am putting on my hat as an economist.

[*Translation*]

I make this speech as an independent, non-affiliated senator, not as a member of the Government Representative's team. I want that to be clear. Those who know a little bit about my career know that, for over 40 years, I have had a strong and continuing interest in all issues related to human resources, the labour market and employment.

I would also like to commend Senator Ringuette for her initiative. I firmly believe that there is an urgent need to create a standing Senate committee on human resources.

I invite all senators to read the excellent and stirring speech that Senator Ringuette gave in this chamber on March 9, 2017. In it, she explains why now is the time to create such a committee. She says, and I quote:

[*English*]

Now is the best time to do this, given that we have begun a process to modernize the Senate. What could be more important for our institution than to recognize the human wealth of this country? It is time to build a base of expertise to oversee the development of the economic and social policies needed to get all Canadians back to work in a globalized economy that requires constant adaptation.

[*Translation*]

No one could have said it better than Senator Ringuette. In her speech, she addresses the mandate of this new standing committee in greater detail. I could not agree with her more, and I would like to share what she said.

[*English*]

This new standing committee would be focused on researching and recommending policies to optimize our Canadian human resources and meet current and future challenges.

Let me mention a few of the human resource challenges that Senator Ringuette highlighted in her speech: aging and the demographic shift created by baby boomers leaving the workforce, youth employment and underemployment, income disparity, recognition of foreign credentials, labour mobility interprovincially and internationally, not to mention issues related to disruption caused by technology and the challenges facing certain groups and minorities in the labour market, such as the First Nations and Inuit people.

[*Translation*]

These mandates address many urgent issues being faced by Canada, particularly in certain regions. They include labour shortages, unemployment and underemployment in certain communities and regions. These mandates also address the very important issue of continued adaptation to technological and economic changes, such as the arrival of artificial intelligence and globalization, respectively. They also address the issues of decent work, minimum wage and the working poor.

These mandates also cover the issue of economic insecurity brought on by the fast pace of change, and the need for all Canadians to have the means to adapt. This committee will help answer questions coming from the labour market and industry.

These are all pressing matters. Think of our young people. It is hard to imagine that young people are currently not participating in the country's economic growth the way other demographic groups are. In Canada, the percentage of young people 15 to 24 who are commonly referred to as NEETs, Not in Education,

Employment or Training, is roughly 6.3 per cent according to OECD data. You might say that 6.3 per cent is not a lot, but 6.3 per cent of young people who are totally inactive is indeed a lot. This percentage is relatively high. It is higher than the average among OECD member countries. We are doing less for our young people than the average OECD country.

We know that this number is very high among young aboriginals. This is unacceptable, especially in an ageing society where companies are complaining about labour shortages. Why is this happening, considering that many of these young NEETs are educated? What should be done? Those are the questions that a human resources committee could address. This challenge is especially critical because the future of our country is built with young people.

Let's talk about the artificial intelligence phenomenon. According to a study published in 2013 by two Oxford University researchers, Carl Benedikt Frey and Michael Osborne, 47 per cent of professions in the services sector could be performed by robots within the next 20 years.

The Senior Deputy Governor of the Bank of Canada, Carolyn Wilkins, reminds us that:

. . . close to half of all jobs in some advanced economies will be profoundly affected by automation in the next 20 years.

She adds:

We will need people with highly technical skills to program and repair the technology. We will also need people to perform tasks that may never be replicated by a machine because they require creativity, intuitive judgment, inspiration or simply a human touch. . . . Policies that help businesses and workers manage what could be a difficult transition are essential. So are policies that address the potential for amplified income inequality and, in some cases, increased market power.

We must prepare for the impact that artificial intelligence will have on our human capital, and especially on the most vulnerable in this period of transition, such as young aboriginals, women, people with disabilities, and also the 300,000 or so immigrants that we welcome every year and that are the country's engine of demographic growth. We must prepare the economy of innovation made necessary by climate change and organize our human resources accordingly.

When we envision a just and prosperous economy, people, jobs, and professional training must be uppermost in our minds. Perhaps some of you believe that the Social Affairs, Science and Technology Committee should be the one to look into these issues, but that remains unclear. According to rule 12-7(9) of the Rules of the Senate, and I will quote both the English and French versions for a more nuanced understanding:

[*English*]

The Standing Senate Committee on Social Affairs, Science and Technology to which may be referred matters relating to social affairs, science and technology generally, including: cultural affairs and arts, social and labour matters, health and welfare, pensions, housing, fitness and amateur sport, employment and immigration, consumer affairs and youth affairs.

[Translation]

In French, the rule reads as follows:

Le Comité sénatorial permanent des affaires sociales, des sciences et de la technologie, qui peut être saisi de toute question concernant les affaires sociales, la science et la technologie en général, et notamment:

- a) les affaires culturelles et les arts,
- b) les affaires sociales et les relations du travail,
- c) la santé et l'assistance sociale,
- d) les pensions,
- e) le logement,
- f) la condition physique et le sport amateur,
- g) l'emploi et l'immigration,
- h) la consommation,
- i) la jeunesse;

As honourable senators can see, the Standing Senate Committee on Social Affairs, Science and Technology has a very broad mandate that includes “labour matters,” “employment,” and “immigration.” The committee’s mandate is very broad, and I would like to congratulate the committee and its team on the excellent work they are doing and the time they are taking to do it. One can understand how, with such broad mandate, it is difficult to properly address a file as important as the human resources, labour market, and employment file in a timely fashion. Thus, creating a standing committee dedicated entirely to issues related to human resources, the labour market and employment is the right thing to do.

• (1540)

Furthermore, this new committee on human resources, employment and the labour market would give senators an opportunity to focus more directly on the concerns of their province or region. It would allow for the development of specific expertise based on our diverse realities, rather than on national statistical averages. These new analyses will contribute to the development of economic and social policies adapted to the needs of each region. After all, is it not true that everyone, regardless of age, dreams of having a satisfying and well-paying career? Many political parties around the world have won elections by giving those concerns the attention they deserve.

Creating such a committee could also help address a number of concerns raised in the United Nations’ September 2015 resolution entitled « Transformer notre monde: le Programme de

développement durable à l’horizon 2030 », in French, and, in English, Transforming our World: the 2030 Agenda for Sustainable Development.

That resolution targets 17 interrelated goals that represent, according to the United Nations, the greatest challenges to world peace, eradicating extreme poverty, the survival of our planet and maintaining our standard of living. These UN goals pertain to all countries, regardless of their development level. They have been signed and adopted by all UN member states. This resolution, endorsed by Canada, invites all member states, in their own way, to promote productive cooperation and help every human being reach their full potential at every level: federal, provincial, local, private, community and civil society.

This declaration of 17 goals that I will come back to another day is a sort of extension of the International Bill of Human Rights, which was adopted after World War II. The purpose of this declaration is to help the human race deal with political, environmental, and technological changes, which can sometimes be very destabilizing. We see evidence of this every day on television with stories about migrants, climate change and inappropriate behaviour. We need to refocus our thinking and our policies on what counts the most in the world, the aspirations of every human being.

The 2030 Agenda for Sustainable Development, which contains 17 ambitious goals, recognizes that economic, social and environmental issues are interdependent. We cannot take care of the environment without taking care of jobs and people. The Prime Minister gave Ms. Bibeau, the Minister of International Development and La Francophonie, the responsibility of following up on this agenda with her colleagues.

What is more, honourable senators, our economy is changing dramatically. This summer, the International Labour Office created an important global initiative on the future of work, co-chaired by the Prime Minister of Sweden and the President of the Republic of Mauritius. Given the importance of the major changes that are happening in every economy in the world, we must create a committee on human resources, the labour market and employment. In the interest of our fellow Canadians and our economy, the Senate must take stock of the major transformation the job market is undergoing and determine what our human resources need to do to adapt. This is a major strategic issue for the growth of our economy and for our well-being.

It is absolutely essential to create a standing Senate committee on human resources, the labour market and employment. I therefore urge you to support this motion as soon as possible.

(On motion of Senator Fraser, debate adjourned.)

[English]

TRANS CANADA TRAIL

HISTORY, BENEFITS AND CHALLENGES—INQUIRY—
DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Tardif, calling the attention of the Senate to the Trans Canada Trail — its history, benefits and the challenges it is faced with as it approaches its 25th anniversary.

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, Order No. 11 is an inquiry by the Honourable Senator Tardif calling the attention of the Senate to the Trans Canada Trail. I'm very excited about the Trans Canada Trail and I do want to speak on this matter. You will notice it stands at the fifteenth day, so I propose to take the adjournment at this time and I will be pleased to speak on this item next week.

(On motion of Senator Day, debate adjourned.)

NATIONAL FINANCE

MOTION TO AUTHORIZE COMMITTEE TO STUDY THE MINISTER OF FINANCE'S PROPOSED CHANGES TO THE INCOME TAX ACT RESPECTING THE TAXATION OF PRIVATE CORPORATIONS AND THE TAX PLANNING STRATEGIES INVOLVED—DEBATE ADJOURNED

Hon. Anne C. Cools, pursuant to notice of earlier this day, moved:

That the Standing Senate Committee on National Finance be authorized to examine and report on the Minister of Finance's proposed changes to the *Income Tax Act* respecting the taxation of private corporations and the tax planning strategies involved, in particular:

- income sprinkling,
- holding passive investments inside a private corporation, and
- converting income into capital gains;

That the committee take particular note of the impact of the Government's proposed changes on:

- incorporated small businesses and professionals,
- economic growth and government finances,
- the fairness of the taxation of different types of income, and
- other related matters; and

That the committee submit its final report to the Senate no later than November 30, 2017, and retain all powers necessary to publicize its findings for 180 days after presenting the final report.

She said: Honourable senators, I rise with some comments on this matter.

Our Senate National Finance Committee has been quite attentive and aware of the magnitude and the enormity of the project that the Government of Canada has undertaken. Normally, our chairman of the National Finance Committee, Senator Mockler, would be with us today, but he is not because he is attending to some health problems, in particular with his back.

But in his place I will give some insights, some ideas and some reasons why the Senate National Finance Committee has seen fit and thought fit to do a study into these questions.

It is fair to say that the entire country is well aware — and I would say fully expectant — of Minister Morneau's announcements and decisions on tax reform. I also note that Minister Morneau has expressed enthusiasm for Senate committees' interests and study.

I would like to refer to a particular letter. As you can see, Senator Harder, I have been reading your answers in Question Period on Tuesday, September 19, and I thought they were very thoughtful and apt.

Honourable senators, our committee has noted with some care that Minister Morneau has presented a very open face and a listening air to the concerns of Canadians. I have observed that the Senate Government Leader, Senator Harder, has noted in his remarks on September 19, a letter from Minister Morneau to Senator Black, who is a member of the Banking Committee.

I would like to record the Minister Morneau's letter to Senator Black.

• (1550)

Mr. Morneau wrote:

Dear Senator Black:

Thank you for your correspondence of August 17, 2017.

I appreciate you taking the time to share your perspective on our *Tax Planning Using Private Corporations* paper. As you are aware, we are in the process of consulting Canadians and value the input of the Senate.

This letter is very important. The Minister of Finance — this is a very important portfolio — is saying that he values and wants the input of the Senate. Mr. Morneau continued:

I would welcome a Senate study on the subject. I would also look forward to an opportunity to appear in front of a Senate committee of the Senate's choosing at the earliest convenience.

Thank you for writing.

Best regards,

The Honourable Bill Morneau, P.C., M.P.

Honourable senators, I also want to note that this Senate views its work and will view its work and its study on this vital issue of tax reform as a form of giving respect to the minister and also of assisting the minister in his most difficult and challenging work.

What the minister is attempting to do — and I laud it and I admire it — is to consult with Canadians to determine their wishes, their thinking, their hopes and their expectations of tax reform.

Tax reform is a hefty responsibility and a most difficult job under the best of conditions. I note that our Senate committee has discussed these questions, and has been encouraged and uplifted by Minister Morneau's response to Senator Black, and also by Senator Harder's answers to senators in Question Period, on September 19 last.

Honourable senators, I shall record here Government Representative Senator Harder's remarks, so as to have an insight into the quality of leadership that Senator Harder has offered us here in the Senate. I have known Senator Harder for many years before he was a senator.

Honourable senators, this week, on September 19, in debate here, Senator Harder responded to questions, one of which was from Senator Smith. Senator Harder said the following. I shall record his words, that:

I thank the honourable senator for his question. Not only am I disposed to having the Senate examine the proposals that are being consulted on but also I would like to indicate to all honourable senators that the Minister of Finance has responded to a letter from Senator Black, copied to Senator Tkachuk as Chair of the Banking Committee, and has indicated his support for the Senate to initiate what the Senate feels it wishes to do with regard to consulting Canadians on this set of proposals. The minister has assured the senators — and I pass on that assurance — that he is prepared to participate in those hearings and urges us, as the Senate, to do so as quickly as possible.

Honourable senators, this means now. Senator Harder continued:

Yes, senator, the government would encourage the Senate to exercise its sober reflection on the consultations and to provide its input in a timely fashion. I do think it's not up to me — or during Question Period — to determine which committee it should be. That is probably a conversation best left to the usual channels. However, I think it's important for us, on this first day back, to signal that the Senate of Canada is open to conducting its sober reflection on this important issue of tax fairness.

Honourable senators, I think it is fair to say that the task that has been undertaken by this government is probably the largest and perhaps most complete and detailed attempt at tax reform, at least since the 1970s.

Senator Harder, you have been around government for a long time; you will know exactly the year.

This task is one that I would describe as being of considerable enormity and magnitude. For the most part, the public cannot always fathom the quantum and sums of money involved in the public expenditure — the national finance that we call the public finance. These forthcoming tax changes will probably be the largest and most complete tax changes ever.

Honourable senators, when our Senate National Finance Committee started to raise this issue with its members, we discovered that we senators felt a sense of duty to be a good Senate committee, in terms of meeting with the public, and, when necessary, to give Minister Morneau an important forum to speak before us in our committee.

Colleagues, having said that, I must tell you that I belong to that group of senators who saw Senator Allan J. MacEachen as something of a god. My heart broke — he was 96 — but I was still very sad when he passed away a few days ago. I remember him, ever insisting that this Senate has a duty to inform the public of pressing government initiatives. We senators have a duty to use our powers of inquisition, our powers of inquiry, to examine these important matters so as to bring the public closer to the working of government and its actions.

Honourable senators, there is something about taxing and new tax measures that will always invite a high degree of interest from Canadians. The government expenditure numbers intimidate citizens. When I make statements, as I do quite often, such as, "I reviewed an appropriation act yesterday and it was for \$50 billion," or "the government is seeking \$250 billion," most people are surprised. But I do think that one of the most wonderful things that the Senate can do for this country would be to take its National Finance Committee into some of the regions — Newfoundland, for example — where many wish to know but their access to information is not as great as those of us in the golden triangle — basically Toronto, Ottawa and Montreal.

Honourable senators, to that extent, I urge you to support this motion knowing that the committee chair, Senator Mockler, and I, the deputy chair, and the committee members will act in a way that the Senate would be very proud of.

I thank you. I think Senator Day had a question.

The Hon. the Speaker: Senator Day, question?

Hon. Joseph A. Day (Leader of the Senate Liberals): Would the honourable senator accept a question or two or three?

Senator Cools: Absolutely. I might have answered your question but continue.

Senator Day: We had a brief discussion on this, but I think it's important that we share our questions with the chamber as a whole.

The first question I have is just a confirmation from you as to the fact that this motion was just filed today and delivered to us five minutes ago. Is there some reason why you're acting in such haste that we haven't had a chance to consider this matter?

Senator Cools: Well, I do not think we are acting in haste. As a matter of fact, just a moment ago Senator Ringuette suggested to me that we started too late. So I do not think the committee is acting in haste.

The National Finance Committee has some new members, such as Senator Woo, but there are also long-serving members, like Senator Mockler and myself. But I do not think there is one of us you could ever accuse of acting in a hasty or reckless manner. I do not think it is part of our nature to do so.

Senator Mockler is a senator from New Brunswick, which is a lovely and beautiful part of Canada, but it has always been afflicted by poverty. More than other parts of Canada. I like the idea of taking our Senate committees into these parts of the country that are not fast-moving, overwhelming big cities that we are used to.

I recognize your caution about this committee. I can assure you that caution is always a good thing, and a desirable thing. However, I can also assure you that my approach to the subject matter will be more cautious than your cautious concerns because I understand what is at stake in this country, Canada, at this present time. Tax reform is a large and trying issue.

I have had the experience of serving in this place for almost 34 years. In the early 1990s, I served on the Senate Committee on the Goods and Services Tax when we went across the country, both sides of the country. I understood there, once and for all, the concerns that Canadians have, and the fears that they develop when there are major changes proposed by the government, changes that they do not fully understand, because no one has put these difficult issues fairly and squarely before them.

• (1600)

Honourable senators, these are some of the thoughts of our Senate National Finance Committee. Senator Day, you served on this committee with me for many years.

I think you can admit that I am probably one of the most reliable people to have walked through the halls of this place. Senator MacEachen used to tell me that frequently.

Senator Day, you need not be concerned. The order of reference that we seek from this Senate is a wise one, and a necessary one. Quite frankly I think our committee work will enhance and assist the work of Minister Morneau and the Government of Canada.

Senator Day: Thank you. I'm not sure that I heard an answer in there. Perhaps my question wasn't as direct as I could have made it. We have a rule in the Senate that you give notice, and then, at the next sitting, we deal with a motion. In this instance, you're asking to deal with this motion out of that. In other words, please change the rules and deal with this motion expeditiously. I'm asking why it was necessary to do so.

Senator Cools: The answer is much simpler and more uncomplicated than you think, for the simple reason that the committee's staff are aware that Minister Morneau's consultations are ending on October 2 and are eager to be able to

get things moving soon. They can do little until we have an order of reference. They can take no action. I think their concerns are fair and just. October 2, Senator Day, is right around the corner.

Senator Day: I understand that. I understand that October 2 is just a little over a week away.

Do you propose to study what is being proposed now in consultation or what will be proposed after October 2, when we've been told by Mr. Morneau and by the Prime Minister that there are likely to be changes following the consultation on October 2?

The Hon. the Speaker: Senator Cools, sorry, your time has expired. Are you asking for more time to answer the question?

Senator Cools: Yes, a few minutes.

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

Hon. Senators: Agreed.

Senator Cools: I do not have those fears, Senator Day. If I had, I would not serve as deputy chair of this National Finance Committee. I am convinced that Minister Morneau is interested in Senate input. Clearly, the Canadian public is most interested in our input. I have every confidence that our team of senators will serve judiciously and properly. I am not worried at all about your questions. You can trust me that if anyone acts improperly, I will let them know.

Senator Day: The question is this: Do you intend to study what is being consulted on now or what will be the position of the government after the consultation period ends on October 2?

Senator Cools: As I said to you before, I spent the better part of this morning trying to prepare to get this motion before the Senate because it is hard for us to put our committee's staff to work without a reference. We decided we should seek the reference immediately. I think you understand this very well, Senator Day.

The Hon. the Speaker: Did you have another question that's different from the couple you've already asked?

Senator Day: That I haven't had any answer to?

The Hon. the Speaker: I believe you have your answer from Senator Cools. Whether you're satisfied with that is another matter. You can move the adjournment of the debate, or you can continue asking the same question.

Senator Day: Then perhaps what I'll do is thank Senator Cools and assure her that I have every faith that she will do the best that she can in the interests of the Senate. But I'm not convinced that we're giving this the proper thought that we should.

(On motion of Senator Day, debate adjourned.)

(At 4:05 p.m., the Senate was continued until Tuesday, September 26, 2017, at 2 p.m.)

CONTENTS

Thursday, September 21, 2017

	PAGE		PAGE	
SENATORS' STATEMENTS		National Finance		
World Alzheimer's Day		Notice of Motion to Authorize Committee to Study the		
Hon. Kelvin Kenneth Ogilvie	3718	Minister of Finance's Proposed Changes to the Income Tax		
The Honourable Sharon Carstairs, P.C., C.M.		Act respecting the Taxation of Private Corporations and		
Congratulatory on Investiture into the Order of Canada		the Tax Planning Strategies Involved		
Hon. Jane Cordy	3718	Hon. Anne C. Cools	3722	
Visitors in the Gallery		The Hon. the Speaker		3722
The Hon. the Speaker		3719		
British Columbia Wildfires		QUESTION PERIOD		
Expression of Thanks for Firefighters and First Responders		Finance		
Hon. Yuen Pau Woo	3719	Small Business Tax		
Commemoration of Canada's Role		Hon. Larry W. Smith		3722
in the First World War		Hon. Peter Harder		3722
Hon. Serge Joyal	3719	Justice		
The Honourable Rosa Galvez		Judicial Appointment Process—Court Delays		
Lac-Mégantic Tragedy		Hon. Paul E. McIntyre		3723
International Day of Peace		Hon. Peter Harder		3723
Hon. Marilou McPhedran	3720	National Defence		
		Military Judicial Process		
		Hon. Colin Kenny		3723
		Hon. Peter Harder		3724
		Public Safety		
		Omar Khadr—Settlement Agreement		
		Hon. Denise Batters		3724
		Hon. Peter Harder		3724
ROUTINE PROCEEDINGS		Natural Resources		
Privacy Commissioner		Energy East Pipeline		
2016-17 Annual Report Tabled		Hon. Peter Harder		3726
The Hon. the Speaker	3721	International Trade		
Internal Economy, Budgets and Administration		Canada-European Union Comprehensive Economic and		
Seventeenth Report of Committee Tabled		Trade Agreement		
Hon. Leo Housakos	3721	Hon. Claude Carignan		3726
The Senate		Hon. Peter Harder		3726
Motion to Affect Question Period on September 26, 2017,		ORDERS OF THE DAY		
Adopted		Statistics Act		
Hon. Diane Bellemare	3721	Bill to Amend—Second Reading—Debate Adjourned		
The Hon. the Speaker	3721	Hon. Jane Cordy		3726
The Senate		Hon. Frances Lankin		3729
Notice of Motion to Call Upon the Government of Myanmar		Hon. Yonah Martin		3730
to End Violence and Gross Violations of Human Rights		Distinguished Visitor in the Gallery		
Against Rohingya Muslims		The Hon. the Speaker		3731
Hon. Salma Ataullahjan	3721	Adjournment		
Energy, the Environment and Natural Resources		Motion Adopted		
Notice of Motion to Authorize Committee to Extend Date of		Hon. Diane Bellemare		3731
Final Report on Study of the Effects of Transitioning to a		The Hon. the Speaker		3731
Low Carbon Economy				
Hon. Richard Neufeld	3722			

CONTENTS

Thursday, September 21, 2017

	PAGE		PAGE
Judicial Accountability through Sexual Assault Law Training Bill		Motion to Amend Rule 12-7 of the Rules of the Senate— Debate Continued	
Bill to Amend—Second Reading—Debate Continued		Hon. Diane Bellemare	3736
Hon. André Pratte	3731		
Hon. A. Raynell Andreychuk	3733		
The Hon. the Speaker	3733		
Scrutiny of Regulations		Trans Canada Trail	
Second Report of Committee and Request for Government		History, Benefits and Challenges—Inquiry—Debate Continued	
Response Adopted		Hon. Joseph A. Day	3739
Hon. Joseph A. Day	3734		
Hon. Joan Fraser	3735		
The Hon. the Speaker	3735		
Scrutiny of Regulations		National Finance	
Third Report of Committee and Request for Government		Motion to Authorize Committee to Study the Minister of Finance’s Proposed Changes to the Income Tax Act respecting the Taxation of Private Corporations and the Tax Planning Strategies Involved—Debate Adjourned	
Response Adopted		Hon. Anne C. Cools	3739
Hon. Joseph A. Day	3735	The Hon. the Speaker	3740
The Hon. the Speaker	3736	Hon. Joseph A. Day	3740
The Senate			
Motion to Encourage the Government to Make Provision in the Budget for the Creation of the Canadian Infrastructure Oversight and Best Practices Council—Debate Continued			
Hon. Donald Neil Plett	3736		