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(HANSARD)

Tuesday, November 7, 2017

The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Tuesday, November 7, 2017

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

Prayers.

[*Translation*]

VICTIMS OF TRAGEDY

SUTHERLAND SPRINGS—SILENT TRIBUTE

The Hon. the Speaker: Honourable senators, I would like to take a moment to acknowledge a senseless act of violence committed Sunday in Sutherland Springs, Texas.

[*English*]

The lives of 26 people, including a number of children, were tragically taken and at least 20 people were injured.

I now invite honourable senators to rise for a moment of silence in memory of the victims.

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

SENATORS' STATEMENTS

THE SENATE

ONE HUNDRED AND FIFTIETH ANNIVERSARY OF FIRST SITTING

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, Canada's sesquicentennial provides an opportunity and an important landmark to look back and consider how well Parliament has, over 150 years, abided by the principles of peace, order and good government — the very ideals at the foundation of our Confederation. Many may say very well indeed.

The panoramic view of Canada shows a country with strong democratic roots peacefully growing stronger. But if one looks more closely, one can see that democracy has always been a work in progress. Consider our Founding Fathers. However well-meaning their intentions, they were, as their name suggests, a rather exclusive group. But they did create a framework for a nation where change could take place.

In the last 150 years, we can see many changes that have made Canada more inclusive and democratic. But that transition was — and still is — not easy.

[*Translation*]

Every day, as we enter this chamber, we pass the busts of James Gladstone, the first aboriginal senator, Marianna Jodoin, the first francophone woman appointed to the Senate, and Cairine Wilson, the first female senator. Their position near the entrance to the Senate is no coincidence. These busts are placed there to remind us that the Senate's role in Canada's Parliament is to fight for justice, inclusion, and minority representation.

Back in 1867, minority representation primarily meant representing sparsely populated regions. Over the years, our vision of the notion has expanded to encompass people who are excluded based on gender, language, religion, ethnicity, or gender identity or expression.

[*English*]

Canada's democracy has been strengthened by a Senate that, with a strong voice, calls the attention of the elected house and all Canadians to issues or consequences of legislation that sober second reflection has brought to light. The nature of the Senate also means that we can strengthen democracy by complementing the work of the other place by taking a longer view, unhindered by shorter-term electoral priorities.

Senators, over my career I've often been inspired by the words of Karl Reinhold Niebhur, an American-German theologian who wrote:

> Man's capacity for justice makes democracy possible, but man's inclination to injustice makes democracy necessary.

On this very special day, let us celebrate the capacity of all Canadians, women and men, for justice. Let us be proud as parliamentarians of a democracy that evolves in the service of Canadians and in the service of justice. For the arc of history is long, but it does bend towards justice.

[*Translation*]

Hon. Larry W. Smith (Leader of the Opposition): Honourable senators, thanks to this chamber, Canada is internationally renowned for its excellent system of government, commonly referred to as "stable government." The fact that we have maintained this reputation for 150 years shows that when it comes to change, it is best to err on the side of caution.

[*English*]

Since 2015, there has been continuous pressure to change the system, with the creation of new constructs, groups, titles and a fundamental disregard for the traditions that have served our country well for 150 years.

I want to take time to pay special tribute to the key personnel who have worked in the Senate for decades over the last 150 years and for those who today carry the institutional knowledge to guide our deliberations. I respect that our Clerk of the Senate,

principal clerk, committee clerks and table officers, together with our legal counsel and Black Rod, have worked diligently during this time of constant pressure to forge new rules and change conventions.

After spending nearly seven years in the chamber, I am profoundly grateful for the pride and honour which I have seen in the administration of the Senate as they strive to impart the deeply held traditions of Parliament. We need to take this day to reflect on how the rules and procedures preserve the democracy that this great country enjoys today. We need to congratulate the keepers of our institutional knowledge and encourage them to be firm in the insistence that traditions remain.

The future of our system is no longer certain, and I would caution those who press to have the Rules changed under the guise of modernization. There has been pressure to remove the process of adjourning debate to move to a committee that would pre-decide on the schedule of debate. I would argue that this is an affront to democracy that removes the privilege of the public to interact with parliamentarians, where hearing debate they have the opportunity to reach out and comment on debate and change the timelines of such debate. Equally, it removes the privilege of parliamentarians to join a debate spontaneously and embark on further research — a privilege which our current system protects.

• (1410)

Debate in Parliament is fundamental to our democracy. An effective legislative process requires equal parts promotion and opposition. Every piece of legislation is improved by the process of review and criticism; when we adequately challenge the bills that come before us, I am certain you would all agree, our chamber puts forth better legislation. Our Westminster system is structured to ensure that the rules of debate deliver the sober second thought we strive for in the service of all Canadians.

We celebrate the 150 years that this Westminster system in Canada represents, and we salute its next 150 years.

Hon. Yuen Pau Woo: Honourable colleagues, I rise today to commemorate the one hundred and fiftieth anniversary of the first sitting of the Senate of Canada. This anniversary is a timely reminder of the role that the upper chamber played in forging Canada's nationhood, as well as an opportunity to underscore the continued importance of the institution for generations to come.

Unlike the House of Commons, the very foundation of the Senate is built on a notion of independence. Our core mandate, which is the critical review of legislation and the study of issues of national importance, is made possible by insulating our deliberations from the short-term calculation of electoral politics that are inherent in the lower chamber. As former Senator Arthur Roebuck said in 1951:

> We are a judicial body, and in my humble judgment we have lived up to that role with a fair degree of continuity throughout the years, viewing measures before us in an independent and more or less detached way, the one big thought in our minds being the effect of the proposed legislation upon the Canada of which we are proud to be citizens.

The creation of the Senate was of course a key enabler of Confederation. As we well know, the Senate sought to give greater representation to those regions of Canada which, due to their smaller population at that time, held fewer seats in the House of Commons. In my own province of British Columbia, the Senate's work to finalize the agreement for the creation of the Canadian Pacific Railway was the reason B.C. joined Confederation in 1871. The railway, and British Columbia's membership in Confederation, is the reason for our country's motto, "from sea to sea." But the railway was also about connecting Canada to the Pacific Ocean and to the countries in Asia, such as Japan, China and other parts of the region.

Indeed, Canada's connections with Asia are as old as Confederation itself, and the flow of people from across the Pacific has been a defining feature of this country for more than 150 years. I am proud to be part of an institution that resisted the worst of government policies to discriminate against Asian Canadians. From the 1880s on, there were spirited debates in Parliament on actions to discriminate against Chinese Canadians and Chinese migrants, leading up to the notorious 1923 Chinese exclusion act.

Colleagues, it was here in the Senate that independence of thought and the defence of minorities held strong. Many senators spoke out against and were outraged by the restrictions put on Chinese immigration and repressive measures such as the head tax. As former Senator James Dever stated:

> We, who pride ourselves on the freedom of our institutions, and the abolition of slavery in the United States, and who fancy we are going over the world with our lamp in our hand shedding light and lustre wherever we go — that we should become slave-drivers, and prohibit strangers from coming to our hospitable shore because they are of a different colour and have a different language and habits from ourselves, in deference to the feelings of a few people from British Columbia, is a thing I cannot understand.

As senator 942 in our chamber's 150-year history, I am humbled and honoured to follow in the footsteps of so many of our forebears who have upheld the fundamental importance of an independent Senate, standing up for minorities and representing the regions we hail from, and acting in the long-term interests of the country. The best is yet to come.

[*Translation*]

Hon. Serge Joyal: Honourable senators, it is a privilege to rise today to mark the 150th anniversary of the first sitting of the Senate, which took place on November 6, 1867.

The Canada of today is much different than the Canada of 150 years ago. It is a country that knows no equal in the western world. We owe that to our founders' spirit of compromise and to the special role that the Senate played in our country's evolution. That is what I would like to talk to you about and celebrate with you all today.

In 1864, Canada's founders were seeking to build one large country, while respecting the rights of the two major linguistic communities and each region's desire to continue to grow based on its own unique identity. They agreed to form a federation

where issues of common interest would be dealt with centrally but where each province would retain its ability to grow by making some of its own decisions and maintaining its own regional identity.

[*English*]

Canada was born not out of an ideology or a grand scheme or a war or civil strife. It was essentially the result of a pragmatic approach to resolve the unification of two linguistic communities and of different regions with various levels of wealth and aspiration to create a larger country.

It is the Senate that was entrusted with the responsibility of having regional voices heard at the centre of government and with speaking on behalf of its minorities so that they would not be swamped under the weight of the majorities. In other words, it is in the Senate that the federal principle was enshrined, and it is for this reason that it was given legislative power equal to that of the House of Commons in the enactment of legislation.

The Senate has played a core role in the building of Canada. On two separate occasions, in 1980 and in 2014, the Supreme Court of Canada confirmed and underlined the unique role of our chamber in our system of government.

Honourable senators, we should never forget the oath of office that each of us subscribed to before taking our seat, that is, speaking on behalf of its region and the linguistic and cultural minorities that characterize our national social fabric. This responsibility was widened and confirmed in 1982 with the adoption of the Charter of Rights.

Rights and freedoms of Canadians and of Aboriginal peoples are always better guaranteed when the Senate uses its independent thinking to evaluate the impact of government legislation on those who have lower voices or lower capacities to have their interests and expectations valued by the majority.

As long as the Senate fulfills its constitutional duty, Canada will continue to thrive and remain a beacon of liberty and equal dignity for all.

This is what the medal, issued on the one hundred and fiftieth anniversary of the Senate, is intended to celebrate, that is, the essential link of the Senate to the success of Canada as a federal country.

May this anniversary be one among many more to come on the path of a more humanistic and democratic world.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of François Caron-Melançon and Rebecca Gasarabwe. They are the guests of the Honourable Senator Gold.

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

Hon. Senators: Hear, hear!

[*Translation*]

ENSEMBLE FOR THE RESPECT OF DIVERSITY

Hon. Marc Gold: Honourable senators, Canada is not defined by its geography alone, even though it has been instrumental in making us who we are today. Canada is also defined by the principle and values that are an integral part of its legal and political institutions, namely, equality, pluralism, and respect for diversity.

We should be proud, rather, I should say that we should feel privileged to live in a country that gives priority to these values and is guided by these great principles in dealing with past injustices and those that still haunt us today. This is particularly important in the current context as we witness the rise of antidemocratic values and the erosion of the principles that we hold dear around the world and ever closer to home.

• (1420)

The global situation reminds us that our democratic values and principles are fragile and must not be taken for granted. In fact, what keeps our democratic institutions strong is the people's desire and ability to participate in the activities of those institutions.

That is why kindling young people's interest in civic affairs is essential. We have to listen to them, give them opportunities to express themselves, and help them acquire the tools they need to live in an increasingly diverse and demanding world. We also have to work with them to help them understand the consequences of their actions — and their inaction — as citizens and to teach them about the political and legal institutions at the heart of Canada's constitutional system.

[*English*]

I want to take these few minutes to introduce you to a wonderful organization with which I've had the privilege of working for almost 20 years, and indeed of chairing for 10 years in the past, l'ENSEMBLE pour le respect de la diversité, for what I described to you earlier about our obligation to ourselves and to our youth is exactly what ENSEMBLE does and is about.

It was founded in Montreal in 1996 and then known as The Tolerance Foundation. It became its work in the French-language high schools of Quebec, putting on interactive, multimedia workshops addressing issues of prejudice, discrimination and indeed genocide.

As it grew, it began to work in the English-language network and added additional workshops in both French and English on bullying, as well as specialized programs on sexism, homophobia, racism and colonialism, and most recently on the subject of deradicalization.

I am especially proud of the work that ENSEMBLE is doing with indigenous communities. Starting with the Atikamekw community in Manawan, Quebec some years ago, ENSEMBLE will be doing workshops in a number of Cree, Innu and Algonquin communities during this current school year.

ENSEMBLE has also expanded its reach beyond Quebec. Thanks to both public and private support, it now offers workshops and programs across the country, often though not exclusively in partnership with the French-language school systems in the provinces. For example, this year our teams of animators are working with students in Nova Scotia —

The Hon. the Speaker: Sorry, Senator Gold. You have 10 seconds to wind up. You are well over your time.

Senator Gold: I am very proud. I invite you all to join me and meet some of the animators today, here in Centre Block, room 238-S, at 5 p.m.

SENATE COMMEMORATIVE MEDAL

Hon. David M. Wells: Honourable senators, I rise to honour history and hard work. Yesterday at the National Press Theatre, I and our colleagues the Honourable Senators Joyal, P.C., Bovey and Unger were pleased to announce the Senate 150th Commemorative Medal. The Senate had decided to strike a Senate medal after the federal government decided not to create a sesquicentennial medal of its own. Many senators felt strongly to recognize selfless individuals from coast to coast to coast who continually strive to make our communities and nation better. The medal is also meant to recognize the Senate's 150 years of service as a chamber of sober second thought and a catalyst of ideas and legislative review.

The Senate unites a diverse group of accomplished Canadians in service to their country. However, today and over the next year senators will be awarding commemorative medals to many extraordinary Canadians. We are using the occasion of Canada's one hundred and fiftieth birthday, its sesquicentennial, to recognize the incredible Canadians whose contributions, volunteer efforts and dedication to their local communities help to make our country a better place.

Choosing recipients was not an easy task as so many Canadians are deeply involved in their communities and who, through generosity, dedication, volunteerism and hard work, make their hometown, community, region, province or territory a better place. I echo the words of Senator Unger at yesterday's press conference when she said she would like to be able to present this award to all of her province's volunteers.

When I reached out to my nominees, some were brought to tears and all were genuinely surprised that they were chosen to receive such an honour. My nominees come from different walks of life but all have made significant contributions to their communities. I will highlight three.

Patrick Hickey is an undergrad student who has been a champion for mental health since he was in high school. First organizing a school-wide event on mental wellness, he later founded the Metro Youth Mental Health Committee, a student group with representatives from all 13 high schools in the St. John's area. He has served on advisory committees for Kids Help Phone, Movember Foundation, as well as the Minister of Health and Community Services Advisory Committee on Mental Health and Addictions. Mr. Hickey told me the first step is simply being an everyday mental health champion.

Sam and Pearl King of Deer Lake saw the need to feed the hungry of their community. They first started by feeding the children of Elwood Elementary through the school breakfast program. In 1996, they began operation of a food bank from their basement. They did this for 15 years.

They later moved into a building with volunteers and a volunteer board of directors and continue feeding those in need in their communities. Now in their eighties, their greatest legacy is what they have built and others will continue.

Brenda Jeddore is a teacher from the south coast of Newfoundland in the First Nations community of Conne River. Ms. Jeddore accepted her first teaching position there, teaching Grade 1 and music. Throughout her many years in Conne River she has been involved in the traditional ceremonies, especially with respect to drumming and chanting. She has learned the Mi'kmaq language from community elders and today works with Mi'kmaq linguists to ensure the Mi'kmaq language is utilized in the music program she began.

Honourable senators, although there are countless worthy Canadians, I am happy that the Senate has chosen to honour the many deserving Canadians and all their efforts to make our communities and our country great.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of a group of fourteen African Nova Scotian women called the Young Women of Excellence from East Preston United Baptist Church, led by Pastor LeQuita Porter. They are accompanied by George Bernard, husband of Senator Bernard, and are the guests of the Honourable Senator Bernard.

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

Hon. Senators: Hear, hear!

NOVA SCOTIA

EAST PRESTON UNITED BAPTIST CHURCH— YOUNG WOMEN OF EXCELLENCE

Hon. Wanda Thomas Bernard: I'm sure that you all know, my colleagues, the place of Nova Scotia in Canadian history. But, honourable senators, I rise today to tell you a bit about the Black community of East Preston.

Settled as one of the segregated communities in the 1700s and 1800s, East Preston is a community that has been marginalized by systemic racism through history, but I am privileged today to have with me a group of the Young Women of Excellence of the East Preston United Baptist Church. Led by their Pastor, LeQuita Porter, East Preston United Baptist Church celebrated 175 years just this past September. Given our 150 years in Parliament, for this group to be the first group of Black Nova Scotians to claim their space here in the Senate of Canada gives me a sense of

pride that's hard to even articulate. I want to thank you for giving me the opportunity to speak their names into the records of this great institution.

The Young Women of Excellence are — and I will ask them to stand as I call their names — Adrionna Brooks, Tanamya Brooks, Jalisa Colley, Senai Colley, Hailey Diggs, Marguerite Dunkley, Janaysha Hum, Nylita Grant, Rokeesha Grant, Santia Grant, Kahlyn McIntyre, Beyonca Payne, Andrea Thomas and Kendra Slawter.

• (1430)

They are supported by a wonderful group of chaperones, whom I call mentors, who are here with them: Melinda Diggs, Margaret Fraser, Maxine Maxwell, Reverend Dr. Joyce Ross, Tamara Thomas and their organizer, Pastor LeQuita Porter.

And the one man in the group, my personal paparazzi, George Bernard, who has come along to take photographs for us as a volunteer.

Thank you for this opportunity. Thank you for such a warm welcome to the Young Women of Excellence from East Preston here celebrating history with us. Thank you.

ROUTINE PROCEEDINGS

PARLIAMENTARY BUDGET OFFICER

SUPPLEMENTARY ESTIMATES (B), 2017-18—REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the report of the Office of the Parliamentary Budget Officer entitled *Supplementary Estimates (B), 2017-18*, pursuant to the *Parliament of Canada Act*, R.S.C. 1985, c. P-1, sbs. 79.2(2).

[*Translation*]

INDIAN ACT

AN ASSESSMENT OF THE POPULATION IMPACTS OF SELECT HYPOTHETICAL AMENDMENTS TO SECTION 6 OF THE INDIAN ACT—DOCUMENT TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, a document entitled "*An Assessment of the Population Impacts of Select Hypothetical Amendments to Section 6 of the* Indian Act".

NATIONAL DEFENCE AND CANADIAN FORCES OMBUDSMAN

2016-17 ANNUAL REPORT TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the 2016-17 Annual Report for the Office of the Ombudsman for the Department of National Defence and the Canadian Forces.

[*English*]

PARLAMERICAS

GATHERING OF THE PARLIAMENTARY NETWORK ON CLIMATE CHANGE, AUGUST 3-4, 2017—REPORT TABLED

Hon. Tobias C. Enverga, Jr.: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Section of ParlAmericas respecting its participation at the 2nd gathering of the Parliamentary Network on Climate change, held in Panama City, Panama, from August 3 and 4, 2017.

QUESTION PERIOD

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, pursuant to the motion adopted in this chamber Thursday, November 2, 2017, Question Period will take place at 3:30 p.m.

[*Translation*]

ANSWER TO ORDER PAPER QUESTION TABLED

JUSTICE—ONLINE PUBLIC OPINION RESEARCH SURVEY ON THE PENAL JUSTICE SYSTEM

Hon. Peter Harder (Government Representative in the Senate): tabled the reply to Question No. 56, dated October 3, 2017, appearing on the *Order Paper and Notice Paper* in the name of the Honourable Senator Boisvenu, respecting a poll conducted on behalf of the Department of Justice.

[*English*]

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table the answers to the following oral questions: the response to the oral question of September 20, 2017, by the Honourable Senator Downe, concerning public safety and cybersecurity; the response

to the oral question of September 21, 2017, by the Honourable Senator Kenny, concerning national defence and the military judicial process; the response to the oral question of October 5, 2017, by the Honourable Senator Wallin, concerning health and advance directives; and the response to the oral question of October 19, 2017, by the Honourable Senator Dyck, concerning indigenous and northern affairs and amendments to the Indian Act.

PUBLIC SAFETY

CYBERSECURITY

(*Response to question raised by the Honourable Percy E. Downe on September 20, 2017*)

- The Government of Canada takes the issues of Canadians' privacy and protecting their private information very seriously and is taking action.
- The Minister of Innovation, Science and Economic Development (ISED) is responsible for *Personal Information Protection and Electronic Document Act* (PIPEDA), Canada's privacy law for private sector organizations.
- Private sector organizations operating in Canada are subject to PIPEDA and are responsible for protecting personal information that is in their custody regardless of its physical location.
- ISED recently published amendments to PIPEDA that look to empower consumers and encourage businesses to have better security practices.
- Once in force, these regulations will impose new legal requirements on companies to proactively disclose any material breaches.
- They are based on internationally recognized principles, such as the need for meaningful consent, transparency, and accountability.
- With regard the recent data security breach at Equifax, Equifax Canada confirmed a cyberattack that resulted in data security breach may have also included Canadian consumers.
- They have publically communicated that they will be notifying impacted consumers via mail directly, and working with the Privacy Commissioner.
- The Government understands, the Privacy Commissioner has asked Equifax Canada to provide a full report on its security breach, including details on how Canadians were affected.
- ISED is closely monitoring the situation.

NATIONAL DEFENCE

MILITARY JUDICIAL PROCESS

(*Response to question raised by the Honourable Colin Kenny on September 21, 2017*)

Canada's military justice system is a separate and parallel system of justice that forms an integral part of Canada's legal mosaic. It shares many of the same underlying principles with the civilian criminal justice system, and is subject to the same constitutional framework including the *Charter*. The Supreme Court directly addressed the importance of a separate and distinct military justice system to meet the needs of the Canadian Armed Forces on various occasions.

Operational effectiveness depends on the ability of its leadership to instill and maintain discipline. The particular need for discipline is a key part the system's *raison d'être*. Summary trials allow for less serious service offences to be tried quickly and efficiently at the unit level.

The Honourable Patrick LeSage, former Chief Justice of the Ontario Superior Court, was appointed by the Minister of National Defence to conduct an independent review of the *National Defence Act*. This review followed the work of two former Chief Justices of the Supreme Court, Brian Dickson and Antonio Lamer. In his review, Chief Justice LeSage stated, "the summary trial system is vital to the maintenance of discipline at the unit level and therefore essential to the life and death work the military performs on a daily basis".

HEALTH

ADVANCE DIRECTIVES

(*Response to question raised by the Honourable Pamela Wallin on October 5, 2017*)

In December 2016, the Government initiated independent reviews on medical assistance in dying (MAID) in three complex circumstances: requests by mature minors, advance requests and requests where mental illness is the sole underlying medical condition. The Council of Canadian Academies (CCA), an independent, not-for-profit organization that undertakes evidence-based, expert assessments to support and inform public policy development in Canada, was engaged to conduct these reviews.

The CCA created an Expert Panel comprised of 44 individuals with expertise in law, medicine, ethics, social sciences, and health sciences, among other disciplines. The Panel's three Working Groups have all met at least once and will meet again in November 2017. They will review the existing evidence and identify where additional evidence or information needs to be collected to inform the final reports.

The Expert Panel also invited written submissions from Canadian groups that have been impacted by the issues under review, with October 6, 2017, being the closing date for submissions.

Final reports will be made available to Parliamentarians and the public by December 2018. The reports will summarize the evidence and information found during the reviews, providing a basis for an informed dialogue among Canadians and decision-makers.

Additional information about the CCA and its Expert Panel on Medical Assistance in Dying can be found at: http://www.scienceadvice.ca/en/assessments/in-progress/medical-assistance-dying.aspx.

INDIGENOUS AND NORTHERN AFFAIRS

AMENDMENTS TO INDIAN ACT

(*Response to question raised by the Honourable Lillian Eva Dyck on October 19, 2017*)

The government has received a revised demographic analysis from Mr. Clatworthy, which includes data for a number of potential scenarios. The total cost of the contract is $23,049.60.

The report includes data from the Indian Register and the 2011 National Household Survey, which both have their limitations. As the Indian Register was originally compiled from treaty or band lists following the 1951 *Indian Act*, many individuals who had been removed from these lists prior to that time (and their descendants) cannot be identified from the Indian Register. The 2011 National Household Survey's data on First Nations ancestry is the best option to provide an order of magnitude of the potential scenarios. However, it remains imprecise because it is subject to shifts in self-declaration over time.

On October 25, 2017, Statistics Canada released the 2016 Census data on Aboriginal peoples. Mr. Clatworthy was contracted by the government to update his demographic analyses using data from the 2016 Census. The total cost of this contract is $4,592.00.

ORDERS OF THE DAY

INDIAN ACT

BILL TO AMEND—AMENDMENTS FROM COMMONS—MOTION TO CONCUR IN FIRST AND THIRD AMENDMENTS AND AMEND SECOND AMENDMENT—DEBATE

The Senate proceeded to consideration of the amendments by the House of Commons to Bill S-3, An Act to amend the Indian Act (elimination of sex-based inequities in registration):

1. *Long title, page 1*: Replace the long title with the following:

   "An Act to amend the Indian Act in response to the Superior Court of Quebec decision in *Descheneaux c. Canada*(Procureur général)"

2. *Clause 2, page 2*: delete lines 5 to 16

3. *Clause 11, page 9*: Replace line 31 with the following:

   "*ter of Rights and Freedoms*, of the United Nations Declaration on the Rights of Indigenous Peoples and, if applicable, of"

Hon. Peter Harder (Government Representative in the Senate) moved:

That the Senate concur in the amendments 1 and 3 made by the House of Commons to Bill S-3, An Act to amend the Indian Act (elimination of sex-based inequities in registration);

That, in lieu of amendment 2, Bill S-3 be amended

(*a*) on page 2, in clause 2, by deleting lines 5 to 16;

(*b*) on page 5, by adding after line 40 the following:

"**2.1 (1) Paragraphs 6(1)(c.01) to (c.2) of the Act are repealed.**

(2) Paragraphs 6(1)(c.4) to (c.6) of the Act are repealed.

(3) Paragraph 6(1)(c) of the Act is renumbered as paragraph (a.1) and is repositioned accordingly.

(4) Paragraph 6(1)(c.3) of the Act is renumbered as paragraph (a.2) and is repositioned accordingly.

(5) Subsection 6(1) of the Act is amended by adding the following after paragraph (a.2):

(a.3) that person is a direct descendant of a person who is, was or would have been entitled to be registered under paragraph (a.1) or (a.2) and

(i) they were born before April 17, 1985, whether or not their parents were married to each other at the time of the birth, or

(ii) they were born after April 16, 1985 and their parents were married to each other at any time before April 17, 1985;

(6) The portion of subsection 6(3) of the Act before paragraph (a) is replaced by the following:

(3) For the purposes of paragraphs (1)(a.3) and (f) and subsection (2),

(7) Paragraph 6(3)(b) of the Act is replaced by the following:

(b) a person who is described in paragraph (1)(a.1), (d), (e) or (f) or subsection (2) and who was no longer living on April 17, 1985 is deemed to be entitled to be registered under that paragraph or subsection; and

(8) Paragraph 6(3)(c) of the Act is repealed.

(9) Paragraph 6(3)(d) of the Act is replaced by the following:

(d) a person who is described in paragraph (1)(a.2) or (a.3) and who was no longer living on the day on which that paragraph came into force is deemed to be entitled to be registered under that paragraph.";

(*c*) on page 7,

(i) by adding after line 26 the following:

"**3.1 (1) Paragraph 11(1)(c) of the Act is replaced by the following:**

(c) that person is entitled to be registered under paragraph 6(1)(a.1) and ceased to be a member of that band by reason of the circumstances set out in that paragraph; or

(2) Paragraphs 11(3)(a) and (a.1) of the Act are replaced by the following:

(a) a person whose name was omitted or deleted from the Indian Register or a Band List in the circumstances set out in paragraph 6(1)(a.1), (d) or (e) and who was no longer living on the first day on which the person would otherwise be entitled to have the person's name entered in the Band List of the band of which the person ceased to be a member is deemed to be entitled to have the person's name so entered;

(a.1) a person who would have been entitled to be registered under paragraph 6(1)(a.2) or (a.3), had they been living on the day on which that paragraph came into force, and who would otherwise have been entitled, on that day, to have their name entered in a Band List, is deemed to be entitled to have their name so entered; and

(3) Paragraphs 11(3.1)(a) to (i) of the Act are replaced by the following:

(a) they are entitled to be registered under paragraph 6(1)(a.2) and their father is entitled to have his name entered in the Band List or, if their father is no longer living, was so entitled at the time of death; or

(b) they are entitled to be registered under paragraph 6(1)(a.3) and one of their parents, grandparents or other ancestors

(i) ceased to be entitled to be a member of that band by reason of the circumstances set out in paragraph 6(1)(a.1), or

(ii) was not entitled to be a member of that band immediately before April 17, 1985.

3.2 Subsections 64.1(1) and (2) of the Act are replaced by the following:

64.1 (1) A person who has received an amount that exceeds $1,000 under paragraph 15(1)(a), as it read immediately before April 17, 1985, or under any former provision of this Act relating to the same subject matter as that paragraph, by reason of ceasing to be a member of a band in the circumstances set out in paragraph 6(1)(a.1), (d) or (e) is not entitled to receive an amount under paragraph 64(1)(a) until such time as the aggregate of all amounts that the person would, but for this subsection, have received under paragraph 64(1)(a) is equal to the amount by which the amount that the person received under paragraph 15(1)(a), as it read immediately before April 17, 1985, or under any former provision of this Act relating to the same subject matter as that paragraph, exceeds $1,000, together with any interest.

(2) If the council of a band makes a by-law under paragraph 81(1)(p.4) bringing this subsection into effect, a person who has received an amount that exceeds $1,000 under paragraph 15(1)(a), as it read immediately before April 17, 1985, or under any former provision of this Act relating to the same subject matter as that paragraph, by reason of ceasing to be a member of the band in the circumstances set out in paragraph 6(1)(a.1), (d) or (e) is not entitled to receive any benefit afforded to members of the band as individuals as a result of the expenditure of Indian moneys under paragraphs 64(1)(b) to (k), subsection 66(1) or subsection 69(1) until the amount by which the amount so received exceeds $1,000, together with any interest, has been repaid to the band.",

(ii) in clause 4, by replacing line 34 with the following:

"**10.1 have the same meaning as in the *Indian Act*.**", and

(iii) in clause 5, by replacing lines 37 and 38 with the following:

"**order referred to in subsection 15(1) is made.**";

(*d*) on page 8, in clause 7, by replacing lines 13 and 14 with the following:

"**which the order referred to in subsection 15(1) is made, recognize any entitle-**";

(*e*) on page 9,

(i) in clause 10, by replacing line 3 with the following:

"**ly before the day on which this section comes into**", and

(ii) by adding after line 8 the following:

"**10.1 For greater certainty, no person or body has a right to claim or receive any compensation, damages or indemnity from Her Majesty in right of Canada, any employee or agent of Her Majesty in right of Canada, or a council of a band, for anything done or omitted to be done in good faith in the exercise of their powers or the performance of their duties, only because**

(a) a person was not registered, or did not have their name entered in a Band List, immediately before the day on which this section comes into force; and

(b) that person or one of the person's parents, grandparents or other ancestors is entitled to be registered under paragraph 6(1)(a.1), (a.2) or (a.3) of the *Indian Act*."; and

(*f*) on page 11, in clause 15,

(i) by replacing line 26 with the following:

"**15 (1) This Act, other than sections 2.1, 3.1, 3.2 and 10.1, comes into force or is deemed to**", and

(ii) by adding after line 30 the following:

"**(2) Sections 2.1, 3.1, 3.2 and 10.1 come into force on a day to be fixed by order of the Governor in Council, but that day must be after the day fixed under subsection (1).**"; and

That a message be sent to the House of Commons to acquaint that house accordingly.

He said: Honourable senators, I rise today to move a motion in response to the message from the other place in relation to Bill S-3.

• (1440)

At the outset, I would like to thank senators for their patience in this matter.

I would also like to thank the senators, and particularly the indigenous leaders in this chamber, whose commitment to both principle and constructive engagement with government has resulted in today's motion.

I am pleased to announce that the motion before the chamber would enshrine in law the removal of all gender discrimination in the Indian Act.

Hon. Senators: Hear, hear!

Senator Harder: At the same time, the government will meet its commitment to consult on implementation by bringing into force the clause dealing with the 1951 cut-off after the conclusion of consultations co-designed with indigenous groups and affected individuals. These consultations will begin early next year as part of a comprehensive plan for the implementation, and I will share with you some details of the plan in a moment.

[*Translation*]

As Government Representative in the Senate, I would like to say that this motion reflects a government that listens to Canadians and is committed to truth and reconciliation. This motion is also the result of the work done by this chamber, which fulfilled its parliamentary duties of complementarity, representing minorities, and protecting Charter values.

[*English*]

How did we get here? In considering the motion before us, it might be useful to review the events that brought us here.

Last fall, in direct response to the decision of the Superior Court of Quebec in the case of *Descheneaux et al.*, the government introduced Bill S-3 here in the Senate. The purpose of this bill was to both remedy the Charter violations found by the court with respect to the plaintiffs' situations as well as address other known sex-based Indian Act registration inequities beyond those found in the specific decision.

As honourable senators are aware, this was done in the context of a court-imposed deadline of February 3, 2017, to deal with the specific sex-based Charter violations found in the *Descheneaux* case.

Given the government's commitment that changes affecting First Nations would be made in partnership and through consultations, and in context of the court-imposed time constraints, alleged non-sex based registration inequities and broader registration and membership reform were to be addressed through broad-based consultations after the passage of Bill S-3.

At the urging of the Standing Senate Committee on Aboriginal Peoples, the government sought and received an extension of the court deadline to July 3 to allow for further engagement on whether additional amendments were needed to address other sex-based inequities in Indian Act registration.

[*Translation*]

Thanks to the hard work of the Standing Senate Committee on Aboriginal Peoples, other senators in this chamber and the witnesses who appeared before the committee, and with the support and cooperation of the government, many improvements were made to Bill S-3.

Several groups that have been affected by gender-based inequality that we were unfamiliar with, were identified by the witnesses at this Senate committee. They were included in the bill thereafter.

[*English*]

The government worked with senators to address the issue of unstated paternity by enshrining additional procedural protections in law through Bill S-3. The bill was also amended to require the government to report back to Parliament on a number of occasions and in a number of ways to update all parliamentarians — and all Canadians — on its progress toward broader Indian Act registration and membership reform.

All of these amendments were welcomed and supported by the government.

The Standing Senate Committee on Aboriginal Peoples also added an amendment to Bill S-3 with the intent of implementing what has become known as the "6(1)(a) all the way approach." The intent of this amendment was to provide entitlement to 6(1)(a) Indian status to all those who had lost status back in 1869 and to all their descendants born prior to 1985.

The amended bill was passed by the Senate with strong support from all sides of this chamber, including the "6(1)(a) all the way" amendment, and referred to the other place.

• (1450)

We received a message from the other place last spring accepting the vast majority of Senate amendments. However, the Senate amendment seeking to implement the 6(1)(a) all the way approach was removed.

In response to ongoing concerns of senators and some other indigenous voices that without that amendment Bill S-3 would still not remove all sex-based inequities in the Indian Act registration, I did not bring the message forward for debate in June.

The government instead sought a further court extension to provide additional time to work with legislators, First Nations and other affected parties to pass the bill in a form that senators could be assured would result in the removal of all sex-based inequities from the registration provisions of the Indian Act.

While the Superior Court of Quebec rejected that application, the Court of Appeal of Quebec granted a further extension until December 22 of this year. The Court of Appeal of Quebec has also strongly suggested this would be the last extension granted.

Last summer, the government also commissioned a demographic analysis regarding various scenarios for a number of potential amendments to Bill S-3.

[*Translation*]

On October 19, I promised in this chamber to share with all senators a demographic analysis prepared to foster the most thorough debates possible. During the course of its study, the government updated the demographic analysis to include 2016 census data on indigenous peoples, which were published on October 25, 2017. I forwarded this updated information to senators yesterday, and it has now been tabled in the Senate.

With today's motion, I have the great pleasure of announcing that the government is committed to working with parliamentarians, First Nations, impacted individuals, and experts to ensure that any gender inequality is removed from the registration provisions of the Indian Act.

[*English*]

With regard to the 1951 cut-off, the government's position has been and continues to be that the current state of the law does not require extending Charter remedies for sex-based Indian Act registration issues back before 1951, which is the year the modern registry came into effect. This reflects the ruling of the B.C. Court of Appeal in the *McIvor* decision and has become commonly known as the 1951 cut-off.

However, the government also believes Charter compliance is the floor, not the ceiling, for action. The government has always acknowledged that there were significant historical Indian Act registration issues which flowed from non-sex-based inequities as well as inequities that related to sex which predated 1951.

In keeping with its commitment to making changes affecting First Nations in partnership, these issues were to be addressed through broad-based consultations on registration and membership issues beginning early next year.

The government also recognizes the understandable and justified skepticism and mistrust of First Nations, particularly First Nation women and parliamentarians, about decades of inaction by governments of all political stripes on these issues, and in particular the 1951 cut-off.

[*Translation*]

Nevertheless, while indigenous and non-indigenous Canadians work to achieve reconciliation, today's motion represents a big step in the right direction. It represents progress with respect to the principle it enshrines in law and the dialogue it facilitated, as well as the implementation plan and other reconciliation efforts.

As Senator Christmas and Minister Wilson-Raybould recently said in this chamber, we have much work to do as a country. Senators can and must show leadership, as they most certainly did when developing this bill.

[*English*]

Honourable senators, with respect to Bill S-3, the government has listened to the arguments put forward by the Senate, as well as some other indigenous voices, and it is now proposing to amend the current bill to deal with the 1951 cut-off.

I am confident that the government-supported amendment to the message will ensure Bill S-3 removes all sex-based inequities from the registration provisions of the Indian Act. The proposed clause would provide 6(1)(a) status to all women who lost status through sex-based inequities and to their descendants born prior to 1985. This includes circumstances prior to 1951 and in fact remedies sex-based inequities back to 1869.

The government is also committed to ensuring this measure is implemented in the right way, in terms of both First Nation communities and individuals who will become entitled to registration.

[*Translation*]

The government made it clear that consultation and partnership are essential prerequisites for any major changes involving First Nations. By proposing the changes in this motion, I think the government has shown that listening is good, but listening and taking action is better.

[*English*]

This approach is in keeping with its commitment to a renewed, respectful relationship, a partnership based on the recognition of rights and to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

Implementation of the 1951 cut-off clause will still require extensive consultations with communities, affected individuals and experts to make sure we get this right.

However, I would emphasize that the government has a clear plan to move forward on implementation.

While the balance of Bill S-3 will be brought into force immediately after Royal Assent, the clause dealing with the 1951 cut-off will be brought into force after the conclusion of co-designed consultations to begin early next year and once a comprehensive plan to address identified issues is developed in partnership to be implemented simultaneously.

Colleagues, let me be clear: These consultations are about how to remove the 1951 cut-off, not whether to do it. Consultations will be focused on identifying additional measures or resources required to do this right and working in partnership to develop a comprehensive implementation plan.

Given the limited value of Indian Register data for individuals who lost status before 1951 and their descendants, census data is the best available information to estimate the potential effects of the proposed amendment.

However, it only provides an indicator of how many people self-reported indigenous ancestry who could potentially apply for Indian registration and is not necessarily reflective of how many would ultimately be found eligible for Indian status.

All senators now have Mr. Clatworthy's updated demographic analysis, which was commissioned by the government. Current estimates of people who could potentially apply for status under these changes range from approximately 750,000 to 1.3 million individuals.

The government is making this demographic data public in the interest of transparency, but it does not believe it is a reliable way to estimate potential effects. It is the government's view that these numbers significantly overestimate the number of individuals who would successfully obtain Indian status.

The limitations of the current demographic projections, even with the additional independent work commissioned over the summer, further underscores the need for meaningful consultation on the best possible implementation plan.

The government will continue to work on further refining current demographic estimates and looks forward to the broad-based consultations on Indian Act registration and membership to begin in early 2018 to assist in this process.

This amendment is a clear and unequivocal statement of the government's commitment to remove the 1951 cut-off regarding sex-based inequities in the Indian Act. Furthermore, the bill contains numerous clauses holding the government accountable to Parliament regarding implementation of this legislation.

The bill requires consultations on implementation of the clause in question as well as a broader Indian Act registration and membership reform to commence within six months of Royal Assent.

I understand those consultations are actually expected to commence in early 2018, and the co-design of those consultations with the First Nations is already under way.

Within five months of Royal Assent, the government is required to report to Parliament on the design of the consultations and how they are progressing and to provide a further update to Parliament within 12 months of Royal Assent. There is also now a three-year review clause in the bill.

• (1500)

Parliament will have numerous enshrined opportunities to hold the government to account on its progress toward removing the 1951 cut-off.

This is a different approach from the Senate "6(1)(a) all the way" amendment as, in keeping with the intended scope of the bill, it is focused exclusively on issues of sex-based inequities in the Indian Act registration. The intent of the previous "6(1)(a) all the way" amendment would have focused on other issues of lost status in addition to sex-based inequities.

In keeping with its commitment to making changes affecting First Nations in partnership and through consultation, other alleged Indian Act registration inequities flowing from non-sex-based circumstances will be addressed through broad-based consultations on registration and membership issues beginning early next year.

In addition to the scope of the "6(1)(a) all the way" amendment, independent legal experts have raised concerns about its drafting, which created significant ambiguity as to its actual effect. The government amendment contemplates and eliminates other contradictory sections of the Indian Act to remove that ambiguity. The government believes this amendment to the message is the best way to enshrine in law the stated principle of Bill S-3 — the elimination of all sex-based inequities in the registration provisions in the Indian Act.

I would also like to take this opportunity to highlight the timelines we face as legislators. The government has made every effort to bring this amended legislation forward as expeditiously as possible, while doing its due diligence in developing the proposed path forward. If we do not have legislation passed before December 22, which addresses the *Descheneaux* decision, the sections struck down by the court will be inoperative in Quebec. Based on the most recent extension decision of the Court of Appeal of Quebec, the government does not believe we should expect the courts to grant a further extension.

The registrar has stated she would not be in a position to register people under provisions found to be non-Charter compliant in Quebec and would also not register individuals under those provisions in the rest of Canada.

Ninety per cent of status Indians are registered under the provisions struck down by the *Descheneaux* decision. We must not lose sight of the thousands of individuals who will not be able to register if the court deadline passes and the provisions noted above become inoperative.

To conclude, I believe the government has listened to the concerns expressed by many senators and of the witnesses at the Senate committee. The amended message, which includes the government's proposed amendment to remove the 1951 cut-off, addresses those concerns and presents us with a bill that lives up to its stated goal, which is the elimination of all sex-based inequities in the registration provisions of the Indian Act.

I again thank all senators whose leadership has contributed to the motion before us, and I urge all senators to support the amended legislation. I urge its adoption before we rise this week.

The Hon. the Speaker: Senator Brazeau, did you have a question or did you wish to speak?

Hon. Patrick Brazeau: I have a question for Senator Harder, please.

Thank you, Senator Harder, for bringing the motion. Obviously, it's a good day for Canada having this government move beyond their original stance with respect to Bill S-3.

You mentioned the census and stats. At the end of the day, I don't think that economic factors should be a justification or an excuse for sex discrimination in the Indian Act.

In terms of implementation, you mentioned a three-year consultation period. Once this bill receives Royal Assent, there will be a consultation period to look at all the sex-based discrimination provisions in the Indian Act. Am I correct to say that that time period is three years?

Senator Harder: It is certainly the hope of the government that it will not take three years.

First of all, large provisions of the bill come into force on the day of Royal Assent. The provision awaiting further consultation is the particular 1951 cut-off. Those consultations begin immediately. There are reporting requirements by the government to report to Parliament at 5 months and at 12 months. So there is ample opportunity for parliamentarians to be aware of the plan and its stated implementation, phasing, et cetera.

Finally, I would like to acknowledge and endorse what you said with respect to these rights, that they ought not be governed by the cost implications, which is why I, in particular, referenced the context of the demographic data. It is not a reliable guide, number one; and number two, I make the commitment on behalf of the government that it is not whether but how to implement. Obviously, the government is making these commitments with the recognition that there are costs involved.

Senator Brazeau: Within the next two years we'll have another federal election. We don't know what will happen with that, if the current government will remain intact or there will be a change in government. Having said that, I'd like to speak to a bit of caution.

When Bill C-31 came into effect in 1985, we were told by the government at that time that there would be a consultation period. That consultation period lasted 25 years, up until 2010.

After the *McIvor* decision in 2010, the former government said we were going to have a consultation period, and it is now seven years later.

It is my personal hope that this could be done before the next federal election. If there's a way for the government to indicate and make clear that it can do so, that would be a great thing.

Senator Harder: Let me simply assure the honourable senator that unlike previous occasions, this bill, this potential act when Royal Assent is granted, requires not only the consultation but also the report back to Parliament at regular intervals.

It is certainly the intention and hope of the government that parliamentarians will remain vigilant to assure the absolute expeditious implementation of this, recognizing that there is appropriate consultation required.

Hon. Serge Joyal: Would the honourable senator entertain another question? My question is a follow-up to Senator Brazeau's question.

First of all, I would like to thank the government for moving ahead and accepting the principle of removing all discrimination, in principle, from the Indian Act. But my concern is twofold.

The government, in this amendment, doesn't commit itself to proclaim on such a date. There is no date, no time limit, per se. The government is committed to consult and report, but the government is not compelled to proclaim.

Why does the government not want to commit to proclaim after, for instance, a period of time of two years, if that is what the government contemplates as being the involvement and the economic and band implications? We all understand that. But if the government is moving forward in good faith, why rely on the role of parliamentarians to push the government instead of the government taking upon itself the responsibility to proclaim?

Senator Harder: It is the government's view that its obligation to consult the affected communities and the Aboriginal people involved in the implementation is best situated in the context of good faith and goodwill, while in the law providing for the assurance that the plan is both public and that parliamentarians, at regular intervals, are given the opportunity to review the performance of the government in the negotiations, as well as other parties. That is the approach being taken by the government, and it's one that I hope finds favour with all senators and members of the other chamber.

Senator Joyal: I will act as a lawyer. If my customer cannot be assured that he or she will get the results that he or she is entitled to in the legislation, then what is the recourse of that customer to compel the government to deliver on this?

Would the honourable senator be of the opinion that then an Indian band would have recourse in court to compel the government to proclaim the legislation since the step taken essentially links to a report to Parliament? Once the lapsing time for reporting is over, do you entertain the conclusion that a band would have the right to go to court and compel the government to act according to the non-discrimination clause recognized in the bill?

• (1510)

Senator Harder: Senator Joyal, unlike you, I'm not a lawyer, so it would be hazardous for me to comment on the legal obligations or legal opportunities.

Let me again repeat that this amendment that I bring forward is not about whether this discrimination ought to end but how we ought to implement. It is in the spirit of moving forward as expeditiously as possible, in full faith and recognizing the consultations that the government is committed to, that the government moves the amendments that I have had the pleasure of bringing forward today.

Hon. Lillian Eva Dyck: Honourable senators, I rise today to speak to the motion tabled by Senator Harder. As you heard as he was reading out the motion, it's a five-page-long motion that's highly technical and complex. I thank Senator Harder for sharing the motion with me earlier so that I could delve into it and be ready to speak to it today.

I don't intend to discuss in detail the technical aspects of the proposed amendments, though I did analyze them carefully with respect to the "6(1)(a) all the way" amendment and its intentions, and I will discuss this aspect briefly.

But before I discuss today's motion, I want to put it into context much like Senator Harder did but in a briefer form.

With respect to the very recent context, as you know, the House of Commons' message essentially asked for an agreement by the Senate to revert back to a version of Bill S-3 that was tabled by the government in May 2017. The Senate "6(1)(a) all the way" amendment was removed by the House of Commons in June 2017. This was the amendment drafted by Sharon McIvor and her group and tabled by our colleague Senator McPhedran.

The "6(1)(a) all the way" amendment was the amendment which would have removed all female sex-based discrimination in the Indian Act, including persons affected before 1951, and thus it was, in our consideration, a key amendment.

Today, the motion before us essentially undoes what the House of Commons did to Bill S-3 and puts it back in a form very close to what the Senate passed on June 1, 2017. The motion today legislates the intentions of the "6(1)(a) all the way" but in a different manner than the *McIvor* amendment. The end result is the same and the legislative mechanism proposed can actually be seen as an improvement over the *McIvor* amendment. If we pass Bill S-3 as amended by today's motion, all of the female sex-based discrimination will be eliminated in the Indian Act.

Those who lost status before September 4, 1951, will also be able to gain it back, but at a later date, to be fixed by an order-in-council. This group, the pre-1951s, was a major sticking point for the government. The government initially was concerned about the possibility of anywhere from 80,000 to 1 or 2 million new Indians being eligible to be added to the registry. As we received the data from the Clatworthy report, we see that we cannot get a reliable estimate. So we have to proceed, because we don't know what the actual numbers will be. But I'm happy that the government decided that they will move ahead regardless of not knowing the exact number.

The motion today puts into the legislation the clauses which allows those who were born before 1951 to regain their Indian status at a later date. This is a major accomplishment. They will actually be part of the legislation.

Let's review what the Senate "6(1)(a) all the way" amendment was intended to do versus what the amendments in Senator Harder's motion intends to do. Basically, both approaches accomplish the same goal. The intentions of the "6(1)(a) all the way" and the proposed amendments today are the same. First of all, this intention is to eliminate all discrimination against Indian women to transmit their status to their descendants because of the provisions in paragraph 6(1)(c) of the Indian Act. That is the problematic paragraph. It favours Indian men by allowing them to regain status because of the double mother rule. And it allowed Indian women who lost their status for three different reasons to regain status: one, an Indian woman who married a non-status man; two, an illegitimate female child of an Indian woman; and three, an Indian woman enfranchised because her husband lost his status.

Now you might think that would have fixed everything, but unfortunately there were problems with the 6(1)(c) amendment and we found a series of exceptions. That's why we're in the pickle that we're in.

The intention of the 6(1)(c) amendment and today's amendment was to fix this problem identified and validated in many court cases such as the *Descheneaux* case, the *Sharon McIvor* case, and so on. If we pass today's motion, we will fix the sex-based discrimination in 6(1)(c) by December 22. We will not fix the pre-1951 group until after that date, but the clauses that refer to that are actually in the amendment. So the legislation will be enshrined but will be enacted or legislated at a different date.

Essentially, there will be no legal difference in the rights of persons under the new 6(1)(c) and its long array of subclauses compared to the rights of persons with clauses under 6(1)(a). This was one of the cruxes of the McIvor group's criticisms of the bill, namely that the rights of 6(1)(a) were superior to those who were included under 6(1)(c). That will no longer happen if we pass the bill, as amended, today.

In other words, honourable senators, we will get rid of the second class inferior category of 6(1)(c) persons. They are in effect 6(1)(a) persons. When we pass the final clause that deals with the pre-1951 cut-off, then we will actually amend the bill even more to take out pages and pages of subclauses under 6(1)(c), simplify it and move it up to 6(1)(a), which is exactly what the Sharon McIvor group wanted.

To recap, this is what the Sharon McIvor group wanted. They termed it as "getting rid of the subcategories." In their amendment, they amended clause 6(1)(a) by adding two subsections, 6(1)(a)(i) and 6(1)(a)(ii), to accomplish this.

Second, with regard to these two amendments, the intentions of the "6(1)(a) all the way" amendment and the amendment in today's motions both are intended to grant status to those who were cut off because they were born prior to 1951. That's important to remember. As I said before, that was a major sticking point. While the "6(1)(a) all the way" amendment regarding the pre-1951 amendment was intended to come into force at the same time as the amendments related to clause 6(1)(c), the motion today stipulates that these clauses meant to include the pre-1951 group will come into force at a later date. When these amendments come into force, the subcategories of 6(1)(c) will be able to be simplified and added into the 6(1)(a) category instead, as I said a few moments ago. I hope I've made this clear because it's not the easiest piece of legislation to make clear as you read the various technicalities.

Should we be concerned about the deferred date of the implementation of the pre-1951 group? The coming-into-force provision, a specific date, has not been identified. Of course we worry about that and I as an individual worry about that. But we have to counter that with the legislative mechanism to include the pre-1951 group that is actually included in the bill. This is a major milestone in regaining the rights to status as registered Indians. This has never happened before.

• (1520)

By convention, governments do not put into law any provisions they do not support in implementation regardless of the coming-into-force date. This is a clear statement of the government's intention. This is much better than the vague promises in the past to conduct consultations. As we know, as Senator Brazeau pointed out, in the past with Bill C-31 and Bill C-3 on the same topic, consultations were promised, consultations occurred, and nothing happened. This is a much greater response because it actually has the clause enshrined in the bill. With the reporting and consultations in the bill, the Senate can play a very firm role in ensuring that this happens.

What we have today is far superior to past promises of conducting consultations to determine whether the pre-1951 group should even be given the right to regain their status. That bears repeating because I think we need to really get that into our brains. We've been trying to get this for so many decades. It's hard to believe that we actually have it. When I listened to you, Senator Harder, I almost broke down and cried because so many women — not myself, necessarily, but many many women — have been pushing for this for so long, and to hear you say it was a pivotal moment for me.

The pre-1951 group has been granted this right in today's proposed amendments to Bill S-3. The follow-up discussion with First Nations on Bill S-3, as you said, Senator Harder, will not be on whether the pre-1951 group should be in the legislation. It will be on how they are going to implement this. How is this going to affect your community? Because we do know there are some communities who do not support this bill. There was a group from the Kahnawá:ke nation who appeared in the House of Commons. Quite simply, their stand is marry out, get out. I don't think the vast majority of First Nations take that view, but we have to recognize that not every band is in support of this major improvement.

With respect to consultations, if we look at section 11 of the bill on consultations and reporting, do we accept this motion today, or do we attempt to force the government to implement the pre-1951 provisions in the bill by amending Senator Harder's rule? Do we attempt to put in a fixed date? We could do that, but I honestly don't think that would get us anywhere.

We are on the threshold of a major victory, and I think we have the power as senators, as individual senators — Senator Lovelace Nicholas and I on the committee as indigenous women, Senator Patterson as the deputy chair of the committee, the Aboriginal Peoples Committee have pushed this, and, believe me, we will continue to push this. We will continue to monitor it. This is as good as you can get. You can't get any better.

Realistically, when the message came from the House, we had very little. This is a major improvement over what we had. As I said, and I'll repeat myself, the Senate can continue to play an active role and act as a watchdog on government implementation of this new amendment. Because this amendment will be actually enshrined in law, regardless of the composition of any future government if we do have an election and we don't have a Liberal government, or if we don't have a majority government, the Senate can continue to press the government of the day to bring this clause into force and can continue to hold the government accountable to eliminate all sex-based discrimination in the Indian Act based on the 1951 cut-off date.

I think this highlights the importance of the Senate. We have worked together in a non-partisan way, collectively, to get to this point, and we will continue, I am sure, to work collectively together to ensure that what is promised in this bill is actually implemented.

In the end, today's motion is a good move by the government. I see it as a big step forward, especially compared to the message which I said essentially was cutting out the pre-1951 group, which more than likely will be a large group, but they deserve to be recognized, and they deserve to be part of this bill. It is a major improvement over the version of Bill S-3 returned to us by the House of Commons. I think it's a giant leap forward for First Nation women and their descendants. I see it as a giant leap forward.

The government, in an October 31 letter from the minister, is now talking about the nation-to-nation discussions that will be ongoing. I would say that any non-status Indian whose mother, grandmother or great-grandmother lost their status due to marriage to a non-status male or those women who lost their status because they were born out of wedlock should be part of those tables. That was the intention, to include people who aren't in the registry now. They should be part of those discussions. They are in the legislation, so they should be at this table, and I encourage them to do so. We will certainly try to contact them to make sure that happens.

I would like to acknowledge the role of the Aboriginal Peoples Committee which suspended study of this bill 11 months ago, on December 6, 2016. It was our committee that added the "6(1)(a) all the way" amendment tabled by our colleague Senator McPhedran and passed by the Senate as a whole in June. I would also like to acknowledge that Senator Patterson, Senator Sinclair and I sent a letter saying we wanted to work with the minister and that we did not want to start the discussion in the Senate chamber right away. We wanted to allow time for there to be research and analysis done to come up with a better bill.

The Aboriginal Peoples Committee has played a pivotal role. We did an in-depth study of the initial bill. It was decisive but cooperative. This initial move was possible only because of the support of our Conservative colleagues because they were the majority of the committee.

Could I have five more minutes, please?

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

Hon. Senators: Agreed.

Senator Dyck: I would like to thank our Conservative colleagues for that, because at that time the Liberals were a minority and at that time there were only two independents on the committee. They could have done as they pleased, but they took a non-partisan approach and did what they thought was best.

I would also like to thank the witnesses Sharon McIvor and Pamela Palmater whose clear, compelling testimony encouraged us to include the "6(1)(a) all the way" amendment tabled by our colleague Senator McPhedran. The government version is shorter, cleaner, and most importantly it removes the clause at 6(1)(c.4), which is the cause of the 1951 cut-off. In the "6(1)(a) all the way" amendment tabled by Senator McPhedran, that clause would have remained in the bill and would have created a conflict. So it wasn't necessarily the best route. Also, that amendment did not contain any coordinating amendments. So it created confusion. In fact, when Clatworthy looked at it, you can see where Clatworthy had difficulty understanding exactly what it meant as well. What we have tabled here today is a different route to the same destination. It serves the same purpose.

I would also like to mention that the Native Women's Association and the Ontario Native Women's Association and FAFIA, the Feminist Alliance for International Action, support a "6(1)(a) all the way" type of amendment. The Ontario Native Women's Association has a petition that was signed by over 700 people. The FAFIA petition that went out a week ago has been overwhelmed with responses from Canadians who see this as important and as an act of reconciliation. There are 900 organizations and 300 to 400 individuals who have signed the letter to the Prime Minister. There are 14 pages of signatures on this petition. That shows us how important this is to Canadians and how we have signed on to reconciliation.

I think the government and the officials and the bureaucrats have found an acceptable solution which avoids a standoff between the Senate and the House of Commons. Such a standoff would have had serious consequences — shutting down the registry and loss of the tremendous gains for First Nation women contained in today's motion. I urge all honourable senators to pass Senator Harder's motion by the end of this week. I fully support the motion. Let's move it and urge the members in the other place to concur.

To conclude, let me share this story with you. When I woke up this morning, the classic line from the movie *2001: A Space Odyssey*, was prominent in my mind. It goes like this:

> Something is going to happen. . . . Something wonderful.

Colleagues, if we pass today's motion, something wonderful will happen, something that First Nation women have been waiting for, for nearly 150 years.

• (1530)

Finally, Indian women will be recognized in law as having equal rights as Indian men to transmit their status as registered Indians and all that goes with it — your language, your culture, your connection to your family, your connection to your community. And with that, the many First Nation women like Mary Two-Axe Earley, Jeannette Corbiere Lavell, Yvonne Bédard, Sharon McIvor, Lynn Gehl and Senator Sandra Lovelace Nicholas can breathe a sigh of relief. I know I will. Thank you.

Senator Patterson: I would like to move the adjournment.

Senator Lankin: I've been on the list to speak today.

The Hon. the Speaker: Honourable senators, we will need to revert anyway; it's 3:30 now and the minister is here. We'll come back to it after Question Period.

QUESTION PERIOD

BUSINESS OF THE SENATE

Pursuant to the order adopted by the Senate on December 10, 2015, to receive a Minister of the Crown, the Honourable Catherine McKenna, Minister of Environment and Climate Change, appeared before honourable senators during Question Period.

The Hon. the Speaker: Honourable senators, today we have with us for Question Period the Honourable Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change. Minister, on behalf of all senators, welcome.

MINISTRY OF ENVIRONMENT AND CLIMATE CHANGE

ASIAN INFRASTRUCTURE INVESTMENT BANK— PIPELINE PROJECTS AND STANDARDS

Hon. Larry W. Smith (Leader of the Opposition): Minister, welcome. I'd like to ask a question on the Asian Infrastructure Investment Bank.

Minister, your government's omnibus budget bill provides the authority for Canada to join the Asian Infrastructure Investment Bank and to transfer up to $500 million to this bank. Last year, the Asian Infrastructure Investment Bank approved a loan of US$600 million towards the construction of a natural gas pipeline from Azerbaijan to Turkey. This pipeline has been described as Europe's biggest fossil fuel project.

Minister, a domestic equivalent to this project would likely not have received support from your government due to your requirement of including upstream and downstream GHG emissions in project assessments. How do you justify funnelling Canadian taxpayer dollars to support foreign pipelines not subject to upstream and downstream tests while subjecting Canadian pipelines to upstream and downstream tests? Why the double standard?

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you, honourable senator. Hello to everyone. It's always a pleasure to be back in the Senate.

[*Translation*]

I am very pleased to be here.

[*English*]

Our government understands that the environment and the economy go together and that we need to be moving to a low carbon future. This transition takes time. It will not happen overnight. I was really pleased when we had the Prime Minister standing with the premiers from across the country, and with indigenous leaders, talking about and standing up for the made-in-Canada climate plan. When it comes to looking at environmental assessments, we're working very hard to rebuild trust and also to bring people together around good projects.

That's why we announced interim principles that look outward. Yes, we need to consider our greenhouse gas emissions when it comes to mutual projects. We also need to look at the impacts and how we're doing better in terms of partnering with indigenous people, also making sure they make decisions based on science and evidence; but, equally important, making sure we have a robust system with clear rules, with a clear regulatory process that ensures good projects go ahead in a timely fashion. That's a commitment of our government and I'm very pleased that we're moving forward on it.

Senator Smith: Minister, with all due respect, the question I asked was about investing money in an Asian infrastructure bank. So it's money going into a foreign bank, which is investing in a foreign land, and in that foreign land we're accepting terms and conditions in terms of measurements that are inconsistent with the measurements we have in Canada. For the Energy East project, we had stronger regulations that ended up assisting in the prohibition of the actual project, but we put US$500 million into an Asian bank that goes into a project that doesn't have the same standards as we have.

I understand your answer is basically a pre-described answer to any question, but how can we invest in a bank dealing with foreign assets when we don't have the same rules? For the money we put in, we expect a return that we have for our own country.

Another example is Keystone XL. Your government applies upstream and downstream emissions to test domestic energy projects but, again, supports Canadian projects in the U.S. that do not meet the same tests. So we have two examples of projects where we're not asking for the same level of regulation as the investment in these projects offshore. How does it make investment in Canada attractive? How can we do this?

Ms. McKenna: Thank you to the honourable senator. I think your question is whether we believe that we need major infrastructure projects going ahead, including pipelines, and we do.

Just to be very clear about Energy East, that was a market decision. The market decides the price. We don't control the price of oil at $50. That's not something we can decide. We've approved two pipelines. The previous government was not able to get any pipelines to tidewater. The reason we were able to do that is we understand that the environment and the economy go together. We need to be looking at how we're reducing our greenhouse gas emissions. We need to be doing that because climate change is real and it's having serious impacts. The costs right now to the Canadian government are over $2 billion every year for extreme weather events. We need to also be taking advantage of the $30 trillion opportunity of green growth.

Last month I was with Mark Carney, the Governor of the Bank of England, with major institutions including BlackRock and Lloyd's of London, major insurance companies. We were all talking about how we ensure that the trillions of dollars that need to flow to clean growth to create good opportunities and good jobs start flowing. That's what we're working extremely hard to do, and I'm very pleased Canada is a leader in this regard.

CARBON PRICING IN NUNAVUT

Hon. Dennis Glen Patterson: Welcome, minister. I'd like to ask about the Arctic.

Over the past month, evidence shows that international interest in Arctic oil is mounting. Meanwhile, Canada has imposed an oil and gas moratorium in the Arctic and now seeks to enable the federal minister to designate an interim marine protected area without consultation, thereby prohibiting certain classes of activity that they see fit to prohibit through Bill C-55.

These are moves that just last week, N.W.T. Premier Bob McLeod, who is indigenous, described as a colonial attack on the territory, issues that the Premier of Nunavut also raised when the moratorium was first announced in December 2016, to the surprise of Premier Taptuna, who is also indigenous — surprise, Minister McKenna, resulting from a total lack of consultation.

We've heard even from the Prime Minister that there is indeed no relationship as important to the government as their relationship with indigenous people. Why does the government continue to impose this moratorium that, at a quick count, contravenes two devolution agreements, one devolution agreement in principle and two comprehensive land claim agreements with Inuit?

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: I'd like to thank the honourable senator for his question. There is no relationship more important than our relationship with indigenous peoples. I was extremely proud this summer to be in the High Arctic to make the announcement with the Inuit communities about Tallurutiup Imanga. That's Inuktitut for Lancaster Sound, where we protected 2 per cent of our oceans working hand in glove with the Inuit peoples, and that's the way forward.

We are working with the Gwich'in to make it clear to the United States government that we do not support drilling in the Arctic National Wildlife Refuge.

I certainly agree we need to be working in partnership. We also need to be making sure that there are economic opportunities for indigenous peoples. Once again, the environment and the economy go together. I'm pleased that I will be at COP23 in Bonn in a few days working with indigenous leaders from across the country. We were able to successfully get recognition of indigenous rights and traditional knowledge in the Paris Agreement, and we're working very hard to announce an indigenous peoples platform to bring countries around the world around the importance of working in true partnership with indigenous peoples.

• (1540)

CLIMATE CHANGE COMMITMENTS

Hon. Serge Joyal: Welcome, minister. In the last 30 years, Canada, at four different levels on the international scene, has accepted a very specific target to control climate change. It accepted a target in Rio in 1992, in Quito in 2005, in Copenhagen in 2012, and, of course, in Paris in 2015. According to the environment commissioner, Canada has failed to meet those targets in the last 30 years. Canada lags behind by 230 million tonnes.

How can you explain to us that, under your leadership and the present government, we will be able to catch up, because the government continues to authorize the exploitation of natural resources that continue to add to our lagging behind? Which initiative will you take to face the commitment of Canada internationally and our capacity to meet those targets?

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you very much, honourable senator. I absolutely agree. There's no point in having a target unless you're going to make it. That's exactly what we announced last year.

I was very proud to have the Prime Minister standing with the premiers and saying, "Here's our plan."

We can't do it alone. We need to be working with the provinces and territories. I'll name a few of the initiatives that we have to meet our target.

One, putting a price on pollution. We know that polluters have to pay. That will not only reduce emissions but foster the innovation we desperately need.

Two, phasing out coal. We understand coal is not only a huge contributor to greenhouse gas emissions, it's also terrible for human health.

Three, historic investments in public transit and green infrastructure. In the city of Ottawa, the funding for the second phase of light rail transit will result in the largest reduction in greenhouse gas emissions in the city's history.

Four, investments in clean technologies. There's a great Nova Scotia company called CarbonCure that we've supported. This is a company that takes pollution from industry and injects it into cement to make it stronger. I was in California with this company at a cement factory where they were using this technology that's now being exported around the world.

We are taking concrete actions. We have a plan. We're working with the provinces and territories and we're going to deliver.

CLIMATE CHANGE—INFRASTRUCTURE

Hon. Rosa Galvez: Minister McKenna, the 2017 full report of the Commissioner of the Environment and Sustainable Development found that Environment and Climate Change Canada did not provide adequate leadership and guidance to other departments to set priorities to develop an adaptation plan in the context of climate change risk.

While the government has recently allocated funding to a variety of programs to support climate change adaptation programs, these programs have yet to be implemented. Extreme weather events are increasing in frequency and so is their cost. The Insurance Bureau of Canada showed that insured catastrophic losses have increased significantly in the past two decades to $5 billion in 2016, and they project a trend of increasing costs in the coming years.

Building from the plan laid out in the Pan-Canadian Framework on Clean Growth and Climate Change, what tangible, concrete action is the government taking to increase Canada's resilience to the very real risk associated with climate change and extreme weather events? Could harmonization and improving standards in the National Building Code protect infrastructure from climate risk and reduce costs of catastrophic loss to Canadians?

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you very much, honourable senator, for your question. I could not agree more. It's not just about reducing our emissions and mitigating the impacts of climate change. Climate change is already here. It's happening. We see extreme weather events across our country. That's from Prince Edward Island, which is receding by 43 centimetres per year, to the floods we have seen in Ottawa and Quebec, to massive forest fires in the West. We really need to be taking action.

I was very pleased that Budget 2017 provided $2 billion for disaster mitigation and adaptation funding. This is to help support infrastructure required to deal with the impacts of climate change.

There were also announcements in the budget of $260 million over five years to implement our pan-Canadian framework commitments on adaptation and climate resilience. Included in this is a Canadian centre for climate services. We need to be supporting municipalities and provinces so they can make good decisions about how they build things.

I could not agree more that you cannot build houses and buildings if you aren't considering the impacts of climate change in the next year, 5 years, 10 years or 20 years. We are certainly aware of the need for very good modelling and science behind this so we do everything we can to protect Canadians and their houses.

CLIMATE CHANGE COMMITMENTS

Hon. Diane F. Griffin: Minister McKenna, thank you for being here today.

My question relates to Target 1 of the 2020 Biodiversity Goals and Targets for Canada which states that by 2020, 17 per cent of terrestrial areas and inland water will be conserved through networks of protected areas and other effective area-based conservation measures.

According to the Conservation Area's Reporting and Tracking System database, as of last December, only 10.57 per cent of terrestrial areas are protected, with the federal government directly protecting 52 million hectares of that.

What specific steps is the government taking to commit funding to ensure that nature is protected on the ground and that the 2020 goals are attainable?

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you very much, honourable senator. No one cares more about protecting our iconic places and our national heritage than me. I love parks and protected areas, but more importantly so do Canadians.

This year national parks and historic sites were free, and we had historic attendance. We know that Canadians identify with nature. They want to be out in nature, and they want to protect it.

The target of 17 per cent is certainly ambitious, but I have a national committee that's supporting me. I'm working directly with my co-chair, the Minister of Environment and Parks and the Minister Responsible for the Climate Change Office in Alberta , to map out the pathway to the target of 17 per cent. We also have a committee of indigenous peoples helping us. One of the ways we will be able to do this, I believe, is through indigenous protected areas.

Last month I was really pleased to be in South Okanagan with the Syilx and Okanagan Nation as well as the Government of B.C. announcing that we are finally moving forward on creating a new national park in South Okanagan.

I think we need to be taking practical steps. I'm looking forward to the report from my national committee so we can map out exactly how we're going to do this. Protected areas are important for climate change mitigation. They act as carbon sinks. They're important because we need more Canadians to get out and enjoy nature. They're important to our ecosystem and biodiversity. We have many species at risk. Connected areas are very important to the survival of many species. This is something we're committed to doing. We need to be doing it with provinces and territories, municipalities and indigenous peoples.

TANKER TRAFFIC MORATORIUM

Hon. Yonah Martin (Deputy Leader of the Opposition): Minister, we all value the natural beauty and the resources we have in our country, but I also know that, realistically, without a strong economy and without having jobs for Canadians, we cannot do the first without doing the other. We need to take that balanced approach.

My question for you concerns another moratorium — your government's moratorium on tanker traffic along British Columbia's north coast, as set out in Bill C-48. This traffic supports jobs in British Columbia and right across our country. By instituting this ban on crude oil tankers, your government is destroying economic development in that area and undermining Canada's ability to export our natural resources.

• (1550)

Minister, you keep saying the economy and the environment go together. How do you expect to grow the economy and create jobs when you are simultaneously putting up roadblocks to prevent resource exports and denying opportunities for investment?

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you very much, honourable senator.

I really welcome this opportunity to talk about the strong economic growth in our country. We're at 4.5 per cent this year. That's more than double any other country in the G7 other than the United States. It's 100 per cent more than the United States. We added 400,000 good jobs last year. This is critical. We need to be making sure that we do grow the economy, but we've done this at the same time while taking action to protect our environment.

Let me tell you that there's a value to our environment. Canadians understand that. They want us to protect our environment. That's what we're going to continue to do. We're going to continue working with the provinces. I was very pleased just last week to be with the Minister of the Environment for British Columbia, George Heyman, talking about what more we can be doing in partnership with the Government of British Columbia to protect the environment there but also grow the economy.

ENERGY EFFICIENT HOUSING

Hon. Nancy Greene Raine: Minister McKenna, my question is about proposed changes to the National Building Code of Canada.

Recent witnesses before the Standing Senate Committee on Energy, the Environment and Natural Resources indicated that the National Research Council is working on increasingly stringent energy codes in order to reduce greenhouse gas emissions. While this may be a laudable goal, a new model code or guideline for existing homes is to be completed by 2022.

Minister, I trust your department is involved in these discussions. If so, what analysis has been done on the potential costs that will be imposed on homeowners as a result of the revision of the code?

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you very much, honourable senator.

Once again, this is an example where the environment and the economy go together. We know that we can build better houses and better buildings which are more energy efficient. What does that mean? That means you save money over the lifecycle cost. It makes much more sense to be building homes that are more resilient to the impacts of climate change but also are more energy efficient. That will save Canadians money.

I had the opportunity when I was in Edmonton to visit a company called Landmark Homes. It is a great local company that builds houses that look exactly like any house in the suburbs, going for around the same price. But you know what? Those houses allow the homeowners to put energy onto the grid. They actually make money. This is the way we should be building our houses.

We know emissions from the built environment and homes from buildings are 20 per cent of our emissions. We can do better. When we do, we will be the suppliers of the materials to do that. We will be able to export, create good jobs and grow our economy.

The Hon. the Speaker: Senator Raine, I'm sorry. If you have a supplementary, I'll put you on a list for the next round.

Senator Raine: She didn't answer any question at all. I said existing homes.

NATIONAL PARKS

Hon. Joseph A. Day (Leader of the Senate Liberals): Minister, thank you very much for being here. My question relates to Parks Canada.

This year marks the twenty-fifth anniversary of the Fundy Trail. In my province of New Brunswick, we're particularly proud of the magnificent Fundy Trail which leads into Fundy National Park. The trail is a UNESCO World Heritage Site. We can boast of the beauty of Fundy National Park with some of the highest tides in the world.

Most recently, the park hosted a series of outings where Canadians swam with salmon in the Bay of Fundy, snorkelling with a team of biologists to learn more about the Atlantic salmon population. That is certainly an area that we need a lot of further information in relation to.

My question relates more to Parks Canada. For our one hundred fiftieth anniversary, you indicated an increase in the number of visitors because admission was free this year. What have we learned about the impact of the additional people to our parks? Canadians love our outdoors and our parks. What initiatives do you plan to make parks more accessible for them?

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you very much, senator.

I had the opportunity to visit Fundy National Park with my kids. I didn't have the chance to swim with salmon. As a swimmer, that is a great disappointment to me, but I did see the incredible research Parks Canada is doing with a local indigenous community, looking at innovative ways to bring back salmon.

It's amazing to see what our parks' biologists do. I am very committed to science and promoting the great people we have at Parks Canada. I hope everyone has made it to some of our national parks this year. They are still free for the rest of the year.

In terms of what we've learned, I think we're still learning from the experience this year. It really has been incredible to see how many people got out to our national parks, but I think we need to make it easier.

I was excited to work with Senator Eggleton on the expansion of Rouge National Urban Park. There are parks which are easily accessible for Canadians; some are much harder. There is a park bus that provides free transport for anyone from downtown Toronto up to the Rouge Park. There are initiatives like that that make it easier, especially for low-income Canadians who have less opportunity to get to parks. Rouge Park is great because it's one hour by public transit, but I think we need to make parks more accessible.

Starting next year parks will be free for children under 18 years old and new Canadians. We're working with Citizenship and Immigration Canada where, as part of a citizenship package, immigrants would receive a park pass and get information about parks as an encouragement to go. We want to make sure we have new Canadians.

We're learning more about how people visit parks. Often Canadians are going for a day. They aren't going for long trips to the parks. We need to make sure that they're accessible for day trips.

There are some parks that we've seen high visitation which has potentially impacted the park. In those parks, protecting ecological integrity is the priority. We need to be making sure we do everything to protect them. Overall it was an incredible story.

We're also looking at the economic numbers. It's really important we talk about parks; not just about gate fees, but about the benefits to local communities. We know local communities have benefited significantly from the number of tourists going through them to access parks. There's a lot more we can be doing.

My focus again is on the environment and economy and how to support small businesses. Sometimes they have indigenous experiences in parks. We have local artists. There's a lot more we can do in partnerships so we can really ensure there's a maximum benefit for communities around the parks.

NATIONAL PORTRAIT GALLERY

Hon. Patricia Bovey: Thank you for being here today, minister.

I know you're well aware of the tremendous interest across this country from artists and audiences alike for a national portrait gallery here in the National Capital Region. People relate to people. We all have photo albums. Many pictures are taken in our parks. We have files of digital images of family and friends. Portraits tell stories, being an important window to our history and our place.

A national portrait gallery becomes a portrait of the nation, portraying the society's multi-dimensions, diversities and building national pride. People want to see depictions of heroes, leaders, the known, the unknown, friends and colleagues.

The Prime Minister wrote last summer, "We look forward to continuing the conversation on the establishment of a national portrait gallery in the National Capital Region."

As a minister from this region, when and where we might see this need realized?

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you very much, honourable senator.

I certainly heard a lot of interest. I know from you but many other senators as well as from many members in the National Capital Region about the importance of a portrait gallery. I could not agree more that it's important that we talk about and share our history; old portraits or digital portraits. There are ways of doing that.

There was some interest in doing a portrait gallery at 100 Wellington. A decision was taken ultimately to make an indigenous centre to celebrate our indigenous peoples, which I think is also an extremely worthy initiative. But I'm happy to continue to look at opportunities. We unfortunately have so much of our history, so many of our artifacts mothballed in places like Gatineau. I would certainly do everything I can to make sure that we can display them.

• (1600)

That's not just in the National Capital Region. Archives, for example, with Parks Canada, we show the different things that are in our archives across the country.

Certainly I think we should be doing more. We need to celebrate our history. It's really important that Canadians know it and that we share it.

[*Translation*]

CLIMATE CHANGE COMMITMENTS

Hon. Paul J. Massicotte: Madam Minister, I will make the same comment as some of my colleagues. The fight against climate change has not yet been lost, but we are off to a bad start and time is of the essence.

According to an alarming report published by the UN last week, even if all the Paris signatories meet their targets, the earth's temperature will rise by at least three degrees Celsius by 2100.

What is more, two years after the agreement was signed, the UN has said, and I quote:

> There is a "catastrophic" gap between national pledges to reduce greenhouse gas emissions and the actions needed to respect the Paris agreement.

[*English*]

While countries like Brazil, China, India and Russia seem to be on track to achieve their 2030 goals with currently implemented policies, Canada — as well as most G7 countries — will not be able to meet its targets under its current policies. It's become obvious that further and urgent action is required from Canada.

[*Translation*]

Madam Minister, the United Nations Climate Change Conference, COP23, began yesterday in Germany. I imagine that you are planning to go. What message will you share, given the rather discouraging findings regarding Canada's commitments? Will Canada participate in the 2018 discussions among signatories provided for in the Paris agreement and increase its commitment?

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you, Senator Massicotte. First, it must be said that the Paris agreement is a historic agreement. Before it was signed, there had never been an agreement in which every country in the world decided to work together. That is important, but it is not all. We also know that, even if every country meets their targets, we will not be able to keep the global average temperature increase to below two degrees Celsius. That is why the Paris agreement has a mechanism that allows every country to do more. That is what we are going to do.

I will definitely be in Germany. It is really important for Canada to play a leadership role at a time when the United States has indicated that they are backing out, that they will not support the Paris agreement. For our part, we will work with the American states, cities, and companies that know that we must all do our part to reduce our emissions.

I am also pleased that, together with the United Kingdom, with other countries, provinces, nations, and companies, we will be setting up an agreement to eliminate coal. We know this must be done. We will form an alliance that we will announce in Germany. We know that coal is not only very bad for health, but also a major source of greenhouse gas emissions. This alliance will make a big difference and I will do everything I can to establish Canadian leadership. I will be happy to be there with my counterparts from other parties and with aboriginal leaders from the provinces and territories. The U.S. administration may be backing out, but we are taking a stand and moving forward.

[*English*]

CARBON TAX

Hon. Denise Batters: Minister McKenna, you came to Senate Question Period in December 2016. I asked you for the details of the national carbon tax that your Liberal government plans to impose on Saskatchewan. Eleven months later, Saskatchewan still has no answers. Now, almost a year later, I'll give you another opportunity to answer those questions.

Minister McKenna, it is now crystal clear that Saskatchewan will not enact a carbon tax. Under your plan, this means that the Trudeau government will be imposing a carbon tax on Saskatchewan.

Minister, could you please outline the details of the national carbon tax that will be enacted in Saskatchewan. Exactly what items will this carbon tax be applied to, and exactly what exemptions will there be in areas like agriculture? Could you please also provide us with a written outline of the Trudeau government's carbon tax plan as it will apply in Saskatchewan?

Minister, here's your chance to finally answer these critical questions for the province of Saskatchewan: What is your plan? When will you impose your carbon tax scheme on Saskatchewan? And what will its effective date be?

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you, honourable senator, for your question.

Hope springs eternal. I'm still hoping that Saskatchewan will do what it should do: develop a made-in-Saskatchewan plan.

We know we need to reduce our emissions. We know there's a trillion-dollar opportunity. We know there's clean innovation.

I was in Saskatchewan. I've seen the innovation first-hand. Whether it's carbon capture and storage, whether it's zero-till agriculture or climate-resilient crops, there are amazing things going on in Saskatchewan.

I'm also pleased to say that the rest of the country has stepped up. Ninety-seven per cent of Canadians will live in a jurisdiction where there is a price on pollution. Polluting is not free. We're seeing the impacts from extreme weather events across the country, including droughts in Saskatchewan.

It is very concerning that the Saskatchewan government doesn't understand that the environment and the economy go together, but I'm hoping that under a new administration and new leadership there will be an opportunity to move forward.

My goal is to work with everyone. I was elected to represent everyone, and I am committed to working with everyone. We've been clear that where provinces do not step up, do not put a price on pollution, we do have a backstop. I'm happy to provide the details. The details were outlined in our Pan-Canadian Framework on Clean Growth and Climate Change. We will be providing more details shortly.

It's quite clear that every province and territory has to have a broad-based price on pollution. In fact, in Saskatchewan it's on the books, a price for heavy emitters. That is part of the solution. Unfortunately, the government hasn't moved forward.

I am committed, and I recommit myself right here in this chamber, to working with the Government of Saskatchewan, to working with the new administration. I know the people of Saskatchewan are feeling the impacts of climate change, that they want to benefit from the economic opportunity. I think that Saskatchewan is best placed to determine what a made-in-Saskatchewan plan is, and I'm happy to support that.

TANKER TRAFFIC MORATORIUM

Hon. Tobias C. Enverga, Jr.: Minister, your mandate letter from the Prime Minister directs you to "ensure that decisions are based on science, facts, and evidence . . . ."

With that in mind, minister, could you please explain why your government is seeking to put in place a ban on crude oil tankers off British Columbia's northern coast while no other coastline in Canada has a similar ban in place? Can you share the scientific analysis that led to this ban, and does your government have any intention of imposing a tanker ban on our East Coast as you're seeking to do on the West Coast with Bill C-48?

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: I'd like to thank the honourable senator for the question. I'd also like to take the opportunity to talk about how we do believe that we need to make decisions based on science and evidence. That is why we are redoing our environmental assessments to rebuild the trust of Canadians that was lost under the previous government when decisions were not made based on robust science and evidence. There wasn't proper engagement with indigenous peoples. There wasn't a consideration of greenhouse gas emissions. It didn't get anything built.

We are committed to working and bringing people together. We understand that that is the right thing to do, that it is what Canadians expect, and we will continue to do that.

I'm extraordinarily proud of the scientists in our government. We are very fortunate that at Environment and Climate Change Canada we have extraordinary scientists. I've seen them across government and at Fisheries and Oceans.

I was happy to be in British Columbia just a few weeks ago where we did an oceans round table. We had experts across Canada, scientists. We had our first-ever outing for our new science adviser talking about the science around oceans, talking about the impacts of climate change on the oceans, about the importance of protecting —

The Hon. the Speaker: Honourable senators, order, please. The minister has the floor.

You have time for a short question, Senator Raine.

ENERGY EFFICIENT HOUSING

Hon. Nancy Greene Raine: Minister McKenna, you didn't answer my question. I very specifically said I want to know about the new model code for existing homes, not ones that are being built. I think it was lovely you told us about Landmark Homes. No problem. But I really want to know, what about the cost of these codes imposed on existing homeowners as a result of the revision of the code? Can you guarantee that your government will not impose any additional costs on Canadians when they sell their homes?

• (1610)

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Once again, I'm very pleased that we understand the environment and the economy go together. How we build our homes is critical. Right now we have extremely energy-inefficient homes, and when I go door knocking — and I do a lot of door knocking — I hear from people saying, "We want to pay less, we want to do a better job with our homes, we want to have better insulation, we want to make sure we have better windows, we want support."

We're actually working with the provinces and territories through our Low Carbon Economy Fund to help with energy efficiency measures to save people money. Building better saves people money. We're working with organizations like the Green Building Council because at the end of the day we want people to pay less.

I'm extraordinarily proud that with social housing we're making sure that we have the most energy-efficient social housing. Why? Because people that have less money should pay less in their bills at the end of every month rather than more.

So we are going to continue doing this. We're going to continue moving forward looking at how we reduce costs for Canadians, how we ensure that we're growing the economy, creating good jobs with companies like Landmark Homes and also reducing our emissions.

The Hon. the Speaker: Senator Patterson, we have time for a very brief question if you want an answer, because we have a little less than a minute left.

CARBON PRICING IN NUNAVUT

Hon. Dennis Glen Patterson: Thank you. Minister, I asked you before about the difficult situation of Nunavut, where your government agreed to work with the territories to study the impacts of carbon pricing. We have no alternative energy systems in place, unfortunately.

I'm wondering, with 2018 ahead, whether you would support slowing down the implementation of carbon pricing in Nunavut until we complete that work that was promised, that joint work on the impacts on our already sky-high cost of living.

Hon. Catherine McKenna, P.C., M.P., Minister of Environment and Climate Change: Thank you, honourable senator, for the question.

I agree with you. I agree that we need to be looking at the cost of putting a price on pollution in Nunavut. I think it's really important that we not make people that have no alternatives pay more.

We are committed to working with the Government of Nunavut. I have met many times with my counterpart.

Also we need to do more to help these communities get off diesel. Diesel, once again, back to the impacts of pollution — pollution is not just something that creates climate change. It has direct health impacts. We believe that investments that we're making, including $220 million to reduce reliance on diesel in remote communities, will have a real impact.

I also want to make sure that we're working with the communities so that through these opportunities we create good jobs. The environment and the economy go together. That is what I say, but that is also what we do as a government.

The Hon. the Speaker: Honourable senators, the time for Question Period has expired. I'm sure all honourable senators will wish to join me in thanking Minister McKenna for being with us today.

Thank you, minister, and we look forward to seeing you again in the future.

ORDERS OF THE DAY

INDIAN ACT

BILL TO AMEND—AMENDMENTS FROM COMMONS—MOTION TO CONCUR IN FIRST AND THIRD AMENDMENTS AND AMEND SECOND AMENDMENT—DEBATE ADJOURNED

On the Order:

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

That the Senate concur in the amendments 1 and 3 made by the House of Commons to Bill S-3, An Act to amend the Indian Act (elimination of sex-based inequities in registration);

That, in lieu of amendment 2, Bill S-3 be amended

(*a*) on page 2, in clause 2, by deleting lines 5 to 16;

(*b*) on page 5, by adding after line 40 the following:

"**2.1 (1) Paragraphs 6(1)(c.01) to (c.2) of the Act are repealed.**

(2) Paragraphs 6(1)(c.4) to (c.6) of the Act are repealed.

(3) Paragraph 6(1)(c) of the Act is renumbered as paragraph (a.1) and is repositioned accordingly.

(4) Paragraph 6(1)(c.3) of the Act is renumbered as paragraph (a.2) and is repositioned accordingly.

(5) Subsection 6(1) of the Act is amended by adding the following after paragraph (a.2):

(a.3) that person is a direct descendant of a person who is, was or would have been entitled to be registered under paragraph (a.1) or (a.2) and

(i) they were born before April 17, 1985, whether or not their parents were married to each other at the time of the birth, or

(ii) they were born after April 16, 1985 and their parents were married to each other at any time before April 17, 1985;

(6) The portion of subsection 6(3) of the Act before paragraph (a) is replaced by the following:

(3) For the purposes of paragraphs (1)(a.3) and (f) and subsection (2),

(7) Paragraph 6(3)(b) of the Act is replaced by the following:

(b) a person who is described in paragraph (1)(a.1), (d), (e) or (f) or subsection (2) and who was no longer living on April 17, 1985 is deemed to be entitled to be registered under that paragraph or subsection; and

(8) Paragraph 6(3)(c) of the Act is repealed.

(9) Paragraph 6(3)(d) of the Act is replaced by the following:

(d) a person who is described in paragraph (1)(a.2) or (a.3) and who was no longer living on the day on which that paragraph came into force is deemed to be entitled to be registered under that paragraph.";

(*c*) on page 7,

(i) by adding after line 26 the following:

"**3.1 (1) Paragraph 11(1)(c) of the Act is replaced by the following:**

(c) that person is entitled to be registered under paragraph 6(1)(a.1) and ceased to be a member of that band by reason of the circumstances set out in that paragraph; or

(2) Paragraphs 11(3)(a) and (a.1) of the Act are replaced by the following:

(a) a person whose name was omitted or deleted from the Indian Register or a Band List in the circumstances set out in paragraph 6(1)(a.1), (d) or (e) and who was no longer living on the first day on which the person would otherwise be entitled to have the person's name entered in the Band List of the band of which the person ceased to be a member is deemed to be entitled to have the person's name so entered;

(a.1) a person who would have been entitled to be registered under paragraph 6(1)(a.2) or (a.3), had they been living on the day on which that paragraph came into force, and who would otherwise have been entitled, on that day, to have their name entered in a Band List, is deemed to be entitled to have their name so entered; and

(3) Paragraphs 11(3.1)(a) to (i) of the Act are replaced by the following:

(a) they are entitled to be registered under paragraph 6(1)(a.2) and their father is entitled to have his name entered in the Band List or, if their father is no longer living, was so entitled at the time of death; or

(b) they are entitled to be registered under paragraph 6(1)(a.3) and one of their parents, grandparents or other ancestors

(i) ceased to be entitled to be a member of that band by reason of the circumstances set out in paragraph 6(1)(a.1), or

(ii) was not entitled to be a member of that band immediately before April 17, 1985.

3.2 Subsections 64.1(1) and (2) of the Act are replaced by the following:

64.1 (1) A person who has received an amount that exceeds $1,000 under paragraph 15(1)(a), as it read immediately before April 17, 1985, or under any former provision of this Act relating to the same subject matter as that paragraph, by reason of ceasing to be a member of a band in the circumstances set out in paragraph 6(1)(a.1), (d) or (e) is not entitled to receive an amount under paragraph 64(1)(a) until such time as the aggregate of all amounts that the person would, but for this subsection, have received under paragraph 64(1)(a) is equal to the amount by which the amount that the person received under paragraph 15(1)(a), as it read immediately before April 17, 1985, or under any former provision of this Act relating to the same subject matter as that paragraph, exceeds $1,000, together with any interest.

(2) If the council of a band makes a by-law under paragraph 81(1)(p.4) bringing this subsection into effect, a person who has received an amount that exceeds $1,000 under paragraph 15(1)(a), as it read immediately before April 17, 1985, or under any former provision of this Act relating to the same subject matter as that paragraph, by reason of ceasing to be a member of the band in the circumstances set out in paragraph 6(1)(a.1), (d) or (e) is not entitled to receive any benefit afforded to members of the band as individuals as a result of the expenditure of Indian moneys under paragraphs 64(1)(b) to (k), subsection 66(1) or subsection 69(1) until the amount by which the amount so received exceeds $1,000, together with any interest, has been repaid to the band.",

(ii) in clause 4, by replacing line 34 with the following:

"**10.1 have the same meaning as in the *Indian Act*.**", and

(iii) in clause 5, by replacing lines 37 and 38 with the following:

"**order referred to in subsection 15(1) is made.**";

(*d*) on page 8, in clause 7, by replacing lines 13 and 14 with the following:

"**which the order referred to in subsection 15(1) is made, recognize any entitle-**";

(*e*) on page 9,

(i) in clause 10, by replacing line 3 with the following:

"**ly before the day on which this section comes into**", and

(ii) by adding after line 8 the following:

"**10.1 For greater certainty, no person or body has a right to claim or receive any compensation, damages or indemnity from Her Majesty in right of Canada, any employee or agent of Her Majesty in right of Canada, or a council of a band, for anything done or omitted to be done in good faith in the exercise of their powers or the performance of their duties, only because**

(a) a person was not registered, or did not have their name entered in a Band List, immediately before the day on which this section comes into force; and

(b) that person or one of the person's parents, grandparents or other ancestors is entitled to be registered under paragraph 6(1)(a.1), (a.2) or (a.3) of the *Indian Act*."; and

(*f*) on page 11, in clause 15,

(i) by replacing line 26 with the following:

"**15 (1) This Act, other than sections 2.1, 3.1, 3.2 and 10.1, comes into force or is deemed to**", and

(ii) by adding after line 30 the following:

"**(2) Sections 2.1, 3.1, 3.2 and 10.1 come into force on a day to be fixed by order of the Governor in Council, but that day must be after the day fixed under subsection (1).**"; and

That a message be sent to the House of Commons to acquaint that house accordingly.

Hon. Frances Lankin: Honourable senators, I appreciate there was some confusion, and I recognize that Senator Patterson thought that it was appropriate to adjourn at that time. I'm pleased to have the opportunity to speak, and I thank everyone involved.

I've put my notes aside because the two speeches that we have heard today on Bill S-3 and the proposed amendments to our message back to the other place were both informative and eloquent and obviously, from Senator Dyck, passionate. I'm actually glad I had the time and the break because I was very emotionally moved by how I could feel the soaring heart and the sense of awe that this might actually come to pass in your lifetime, with all of the history that you and others have put into this.

I want to take a moment to say thank you. First, here in the Senate, I want to thank the indigenous leadership. Senator Dyck has been remarkable over the last number of months in the discussions with government, in helping to problem solve to find a way forward, in trying to construct a solution that would make this historic moment possible. The leadership of Senator Dyck and Senator Lovelace Nicholas — and for Senator Lovelace Nicholas, the years of leadership in her own personal case that she took forward in creating the path for other indigenous women to be able to follow and to achieve more rights is a remarkable legacy. How wonderful that she remains with us here in the Senate and will be able to be part of this moment later this week.

I want to thank Senator Sinclair and Senator Christmas and Senator Watt. I want to thank, as co-chair of the Aboriginal Committee, Senator Patterson and all the members of the Aboriginal Peoples Committee. A lot of very important work has been done and a pushing forward with both concrete ideas and ideals of what this country is that we share and what is our obligation to finally bring about the recognition, the acknowledgment and the addressing of the discrimination of indigenous women.

There have been others who have played a critical role in this. Senator Dyck mentioned many women who have been my heroines over the years. But I had the honour in this process to meet Sharon McIvor — I had not met her before — and to meet Lynn Gehl. These are women who have fought for their individual cases but on behalf of other women and on behalf of the kind of country that we want to share together as nations. I appreciate the work that they have done.

I also want to say a word of thanks and appreciation to Minister Carolyn Bennett and her staff, both in her office and in the public service. They have played an important role in helping shepherd these changes to the point where we are here today.

Minister Bennett, through all of this — I've known her for many years, but I've had the opportunity to work with her in a different way with respect to the exchange that happens as you're trying to find a way forward together. I want to say that. It wasn't about negotiations between people who had different views and different intents; it was about a minister who herself has said that the Charter is not the ceiling, that it is the floor. This is a woman who has worked for many years on both Charter rights and equity issues.

She also is tremendously committed to the nation-to-nation relationship. Senator Dyck, in particular, spoke to this. It was the fact that there are communities for whom this will be a very large change. We hope it is one that all communities will embrace, but we know we have to talk to communities about how the implementation of this bill, when this provision comes into force, will be accommodated in their communities and will be supported by federal transfers to make the kinds of supports and services and legal changes to decision making and voting and land rights and a whole range of things that, up to this point in time, indigenous communities have not dealt with — and they have not had the opportunity to think through what the implications are — and to ensure there are not unintended consequences. These consultations are important for that reason. They are important for the nation-to-nation relationship. They are important in terms of the declaration within our Supreme Court rulings of the obligation of Canada to work with First Nations communities and indigenous government.

I say a word of thanks to her. It was not easy to wind this back through a process of approvals and back to cabinet and through Finance. Central agencies, as you know, are often the most guarding of the processes and the decisions that have already been taken, and even with good intentions, sometimes inflexible about how we get to solutions. I think that group did yeoman's work, but I believe it was work accomplished as a result of the collaboration that took place, particularly Senator Dyck and Senator Sinclair, and I will not leave out of that list Senator Harder, who played a critical role in that.

• (1620)

This is one opportunity where, as the sponsor of a bill at a certain point in time I got to take a back seat because there were leaders in this chamber who had the competence and the experience with the issues, who had the will to get to "yes" and who worked hard to do that. I pay tribute to them.

I think that the balance struck here is important not only in terms of recognizing the need to work with indigenous communities but enshrining women's rights and bringing it into sex discrimination. Senator Brazeau raised an important issue and Senator Dyck spoke to it.

For those who are leery that we may never see this acted on, who are suspicious, I want to say you have a right to be. I want to say our history as Canada has been one of not living up to our obligations, whether it be treaty rights, a range of agreements that have been arrived at or simply our commitments and promises around consultation and action. So there is a right for people to be suspicious. There's a right for all of us to be wary, and we should be. But the go-forward here rests within the process of consultation between indigenous peoples and Canada, indigenous governments and Canada and within the Parliament of Canada, both the House of Commons and the Senate.

The language that was inserted into Bill S-3 brings about a regime of reporting and structure on the consultations that are being co-developed right now on the results — this is the midway term of the consultations — and on a report at the end. It allows us to continue to push forward on this. I personally believe that there is no reason to wait to the end of the full consultation for the enactment of this provision or the coming into force of this provision. I think there are many issues that will be talked about through these consultations. Those issues include the very life of the Indian registry and whether this is a process that is still a credible one in today's society and one with relations to indigenous governments and indigenous peoples.

However, the consultation, particularly on the implementation of this section that does away with the pre-1951 cut-off, can be a particular focus.

The other thing I want to note in response is the very important point that Senator Dyck raised about the importance of these women who have been left behind, who have faced the discrimination, those women and their descendants who have been kept out of their communities. The importance of their being at the table in these discussions and consultations is critical, and the minister has committed to that in our discussions. I want to put that on the record because I believe that is a very important part of how we go forward.

I will not go through the details of the amendment. I will just reiterate that this is a response to the message from the House of Commons. We will be sending back a message with an amendment that the government has agreed to accept, and I hope tomorrow that we will all be here to hear Senators Patterson, Christmas and Sinclair and maybe a couple of others. I think Senator Pate may speak tomorrow. I hope we are here to hear that, and I hope we are here on Thursday to vote on this and to celebrate what will be a most historic moment, not only for indigenous women and their children and descendants, those who have been discriminated against, but for all of us in taking another very important step forward with respect to true reconciliation.

[*Translation*]

Hon. Renée Dupuis: Would Senator Lankin accept a question?

Senator Lankin: Yes.

Senator Dupuis: Senator Lankin, my question has to do with the choice of terms used in the bill.

[*English*]

In the English version, Bill S-3 is an act to amend the Indian Act, elimination of sex-based inequities in registration.

[*Translation*]

The French version talks about the "elimination of sex-based inequities in registration". In both languages, it talks about eliminating inequities, although the very foundation of Bill S-3 is discrimination against women. This has been raised from the beginning. Decisions such as *McIvor* and *Descheneaux* talk about the discrimination under the Indian Act. The idea presented in the title in reference to inequities is an extremely vague concept that has nothing specifically to do with the unequal treatment of indigenous women compared to indigenous men.

In the discussions you had with the government, was there any discussion of what seems to be the watering down of a very clear concept that establishes very clear legal limits, namely, discrimination, or rather a prohibition against discrimination, and any reference to a moral term, namely the injustice that goes along with such inequities?

[*English*]

Senator Lankin: With respect to the discussions that have taken place latterly, that issue was not raised. Before the Aboriginal Committee there was an amendment brought forward by members of the committee to change the name of the act, and that was done and was passed by the Senate. The name of the act comes from that process. There is no intent in any of the discussions to water down anything in terms of inequities or equality or gender-based discrimination.

I know we just received the amendments today, but when you have an opportunity to read the amendments and what their impact is, you will see that it is to end all gender-based

discrimination. Gender-based is important. That was the original scope of the act, and I know you know this, but just to put on the record that it was the original scope of the act.

There are other forms of discrimination that are suffered both by men and women but are not based on their gender. That will be looked at and will be part of the consultation, the phase 2 that we heard about earlier when we were dealing with this bill. Those things will be there, but they're not addressed purposefully in this bill because they are not gender-based discrimination. But thank you for that question. It's an important distinction.

Hon. Nancy Greene Raine: I have one question for the senator, if she doesn't mind, just for clarification. The act, Bill S-3, An Act to amend the Indian Act (elimination of sex-based inequities in registration), "sex-based" and "gender-based" are the same thing?

Senator Lankin: For the intent of this legislation, yes.

(On motion of Senator Patterson, debate adjourned.)

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Gwen Boniface moved second reading of Bill C-46, An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts.

She said: Honourable senators, I am pleased to be able to speak at second reading of Bill C-46, An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts.

We received this bill last week in the Senate after much deliberation at report stage and third reading as well as in the Standing Committee on Justice and Human Rights in the other place. The standing committee heard from 70 witnesses.

• (1630)

This bill proposes significant changes to the criminal law of both alcohol and drug-impaired driving, and I am confident it will have a positive impact on the safety of our roads and highways.

Fellow senators, this is a very important bill, as impaired driving continues to wreak havoc on innocent Canadian families. Tragic stories of needless deaths and injuries caused by impaired driving continue to make headlines in this country.

I will state two numbers before this chamber: 1,000 and 60,000. These are the numbers of individuals who are killed and injured every year on Canadian roads due to impairment-related collisions. That's 1,000 individuals killed and 60,000 individuals injured every year in Canada.

Accounts from family members who have lost loved ones give a personal and sensitive perspective on the matter. Witness testimony from Markita Kaulius and Sheri Arsenault from Families for Justice as well as Patricia Hynes-Coates from Mothers Against Drunk Driving, had the courage to share their powerful stories of loss to the Standing Committee on Justice and Human Rights, and it demonstrates the suffering for families from these senseless acts.

Cases such as these are not uncommon across Canada. It's likely that most senators in this chamber have either heard stories from families or friends or have experienced these tragedies themselves.

The heartbreak suffered by families are entirely preventable, and yet impaired driving kills or injures thousands of Canadians every year and imposes enormous social and economic costs on society. In fact, impaired driving is the leading criminal cause of death and injury in Canada. It is one of the dangers that police officers patrolling our roadways face as they perform their duties 24 hours a day.

The goal of Bill C-46 is to decrease the prevalence of impaired driving and thereby reduce the deaths and injuries on our roads. The goal of Bill C-46 is to save lives, and I hope you will join me in supporting the proposed measures.

As I indicated, Bill C-46 proposes to address both drug-impaired and alcohol-impaired driving. The proposed legislative measures to address drug-impaired driving are essential as the government moves toward the legalization and regulation of cannabis. These measures would ensure that those who choose to combine impairing drugs with driving are more likely to be detected and prosecuted. The government is of the view, and I share in it, that these measures need to be enacted in advance of the legalization of cannabis. This would hopefully help guard against any potential increase in drug-impaired driving that may result as was seen shortly after Colorado and Washington legalized cannabis statewide.

As most senators likely know, driving while impaired by a drug has been a criminal offence since 1925. However, it has always been a challenging offence for police officers to investigate and for Crown prosecutors to prove. Efforts were made to address some of these challenges in 2008 with the enactment of new tools to detect and investigate drug-impaired driving. These tools included the Standardized Field Sobriety Tests, or SFSTs, which consist of three simple tests that a driver performs at the roadside. The SFSTs help a police officer in determining whether or not a driver may be impaired. They also include the authorization of a drug recognition evaluation, or DRE, which consists of a 12-step protocol that is administered by a specially trained police officer. This evaluation helps determine whether the observed impairment was caused by a drug. Both of these tools have been helpful, but it's clear that more needs to be done.

Bill C-46 proposes to build on and enhance this existing approach in a number of ways. First, the bill would authorize police officers to demand an oral fluid sample from drivers at the roadside. They would be authorized to do so if, following a lawful stop, they had reasonable suspicion that the driver had drugs in their body. The oral fluid is collected by inserting a small, hand-held device into the mouth of a driver. Once a sufficient amount of oral fluid is collected, the sample would then be analyzed to determine whether it is positive or negative

for drugs. The screeners would test, for now, for three of the most commonly found drugs in drivers: cannabis, cocaine and methamphetamine.

The results from the drug screener test do not reveal any personal or sensitive information about the individual. They only provide a "yes" or "no" answer to the question of whether drugs are present. They cannot signal the amount of the drug that is present. The drug screener only indicates that there is a drug in the person's body. Further, the screener does not signal impairment but instead is suggestive that drugs may have been recently consumed.

If the results of the drug screener indicate that drugs are present in the body, it would assist the police officer in developing the reasonable grounds to believe a drug-impaired driving offence has been committed and permit them to move forward with the next steps of the drug-impaired driving investigation. The next steps could include a drug recognition evaluation or a blood test.

Second, and equally important, the bill proposes to create three new criminal offences for being at or over a legal drug limit within two hours of driving. These offences would be proven through a blood sample and are similar in structure to the current alcohol-impaired driving offences of being over 80 milligrams of alcohol per 100 millilitres of blood. Canada has had a per se offence for alcohol since 1969, but no such thing has existed in the context of drug-impaired driving.

These offences would assist in relieving the Crown of the burden of proving impairment. If these offences are adopted, the prosecutor would only need to prove that the driver had a prohibited amount of drugs in their blood.

I would like to draw the attention of honourable senators to the testimony of Dr. Douglas Beirness from the Canadian Centre on Substance Use and Addiction. He appeared before the Standing Committee on Justice and Human Rights in the other place on this bill.

Dr. Beirness testified that in addition to making it easier for the Crown to prove cases of drug impairment, these types of offences also provide a significant deterrent effect. That was the case when the legal limit offences for alcohol were enacted, and he testified there is no reason to believe that this general deterrent effect would not be evident in these proposed offences.

The proposed legal limits are not included in the text of the bill. That is because the actual legal limits would be found in regulation. Using a regulation would ensure that the legal limits can be more quickly adjusted to respond to scientific developments or, for example, to add new drugs.

The government has indicated that it proposes to set per se limits for a number of impairing drugs, including cannabis, cocaine, methamphetamine, LSD, and GHB, which is a club drug in the form of what we would know as the date rape drug. These proposed levels were published in Part I of the *Canada Gazette* for public consultation on October 14, 2017, and I recommend that senators have a look.

With respect to THC, it is proposed that three distinct legal limits be enacted. One would be for summary conviction, which would apply when a driver had between 2 and 5 nanograms of THC per millilitre of blood. This offence would be punishable by a maximum fine of $1,000 and a discretionary driving prohibition of up to one year.

The second would be a hybrid offence, a more serious criminal offence that would apply when a driver had 5 or more nanograms of THC per millilitre of blood.

There would also be a third hybrid offence that would apply when drivers had more than 2.5 nanograms of THC per millilitre of blood in combination with 50 milligrams of alcohol per 100 millilitres of blood. This proposed offence responds to the particular dangers posed by combining drugs and alcohol.

The second and third offences would be punishable by mandatory penalties of $1,000 for the first offence and escalating penalties for repeat offenders. The maximum penalties would mirror those for impaired driving.

The proposed legal drug limits are based on a number of considerations. One of the key considerations was the report on the drug per se limits by the Drugs and Driving Committee of the Canadian Society of Forensic Science. A per se limit sets a threshold in which being at or above the limit is a particular offence. This committee has provided scientific guidance to the government on issues of drug-impaired driving for many years and has worked tirelessly on a volunteer basis over the past few years to provide scientific advice.

• (1640)

The proposed levels were also developed considering the approach taken in other jurisdictions, including Colorado and Washington, which have set a 5 nanogram limit for THC — the impairing ingredient of cannabis — in the blood of drivers. Other countries such as the United Kingdom, where cannabis is illegal, have set a 2 nanogram limit.

When the Minister of Justice appeared before the Standing Committee on Justice and Human Rights, she indicated that setting legal limits for impairing drugs was much more complex than for alcohol as the science with respect to impairment by drugs is not as extensively developed. She indicated she would continue to seek and evaluate the scientific evidence as it evolves.

The Minister of Justice has also indicated on several occasions that, given the uncertainty with respect to what is a safe level of THC, the most prudent approach at this time is to proceed as if there is no safe level. The ultimate goal is to ensure that people do not mix cannabis or any other impairing drug with driving.

For the sake of public safety, I support this precautionary approach.

Some of my honourable colleagues may be wondering how this proposed approach is similar or different to that of Senate Public Bill S-230, An Act to amend the Criminal Code (drug-impaired driving), developed by our colleague Senator Carignan. As you will recall, this bill also aimed to amend the Criminal Code to address drug-impaired driving and was passed by this chamber on December 15, 2016.

Bill S-230 shares a similar goal with Bill C-46 in that it aims to provide the police with more tools to better detect drug-impaired drivers. It did this by proposing to authorize the use of oral fluid drug screeners and by authorizing the collection of bodily substances for further analysis.

However, there is a key difference between these bills, which leads me to the conclusion that Bill C-46 is a much more comprehensive approach. Bill C-46 proposes new offences of being over a legal drug limit, and Bill C-46 also proposes a full response to the issue of drug-impaired driving and has appropriately built on the laudable efforts of the Senate public bill.

These two elements of Bill C-46 — the roadside drug screeners and the new driving offences — are the major elements to address drug-impaired driving, but there are other changes to address existing challenges with the current drug-impaired driving framework. These include making it easier to get a blood sample from a driver who may be impaired; making it easier for a specially trained drug recognition officer to testify in a drug-impaired driving trial by not having to qualify them as an expert; and creating a link between the results of a bodily sample taken as part of the DRE and impairment observed at the roadside. These elements would come into force on Royal Assent to ensure the provisions addressing drug-impaired driving are in place well in advance of the cannabis legalization.

I would like to spend my remaining time speaking to the proposed changes in Bill C-46 that would address alcohol-impaired driving.

Bill C-46 proposes to repeal all of the current transportation provisions in the Criminal Code, including the existing impaired driving provisions. It proposes to replace them with a new part of the Criminal Code that is clear, simplified and more modern. These elements propose changes to the investigation, prosecution and penalties for impaired driving, and it is expected that they would result in a more coherent and efficient impaired driving regime.

One of the key elements to facilitate the investigation of impaired driving is mandatory alcohol screening, also known as random breath testing. This particular element has attracted much attention and debate, and I'd like to discuss it in a bit more detail.

Mandatory alcohol screening is a tool that is widely used around the world to detect and deter impaired drivers. It has long been the law in Australia, New Zealand and many European states such as Sweden, Finland, Denmark and the Czech Republic and was most recently introduced in Ireland and Scotland. In fact, Professor Robert Solomon from the University of Western Ontario testified before the Standing Committee on Justice and Human Rights that 121 countries have some form of mandatory alcohol screening.

Mandatory alcohol screening would permit a police officer to demand a breath sample, again following a lawful stop, from any driver without first requiring that they have a suspicion that the driver has alcohol in their body.

There is sufficient evidence that demonstrates that mandatory alcohol screening is an effective tool and has a proven track record of saving lives. To again quote Professor Solomon, he indicated that a 2004 study concluded that in New Zealand, mandatory alcohol screening resulted in a 54 per cent decrease in serious and fatal nighttime crashes.

A further witness, Dr. Barry Watson from Australia, also testified before the standing committee that the introduction of mandatory alcohol screening was associated with a further 18 per cent decline of fatalities over and above what was the case when the sobriety checkpoint program was in place.

Mandatory alcohol screening has a proven track record of saving lives, and I commend the government for proposing it in this bill.

Since the introduction of Bill C-46, concerns have been raised that mandatory alcohol screening would result in increased racial profiling; that is, that the police would use this new provision to unfairly target visible minorities. I want to state unequivocally that I condemn racial profiling in the strongest possible terms. However, I'm very confident that mandatory alcohol screening would not contribute to this.

As I noted, Bill C-46 makes it clear that any request for a breath sample must be done following a lawful stop. It is well-established in Canada that police currently have the power, both in statute and common law, to stop any driver at any time to determine whether or not they are complying with the rules of the road. Any stop that is unlawful — for example, one that is undertaken simply because of the driver's skin colour — would not be in conformity with the legislation.

Mandatory alcohol screening also does not alter the current responsibility that police and other law enforcement officials have to ensure that the powers of the police are exercised in a fair and equal manner, in accordance with the rights and freedoms contained within our Charter.

To that end, the Standing Committee on Justice and Human Rights amended the preamble of the bill to reflect the expectation that all investigative powers, including mandatory alcohol screening, must be exercised in a manner that is consistent with the Charter. While this is implicit in all government legislation, given the concern expressed with respect to the potential impact of mandatory alcohol screening, this amendment acts as a reminder of this fact.

I would add that the information revealed from the breath sample is, like the production of a driver's licence, simply information about whether a driver is complying with one of the conditions imposed in a highly regulated context of driving, namely, to be sober when you drive. It does not reveal any personal or sensitive information and taking the sample is quick and not physically invasive.

In my view, mandatory alcohol screening is necessary as research shows that police are often unable, in their brief interaction with drivers stopped at roadside, to develop the necessary suspicion currently required by law to demand a breath sample for a roadside breath test.

Some studies indicate that up to 50 per cent of drivers with a blood alcohol concentration above the legal limit are not detected at roadside checkstops. It is clear that the current requirement that a police officer has suspicion of alcohol in the body poses a public safety risk, considering so many impaired drivers are driving away from the roadside checkstops undetected.

Both Dr. Barry Watson and the Assistant Commissioner of Road Policing Command, Doug Fryer, from Victoria, Australia, provided an interesting perspective on whether mandatory alcohol screening would lead to racial profiling. Both individuals testified that mandatory alcohol screening is actually a way to overcome the very problem of profiling as everyone who is pulled over by the police can be expected to be breath tested. The discretion of an officer to demand a breath sample from one driver and not demand a sample from another driver, possibly on inappropriate grounds, is removed from consideration.

The public can expect that on any occasion that they are lawfully stopped by the police, they would be required to provide a breath sample. Given the success of this approach in saving lives in other jurisdictions, I think it is incumbent upon us as legislators to support this proposal.

• (1650)

Another key element of the bill relates to the proof of blood alcohol concentration. As many know, the law prohibits driving with a blood alcohol concentration over 80 milligrams of alcohol per 100 millilitres of blood. This is commonly known to us as the "over 80" offence. This offence is proven in the vast majority of cases by taking a sample of a driver's breath and converting the results to a concentration of alcohol in the blood. The process is completed using a scientific device described in the Criminal Code as an "Approved Instrument." Most of my fellow senators are more likely to have heard of the device described as the Breathalyzer, the trade name of the first device that was approved for use in 1969.

It has become common practice for drivers charged with impaired driving to challenge the results of their blood alcohol concentration by attacking the reliability of the Breathalyzer device itself. However, these devices have been subject to rigorous testing and evaluation by the Alcohol Test Committee of the Canadian Society of Forensic Science, the scientific body that advises the minister on issues relating to alcohol-impaired driving. These devices have all been recommended to the Attorney General of Canada for use by law enforcement.

I have full confidence that when these devices are operated by a qualified technician according to the specifications of the Alcohol Test Committee, they produce a reliable and valid reading of a driver's blood alcohol concentration. In fact, the devices are specifically designed to shut themselves down when there is any kind of error that could impact the validity or accuracy of the result.

The Chair of the Alcohol Test Committee, Daryl Mayers, was very confident when he assured the members of the Standing Committee on Justice and Human Rights that any breath-testing device that is approved for use in Canada is accurate and reliable when operated properly, according to the guidelines.

That is why Bill C-46 proposes to make it easier to prove a driver's blood alcohol concentration. It proposes that if the Crown can prove that the device was indeed operated properly and that certain steps were followed, then the blood alcohol concentration of a driver would be conclusively proven. A couple of those steps include ensuring two tests are taken 15 minutes apart, and secondly, that the results are within 20 milligrams of one another. There would be no room left to challenge the validity or reliability of the devices. This proposed change would more accurately reflect the underlying science of these breath-testing devices. This would result in trial efficiencies as the accused would no longer be able to use up valuable court time with scientifically unsupportable theories.

Another key proposal of Bill C-46 relates to the issue of what the Crown is required to disclose to the defence with respect to an impaired driving case. The proposed provision specifies what the prosecution is required to disclose based on what the Alcohol Test Committee advises is scientifically necessary to determine whether a breath test provided accurate results. This would reduce time-consuming debates in hearings over irrelevant evidence and relieve the Crown and the police from the burden of producing what is often voluminous, irrelevant or difficult to obtain disclosure.

Bill C-46 also proposes to eliminate and narrow two defences commonly referred to as the bolus drinking defence and the intervening drink defence. The bolus drinking defence is also often referred to as the drinking and dashing defence. This arises when the driver claims to have consumed alcohol just before or during driving and claims that they were not over the legal limit when they were driving; it was only later at the station, after all the alcohol had been absorbed, that they were over the limit.

The bolus drinking defence rewards the conduct of drinking significant amounts of alcohol close in time to driving, and perpetuates the myth that it is safe to drive just slightly under the legal limit.

The intervening drink defence arises when a driver drinks after being stopped by the police or after being involved in an accident but before they provide a breath sample. Drivers often claim they needed a drink to calm their nerves. This particular defence undermines the integrity of the justice system as it encourages and rewards behaviour that is undertaken specifically to thwart the breath-testing process.

As such, Bill C-46 proposes to eliminate the bolus drinking defence entirely and to limit the intervening drink defence to narrow circumstances where post-driving drinking was not done to frustrate the breath-testing process. It does this by proposing to change the time frame in which the over 80 offence can be committed. Instead of committing an offence of having a blood alcohol concentration over the legal limit at the time of driving, the bill proposes the offence would be made out if the driver had a blood alcohol concentration of 80 milligrams of alcohol per 100 millilitres of blood within two hours of driving.

Some witnesses expressed concern about how this new offence structure would work. In particular, they raised concerns about a situation where, for example, a driver arrives home from work completely sober, arrives home safely and then consumes alcohol. Would the police be able to show up at their door a few hours later, demand a breath sample and then charge them with impaired driving? The bill proposes an exception for this type of situation where the post-driving drink was not consumed in circumstances where it could reasonably be expected to interfere with an investigation.

If the driver had no reasonable expectation that they would be asked to provide a sample, and their blood alcohol concentration was consistent with not being over the legal limit at the time of driving, then they would not be convicted under the proposed framework.

Members of the defence bar have suggested that eliminating these defences is unnecessary as they have not often been used. However, it has been brought to my attention that due to other recent rulings in the impaired driving regime, these defences are becoming more common, and prosecutors are seeing more of them as there are fewer defences available, especially after the two beer defence ruling in *R. v. St-Onge Lamoureux*.

More importantly, from a policy perspective, these defences encourage and reward risky and dangerous behaviour and can lead to unnecessary litigation which contributes to an overburdened criminal justice system. In my view, there is no place for such defences in our criminal justice system.

Bill C-46 also proposes to reform the Criminal Code regime dealing with transportation offences by bringing more coherence to the penalty scheme overall and to ensure that penalties increase as the level of harm increases. To do this, the bill proposes some new and higher mandatory minimum fines and some higher maximum penalties for impaired driving and other transportation offences.

For example, the proposed legislation would increase the mandatory fines for first offenders with high blood alcohol concentrations or those who refuse to comply with a valid demand. The fines range from $1,000 to $2,000, depending on the blood alcohol concentration of the individual. A first-time offender who refused to provide a sample would be subject to a $2,000 fine to ensure that there is no incentive for non-compliance with a demand.

Mandatory terms of imprisonment for repeat offenders would remain the same as under the current law: 30 days imprisonment for a second offence and 120 days for a third and subsequent offence.

The maximum penalties for impaired driving would be increased in cases where there is no injury or death. These penalties would become two years less a day imprisonment on summary conviction, an increase from 18 months, and to 10 years imprisonment on indictment, up from five years.

The increase in the maximum on indictment is particularly important as one of the conditions for the court to make a finding that the offender is a long-term or dangerous offender. The Crown cannot seek such a finding currently, even if the person has been convicted repeatedly of impaired driving. It should not be necessary to wait until a repeat offender kills or injures someone to have them subject to a long-term supervision order.

It also proposes to hybridize the offences of causing bodily harm to provide the prosecutor with more discretion in less serious cases. Currently, impaired driving causing bodily harm is a straight indictable offence which has more complex procedures and takes more court time and resources. These procedures are often perceived as too cumbersome in cases of minor injuries such as a broken wrist.

Hybridizing this offence would permit the Crown to proceed by summary conviction in cases where they deem the injuries are less serious. This would also help to address the issue of reducing court delays as summary conviction procedures are simpler and take less time.

The maximum penalty for dangerous driving causing death would be increased to life imprisonment, up from 14 years. This is consistent with the maximum penalty for other transportation offences causing death.

• (1700)

A number of other sentencing provisions proposed in Bill C-46 are expected to encourage earlier resolution of impaired driving cases and therefore reduce the number of cases that proceed to trial. These include a limited exemption clause from the mandatory minimum penalties and earlier access to an ignition interlock program, which I will outline further.

The bill proposes that the sentencing judge, with the consent of the Crown, can postpone sentencing in cases of impaired driving where the offence did not cause bodily harm or death in order to permit the offender to attend a provincially approved treatment program.

If the sentence is postponed and the offender successfully completes the treatment program, the court does not have to impose the mandatory minimum penalty.

The other element aimed at earlier resolution relates to alcohol ignition interlocks. These are devices that prevent a car from starting unless a driver has provided an alcohol-free sample of breath. They have been shown to reduce recidivism and to encourage people to separate their drinking from their driving.

Under the current legislative framework, a convicted impaired driver must wait for a specified period of time before the province may grant an application to be in the ignition interlock program.

The proposed legislation would reduce the time an offender must wait before they are enrolled in a provincially approved alcohol ignition interlock system. There would be no wait time for the first offence, a three-month wait time for a second offence and a six-month wait time for a subsequent offence.

Overall, these proposed changes represent the most significant changes to the law of impaired driving since the enactment of the over 80 offence almost 50 years ago and would put Canada amongst the leaders in the world in combating alcohol and drug impaired driving.

Bill C-46 could send a clear message to all Canadians that it is not acceptable to drink or consume drugs and get behind the wheel, and there would be significant consequences for doing so.

One final thing I would like to address is the frequent concern expressed by some of the proposals that Bill C-46 would contribute to delays in the criminal justice system.

Currently, the impaired driving provisions are the most litigated in the Criminal Code. The Standing Senate Committee on Legal and Constitutional Affairs recently studied this issue and expressed concern with the amount of court time taken by these cases.

In their June 14, 2017 final report "Delaying Justice is Denying Justice," they noted that impaired driving cases accounted for 11 per cent of all criminal court cases in 2013-14, the highest proportion among all offence types. They stated that these cases can be challenging for police in terms of gathering and presenting evidence and therefore they tend to take longer to proceed through the courts. I think that is why Bill C-46 is particularly crucial.

Mandatory alcohol screening has proven most effective in other jurisdictions in deterring instances of impaired driving, which would result, hopefully, in fewer cases being brought before the courts in the first place.

Moreover, the bill addresses some of the challenges that police face that slow down courts when they are gathering and presenting evidence. It is hoped that elements of the bill would limit litigation and allow for shorter trials.

Many of the proposals I have already discussed are intended to help to reduce delays and streamline trials. For example, mandatory alcohol screening, facilitating the proof of blood alcohol concentration, the elimination or limiting of some defences and the clarification of disclosure are all proposals that would facilitate trial efficiency and help to reduce delays.

Furthermore, the exemption from the mandatory minimum penalties, as well as the early registration for the ignition interlock program, are both proposals that would encourage earlier settlement of charges. As such, it is anticipated that Bill C-46 would not contribute to further delay in the criminal justice system, and perhaps even has potential to create efficiencies to help reduce delays in a highly litigated area. In addition, the minister tabled both a Charter statement and a legislative backgrounder which aims to clarify the intent of many of the proposed changes.

Senators, it is in the interest of all Canadians that this bill continue to proceed through the legislative process efficiently and in a timely manner so that these crucial additions to our impaired driving regime can be in place before the legalization of cannabis. This would also permit the provinces and territories to develop and move forward with any proposed changes they would like to make to their provincial highway traffic acts. This would ensure that the provincial and criminal approaches to impaired driving would continue to work collaboratively and in cooperation with each other.

I would like to note that the amendment arising in the Committee of Justice and Human Rights' study of the bill, which created a three-year review and reporting provision. As a result, the Minister of Justice must undertake a comprehensive review of the implementation and operation of the provisions enacted by this bill and prepare a report within three years of the coming into force date. This will help us to monitor and evaluate the changes proposed in the legislation.

As you can probably tell, Bill C-46 is very technical in nature. We need to hear from the specialists and experts involved to better understand the intricacies of the law and science. I believe, when appropriate, this bill should be studied thoroughly at committee.

In conclusion, we must do more to deter drivers from getting behind the wheel after they have consumed alcohol or drugs, and we must equip our law enforcement officials with the necessary tools to properly detect drivers who do so. Bill C-46 proposes some important steps in ensuring this is done.

Thank you, senators.

[*Translation*]

Hon. Claude Carignan: Would the senator agree to answer some questions?

[*English*]

Senator Boniface: Yes, of course.

[*Translation*]

Senator Carignan: First, motivated by a will to legalize marijuana, the bill would implement screening measures. You spoke a little about random drug testing by a peace officer. Paragraph 2 of clause 320.27 reads as follows:

> If a peace officer has in his or her possession an approved screening device, the peace officer may, in the course of the lawful exercise of powers under an Act of Parliament or an Act of a provincial legislature or arising at common law, by demand, require the person who is operating a motor vehicle to immediately provide the samples of breath . . .

The government is establishing a random drug test for alcohol, but not for drugs. Therefore, the bill is tougher on alcohol-impaired driving than on drug-impaired driving. Can you explain that for us?

[*English*]

Senator Boniface: My understanding is that we have much more scientific ability to assess on the alcohol side, and as the honourable senator would be well aware, a long history in terms of dealing with alcohol.

With respect to drugs, the science isn't as advanced and my understanding is it's a recommendation of the drugs and driving committee that we proceed in this way, given the science we have at this point in time.

[*Translation*]

Senator Carignan: Clause 1 creates the offence of impaired driving and reads as follows:

> . . . everyone commits an offence who has within two hours after ceasing to operate a motor vehicle . . .

Therefore, the offence in question is committed within two hours. However, the provision to amend subsection 254(2) of the Criminal Code says the following with respect to the authority to conduct tests:

> If a peace officer has reasonable grounds to suspect that a person has alcohol or a drug in their body and that the person has, within the preceding three hours, operated a motor vehicle . . .

This creates an offence with a two-hour time frame, but it also gives the authority to take a sample within three hours. Can you explain this contradiction?

[*English*]

Senator Boniface: Thank you, senator, for the question. This was actually a question I had and I'm hoping it's something we might explore more at the committee level. My understanding is particularly with drugs, it has to do with the absorption rates of the drug in the body. So the three hours gives a longer period of time to be able to make sure that's done. That's my understanding of it, but there's perhaps a better answer to that question that we can explore at committee.

• (1710)

[*Translation*]

Senator Carignan: Thank you. We can explore the issue in committee.

Another question comes to mind. The legal limit for alcohol is set out in the Criminal Code, but when it comes to drugs, the bill seems to give the government the authority to adopt regulations to amend the legal limit. That is quite remarkable. This gives the minister the power to determine what will constitute a criminal offence. Parliament is delegating to the minister its authority to determine what constitutes a criminal offence. Is that how you understand it?

[*English*]

Senator Boniface: Thank you, honourable senator, for the question. My understanding is, in part, that your understanding is correct. In alcohol, it's in the code; in the drugs, it will be in the regulations. The purpose of regulation is to allow for more information to be added as they address and learn from the science about more drugs that can be detected. As I understand it, the committee is actually exploring more drugs, and once the science reaches where it needs to be, they will be able to add them to the system. In terms of quantity, that's also to allow some flexibility as we go down this road.

Hon. Paul E. McIntyre: Will the honourable senator take another question?

Senator Boniface: Absolutely.

Senator McIntyre: First of all, thank you for your presentation. I note that the bill contains three parts, and I draw your attention to Part 2, which deals with offences relating to conveyances.

Bill C-46, Part 2, makes a number of amendments to other acts, including the Criminal Records Act. Before Bill C-46 was tabled, other bills, such as Bill C-73 and Bill C-226, also made amendments to the Criminal Records Act. Those bills would have repealed the current exclusion that enables a person to keep their pardon — now called a records suspension — if they are subsequently convicted of an impaired driving offence. As we know, those bills have died on the Order Paper.

In an offence involving impaired driving, the Crown, as you know, can proceed either summarily or by indictment. If it proceeds by indictment, there are much more serious consequences.

When impaired driving is prosecuted on summary conviction, it is the only hybrid offence set out in the Code that is exempt from an automatic revocation. Clause 42 of Bill C-46 preserves this exemption and does not appear to change the law in this regard. However, Bill C-73 and Bill C-226 were different, as they contained substantive amendments to the Criminal Records Act that would have repealed the current exclusion found in section 7.

Could I have your thoughts on that, please?

Senator Boniface: I would have to take a look at that, honourable senator, and come back with an answer. It would seem to me that it would be ideal, given the rest of the position, that it stays on the record.

You raise an issue that I haven't explored, but I undertake to do so and come back to you.

Senator McIntyre: I note that the house committee made 16 amendments, and I was pleased to see that they added to the bill the current mandatory minimum penalties for impaired driving causing death and bodily harm. In reviewing this bill, could you let us know if an amendment should not be made to the Criminal Records Act so that we would repeal the current exclusion clause?

Senator Boniface: As I indicated, I'd be happy to look at the issue and come back to you when I have the full details, if that would be suitable.

The Hon. the Speaker: Senator Boniface, there are more senators who wish to ask questions, but your time has expired. Are you asking for five more minutes?

Senator Boniface: Yes, of course.

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

Hon. Senators: Agreed.

Hon. Serge Joyal: Would the honourable senator entertain another question?

Senator Boniface: Of course.

Senator Joyal: I listened to you very carefully, and I want to commend you for your presentation of the bill, but I have the following concern. As you know, with the present section of the Criminal Code, there are criteria for a police agent to ask someone to provide a sample. There is the criterion of reasonable doubt to believe that a person is under the influence. Now there is no such criterion; it's gone.

What would reassure us that there won't be racial profiling, especially in relation to Aboriginal people? How would we prevent racial profiling? Was there consultation with representatives of Aboriginal people on this issue of the proposal contained in the bill you have introduced?

Senator Boniface: On the first question around mandatory screening, I want to be very clear that Professor Solomon spoke to it around the constitutionality, and in a paper Professor Peter Hogg also did an assessment and reaffirmed Professor Solomon's view.

In terms of the mandatory alcohol screening, to me it is a system where it doesn't matter who comes up. If you're doing a roadside check and normally what you would see is a number of officers, and they would just go from car to car, to me that makes it very simple.

My home province of Ontario has a framework in place, announced recently, reaffirming some policy around how officers must proceed. To me this creates the opportunity for that not to be the case; in fact, within the framework of police conduct and what they're expected to do, it allows officers, without exploring further or even to that degree or having any inquiry, the right to ask for the sample. From the roadside stop perspective, that makes it much fairer.

In terms of the Aboriginal community, I am not aware of what the level of consultation is, but I'd be happy to come back to you when I have that information.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: My question will be quite simple. I gave an interview this afternoon on the topic of the bill you were going to introduce here in the Senate. I therefore reread the bill for the second or third time and I was surprised to see that it legalizes the possession of marijuana for those 18 and over, and it also decriminalizes possession of less than five grams for young people between the ages of 12 and 17—Excuse me.

[*English*]

The Hon. the Speaker: Senator Boniface, did you wish to respond to that?

Senator Boniface: I wasn't part of that discussion. I think we are confused on the bills.

Hon. Pamela Wallin: I have three points, and I'd love to hear your comment on it, but more important I'd like to make sure the committee takes a look at this.

The first one is the question of the testing and how long the drugs are in your system. Certainly early on there were some concerns that the testing, which is relatively new, might detect drugs that have been there for 24 hours or when they weren't driving. How convinced are you on the science?

The second question is that murky area of the presumption of guilt which seems to be there because you have a fine for non-compliance, no suspicion is needed, it's mandatory testing. There's an assumption there. I find that very troubling.

The third issue is the question of enforcement. I come from a rural part of this country — and I've raised this issue in this chamber before — and we barely have enough police officers as it is to show up at existing crime scenes. In my province we are recruiting conservation officers to help enforce the law. Now we've got mandatory testing. Then there's the secondary process of a blood test in rural areas. I don't know how that's going to work. So are we really accomplishing the goal? Those are my three areas.

• (1720)

Senator Boniface: Thank you to the honourable senator for the question.

The first one with respect to the system, I think the Drugs and Driving Committee has really explored this very significantly to try to figure out what is the right way to go to ensure that somebody is not convicted inappropriately.

They look to other jurisdictions, as I said, such as in the United Kingdom where it is illegal. They have two nanograms, and in other jurisdictions five nanograms.

I think the consultation has been quite broad in terms of learning from jurisdictions that are ahead of us and also learning from jurisdictions that are addressing the issue despite the fact that cannabis is illegal. That's the first question.

The Hon. the Speaker: Senator Boniface, your time has expired again. Are you asking for time to respond to the last question?

Senator Boniface: Just the last question.

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

Hon. Senators: Agreed.

Senator Boniface: On the second question of the assumption, the assumption exists today. If there is reasonable suspicion, the person has to provide a roadside sample. If they refuse to provide the sample, they can be charged.

The assumption is if you're driving, you should expect that one of the rules of the road is that you drive and are not over the legal limit. You would have an obligation, if you're stopped, to provide a sample, which will take a very short period of time, a matter of seconds, to provide, and then you will be on your way. I think it actually will be very helpful.

On the third issue of enforcement, you raise good points. I think those will be sorted out at the local and provincial levels. As you would expect, I've had ongoing discussions with my former colleagues on how they will be in a position to deal with enforcement.

One of the important pieces is that impaired driving is a significant issue for Canadians. It's a significant issue for Canada. The point I reiterate is for officers who are out there working on the road, it's a serious issue if people are driving around impaired while they're trying to do their work.

(On motion of Senator Martin, debate adjourned.)

[*Translation*]

IMMIGRATION AND REFUGEE PROTECTION ACT
CIVIL MARRIAGE ACT
CRIMINAL CODE

BILL TO AMEND—THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator McPhedran, for the third reading of Bill S-210, An Act to amend An Act to amend the Immigration and Refugee Protection Act, the Civil Marriage Act and the Criminal Code and to make consequential amendments to other Acts.

Hon. Marie-Françoise Mégie: Honourable senators, the Honourable Senator Omidvar has given me the floor despite the debate being adjourned in her name.

I rise today to speak to Bill S-210. As legislators, when we assign a short title to a piece of legislation, we need to pay special attention to its impact and possible consequences, while taking the purpose of the act into consideration.

Bill S-210 contains just one provision. Its purpose is to repeal section 1 of An Act to amend the Immigration and Refugee Protection Act, the Civil Marriage Act and the Criminal Code and to make consequential amendments to other Acts. The section in question concerns the short title and reads as follows: "This Act may be cited as the Zero Tolerance for Barbaric Cultural Practices Act."

Colleagues, I would like you to reflect carefully on the following question: in light of Canada's cultural mosaic, what associations will come to mind when our fellow citizens see this string of words? Without repeating all the arguments put forward by Senators Jaffer and Ataullahjan on this subject, it is obvious that the phrase "barbaric cultural practices," in this context, is a direct allusion to recent and established immigrants.

Every day in this country, we promote civic values such as coexistence. As such, we can all agree that honour killings, genital mutilation, and forced marriage are utterly heinous crimes. These highly reprehensible acts can be perpetrated against individuals of any ethnocultural origin. Unfortunately, no border or barrier can stop violence, hatred and misogyny.

As citizens of a country that welcomes immigrants and is open to multiculturalism, we cannot continue to conflate the words "immigration and refugee protection" and "barbaric cultural practices". It is our responsibility to ensure that the victims of the aforementioned odious crimes can report the practices they are being subjected to without fearing that their culture will be judged. Not only is that contrary to the worthy objective of the act to amend the Immigration and Refugee Protection Act, the Civil Marriage Act and the Criminal Code and to make consequential amendments to other acts, but it divides Canadians by separating some communities from others.

If our intention is to create modern legislation, the style of the short title must be in keeping with the role a piece of legislation is expected to play in our society. Legislation must give form and substance to federal policy in such a way as to ensure the practical application of each bill. Coherent terminology, phraseology, and logical expression ensure that the legislation we put before Canadians is sound. The language of the bill must be consistent with the measures proposed if we are to provide an appropriate solution to the complex issues we face.

As legislators, effectively communicating our intentions is a powerful way to reiterate our values of equality, inclusion, and freedom. To do that, honourable senators, let us support Bill S-210, which simply seeks to repeal the short title of the legislation that I cited without changing its essence whatsoever.

Thank you.

[*English*]

The Hon. the Speaker: Honourable senators, is it agreed that the matter will remain adjourned in the name of Senator Omidvar?

Hon. Senators: Agreed.

(Debate adjourned.)

LATIN AMERICAN HERITAGE MONTH BILL

THIRD READING—DEBATE ADJOURNED

Hon. Tobias C. Enverga, Jr. moved third reading of Bill S-218, An Act respecting Latin American Heritage Month.

He said: Honourable senators, I rise today to speak at third reading of my Senate public bill, Bill S-218, An Act respecting Latin American Heritage Month, and to urge senators to support it at its final stage in the Senate.

Coming to Canada as an immigrant, I am one of many in this chamber who has been fortunate to be welcomed here to contribute to our society. There are few countries in the world that are as open and accepting as Canada to immigrants seeking to make a new life for themselves. The Canadian policy of multiculturalism is a great success when it comes to allowing for and celebrating the various cultural backgrounds and languages we have.

As colleagues will know, in Canada we have several months and days that we use to celebrate different heritages and cultures during the year. In the month of February, we of course celebrate Black History Month. This month, so proclaimed by the House of Commons in 1995, and much later, in 2008, by the Senate, provides all Canadians a significant platform around which they can celebrate, commemorate and remember achievements by Black Canadians.

• (1730)

In Canada, we also celebrate Asian Heritage Month in May, after our chamber adopted a motion for the government to declare it so. During Asian Heritage Month, many non-Asian Canadians learn about the many different cultural heritages of the Asian continent, often taking place around food and entertainment.

These months also provide a very important aspect of multiculturalism beyond learning about the culture and legacy of others. They can provide a meaningful vehicle to explore one's own culture and history. They can provide a series of events that strengthen one's own sense of identity. They can provide persons of immigrant background a sense of understanding and pride in one's heritage. This is why our country is unique; we welcome and celebrate diversity.

A Latin American heritage month will be part of this continuous exercise in nation building. It will allow for Latin American Canadians of all backgrounds to come together and celebrate their shared culture and history and, importantly, it will afford all Canadians the opportunity to learn about and celebrate this heritage that is represents an ever-growing number of Canadians.

Honourable senators, I strongly believe that this initiative should be brought forward as a bill rather than by a motion, as was done for Black History Month and Asian Heritage Month. Black History Month was first celebrated in 1996 by the Government of Canada following a motion, moved by the Honourable Jean Augustine and unanimously passed by the House of Commons in 1995. The Senate only confirmed its support of the same motion, moved by our former colleague Senator Donald Oliver in 2008. That is a span of 13 years until Parliament's three constituent parts agreed upon the measure. Asian Heritage Month comes out of Senator Vivienne Poy's motion, passed by this Senate and then proclaimed separately by the government in 2002.

By establishing a Latin American heritage month by an act of Parliament, all three constituent parts — the Queen, the Senate and the House of Commons — will unite in their support of this initiative and offer the appropriate honour to the contributions of Latin Americans to our economy, our culture and our society.

Honourable senators may recall that during the last session I introduced Bill S-228, An Act respecting Hispanic Heritage Month. This was to be in harmony with the provincial legislation in Ontario, as well as the City of Toronto's own declaration. On May 5, 2015, Ontario passed Bill 28, An Act to proclaim the month of October as Hispanic Heritage Month. The City of Toronto made a similar declaration in February 2014. In that declaration, the City of Toronto formally requested the Government of Canada to declare October Hispanic heritage month for the whole country.

Honourable senators, after some public consultation and further consideration of what would be the most inclusive and neutral wording, I decided to change the focus of this bill to Latin America as a geographic-linguistic community, which would not only add lusophone and francophone communities but

also that of indigenous peoples of the region. In addition, as one person stated, ". . . it allows inclusivity of all/any multiple identities because it allows self-identification, meanwhile celebrates a land and histories that connect us all."

This is another example of how important it is to keep learning about our diverse backgrounds. With a Latin American heritage month, issues of self-identification within the multicultural context of Canada will enhance our understanding of the complexities that are involved. The complexities of what it means to be Latin American may not be as evident to most Canadians. It is in this spirit, honourable senators, that I propose this legislation.

In Canada, the Latin American community is large, vibrant and growing rapidly. As per the 2016 census regarding the ethnic origin of Canadians, 788,510 Canadians credit their ethnic origin to Latin America. That is an increase of 155,885 Canadians from the 2011 census, when this number sat at 632,265 Canadians. This number will continue to rise as this rapidly growing community continues to have a positive impact on our society and country.

Honourable senators, by maintaining a strong sense of respect for our origins, while sharing that respect with our neighbours and fellow countrymen, we enrich the multicultural mosaic that Canada has become. A national Latin American heritage month would be a vehicle that can be used to strengthen the efforts of the Latin American Canadian community to enlighten us about their contributions to and achievements in Canada.

Honourable senators, highly skilled Latin American immigrants, like our colleague Senator Galvez, now entering Canada to live here permanently are evidence of a new wave. Until a few decades ago, many Latin American immigrants fled political turmoil and persecution in their homelands. These immigrants have a strong sense of civic involvement and public service for the betterment of all. Their voices contribute to Canadians' understanding and knowledge of conditions that led to their flight. They came to Canada to live in a country where the rights and freedoms that they were denied are entrenched.

Honourable senators, I recently had the opportunity to appear before the Standing Senate Committee on Social Affairs, Science and Technology wherein the members of that committee were very welcoming and understanding of what establishing a Latin American heritage month would mean for many of our fellow Canadians. Appearing alongside me was our colleague, Senator Rosa Galvez, to whom I extend many thanks and my deep gratitude for her wonderful support of this bill. Senator Galvez, as a member of Canada's Latin American community, gave credence to the importance of this bill as well as the excitement and the preparedness of the Latin American community to galvanize behind this initiative and celebrate this month in a way that all Canadians could enjoy and benefit from.

Colleagues, I maintain that declaring the month of October Latin American heritage month will be a wonderful opportunity for us to contribute to our collective story — a uniquely Canadian story based on tolerance and inclusion. It is my hope that this important legislation can pass this chamber quickly and take a step closer to becoming an officially recognized celebration of the Latin American heritage within our great country.

• (1740)

Thank you for your attention. *Muchas gracias*.

Hon. Rosa Galvez: Honourable senators, I rise today to speak to Bill S-218, An Act respecting Latin American Heritage Month.

Last month I appeared as a witness before the Standing Senate Committee on Social Affairs, Science and Technology to speak to this bill, as Senator Enverga mentioned. Latin American Canadians, such as myself, are useful links to the democratic nations of the Americas. Politically and economically, Canada holds numerous multilateral agreements with individuals and groups of Latin American countries, assisting in creating political, economic and commercial alliances. Recognizing our shared cultural heritage in Canada with a Latin American heritage month would strengthen the ties between Canadian and Latin American countries and provide a specific time to celebrate the cultural, social and economic contributions of Canadians and permanent residents of Latin American origin in Canada.

In a written statement, the President of the Canadian Council for the Americas, Mr. Kenneth Frankel, provided his organization's support for establishing Latin American heritage month in Canada. In his letter he described the benefits of designating a Latin American heritage month:

> First, it would send an important message to all Canadians, including Canadians from Latin American communities, that Canada, our country, recognizes the key and ongoing contributions that Canadians of Latin American communities have made to Canada.
>
> Second, it would send a message to Canadians, Latin Americans and indeed the entire world that Canada values its relationship and the shared commitment to fundamental liberal democratic values and inclusive societal goals.
>
> Third, it would send a message to the world that in an era of troubling nativist rhetoric and events ongoing in the world, Canada extols, has benefited and will continue to benefit critically from multiculturalism.

As I recently mentioned in a statement in this chamber, during my last visit to Peru, I participated in a meeting convened by the President of the Congress. I represented our Speaker from the Senate. Presidents and vice-presidents of the congress of 12 Latin American nations gathered to strongly condemn the actions of the President of Venezuelan. It showed how Latin American nations can act as a bloc. I reiterated Canada's strong commitment to democratic values in the Americas and called for a negotiated return to democratic order in Venezuela by signing a statement which reaffirms our trust of democratic values.

The Americas share tectonic plates, a chain of mountains such as the Andes and mystic rivers such as the Amazon. We also share a history of past and recent events, and cultural and economic ties reunite Canada with Latin American countries. Individually and together, they are important allies to Canada.

There is no bad angle to support this bill, whether you assess the economic, political or social aspects, or whether you look at it from the perspective of those born in Canada or Latin American-born immigrants to Canada and their children and their families.

I can offer you an example from my own experience. As you know, I was born in Lima, Peru, and spent my childhood in a city typical to Latin America; overpopulated and very busy. It could have been Santiago, Mexico City, Bogota or Rio de Janeiro. We speak a Latin language, we share the same religion and we all look alike.

During my work at McGill University, my name was on the entrance board and my office was considered the Latino student orientation office. Every Latino passed by my office looking for advice. My fellow Canadian Latinos like to show solidarity. We want to help each other. We try to cheer up our co-citizens. Our cup is always half full.

The Latino way of living is epicurean. It allows for enjoying the present through friendship, sharing music, cuisine and life experience. How many Canadian friends have we convinced to explore the Andes, the Amazon jungle, the Maya, Aztec and Inca archaeological sites? How many Canadians have formed life-long friendships with people in Latin American countries and of Latin American origin? Thousands.

A month to celebrate Latin American heritage will be successful in bringing all cultures together.

I like numbers, as you know. I think they illustrate facts very well. A statistic may help in viewing how the Latin American community is perceived and integrated in Canada. Latin American Canadians tend to be well integrated. According to the ethnic diversity study, 82 per cent of citizens with Latin American origins feel a strong sense of belonging to Canada. Like me, they stay here by choice. Seventeen per cent of Latin American adults in Canada hold university degrees, higher than the average of 15 per cent; 64 per cent of Latin American adults, compared to 62 per cent of the general population. These statistics demonstrate that Latin Americans have a high rate of integration into the economy and Canadian society.

Likewise, Latin American students make a substantial group in graduate studies in science and engineering at Canadian universities. Indeed, during my professional career as a professor and engineer, I have encouraged many Canadian professors to teach in Latin American universities, and I have convinced many students from Latin America to come and study in Canada. This exchange of knowledge is invaluable in an educated society. Indeed, some of the immigrants who could have chosen to return to their countries did not. They remained in Canada.

Latin Americans who remain and love Canada not only do it because of the job opportunities — and I want to stress this — but because of the openness, the values, the kindness, resilience and hard-working nature of Canadian people.

What these immigrants bring to Canada, as did waves of immigrants from Central and South America over the past half century, is a rich cultural heritage, not only in arts, crafts, textiles, music, agriculture and food products, but also in their perspectives and relationship with indigenous peoples. The opportunity to celebrate this cultural heritage with Canadians of Latin American or other origins benefits all Canadians.

[*Translation*]

Honourable senators, we must also consider the fact that, in Canada, the Latin culture shines through our French heritage. Francophone communities in Quebec, Acadia, Manitoba, and Ontario enjoy their interactions with Latin American communities, with whom they share a sense of solidarity and a common culture.

I salute, thank, and support Senator Enverga for his initiative to sponsor this bill.

[*English*]

Latin American heritage month will provide Canadians with a yearly recurring opportunity to celebrate and learn more about the cultural heritage and legacy of Latin Americans in Canada and to be part of this continuous exercise in nation building.

[*Translation*]

Honourable colleagues, I thank you in advance and encourage you to support Bill S-218. Thank you very much.

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

• (1750)

[*English*]

FRAMEWORK ON PALLIATIVE CARE IN CANADA BILL

THIRD READING—DEBATE ADJOURNED

Hon. Nicole Eaton moved third reading of Bill C-277, An Act providing for the development of a framework on palliative care in Canada.

She said: Honourable senators, I rise today to speak in support of Bill C-277, An Act providing for the development of a framework on palliative care in Canada.

I will not speak long, but I would like to review some of the discussion at the Standing Senate Committee on Social Affairs, Science and Technology during its study of the bill.

Introduced by Sarnia-Lambton MP Marilyn Gladu, Bill C-277 is a simple bill, but its impact could be profound. The bill requires the Minister of Health, in consultation with her provincial and territorial counterparts and palliative care providers, to develop a framework to support improved access to palliative care for Canadians.

This framework must define palliative care, identify the training and education needs of caregivers, promote research and data collection, identify measures to ensure consistent access across Canada, take into consideration existing frameworks, strategies and best practices and evaluate the advisability of re-establishing the Department of Health's Secretariat on Palliative and End-of-Life Care.

It also requires the minister to initiate consultations within six months of the date the act comes into force and requires a report to Parliament setting out the framework within a year.

Within five years after the report is tabled in Parliament, the Minister of Health must prepare a report on the state of palliative care in Canada. In essence, the bill establishes the priorities and sets a deadline to achieve them.

Witnesses who appeared before the Social Affairs Committee were clear: These are the right priorities and now is the time to act. As Ms. Gladu noted before the committee, the money is there, with the announcement of $11 billion in the 2017 Budget to be spent on home care, palliative care and mental health treatment. The timelines in the bill are designed to ensure action follows the funding announcement.

The witnesses who appeared before the committee, a wide range of experts and stakeholders, were universal in their support of this bill. There were some witnesses — and some senators, I might add — who would prefer stronger language than that contained in Bill C-277, and that led to three observations in the committee's report.

First, there was some concern that the consultations required under clause 2(1) of the bill should include stakeholders who represent the interests of the patients. The committee in its observations urges the Minister of Health to permit patients and groups representing their interests to participate in the development of the framework. I believe the language in the bill is sufficiently flexible to allow that to happen, and I'm confident that it will.

Second, the committee is concerned about the lack of access to palliative care in some areas and urges the federal government to provide additional funding for rural, remote and indigenous communities.

Third, the committee urges the federal government to re-establish the Secretariat on Palliative and End-of-Life Care within Health Canada.

I agree with these objectives, and I think they are appropriately dealt with as observations rather than as amendments to the bill.

A bill proposing the expenditure of public funds must be accompanied by a royal recommendation, which can be obtained only by a minister. So there are good reasons why Bill C-277 is not more definitive on these matters.

Ms. Gladu had to make certain compromises to win the support of the government. This bill would not be before us today if she had not done so. Bill C-277 received unanimous support in the other place thanks to her skillful navigation of the parliamentary process. I thank her and commend her for the work she has done.

I would also like to thank the stakeholders and experts who helped her craft the bill, who supported it at committee and who will do much of the work to develop and implement the framework. In its present form, the bill provides the impetus to collect the data, to identify the gaps in the system, to improve education, to ensure some regions or groups of people such as First Nations are not left behind.

It need not become a top-heavy bureaucratic enterprise. It's a matter of pulling together the knowledge and expertise that are already out there in communities and organizations right across Canada.

Honourable senators, our courts have told us that it is a violation of our Charter rights to be denied medical assistance in ending our life, that we must be offered that choice. Yet we have no similar right to palliative care.

As Dr. Henderson, President of the Canadian Society of Palliative Care Physicians, told the committee, medically assisted dying ". . . is actually not a choice when there is no other choice."

People should not have to choose medically assisted death because they do not have access to high-quality palliative care. Yet that is the situation for two thirds of Canadians. Unless we act now, this is a problem that will get worse.

As Dr. Henderson noted, 14 per cent of Canadians were aged 65 or older in 2011. By 2025, 20 per cent will be that age, rising to 25 per cent by 2061. We are facing a demographic time bomb, and simple economics alone dictate that we should move as quickly as possible to implement high-quality, accessible palliative care across the country, care that will allow people to spend their final months or days in their home or in a hospice at a cost of $200 or $300 a day, as opposed to an acute-care hospital bed at a cost upwards of a $1,000 a day.

Of course, it goes beyond cost. It's a matter of dignity. As MP Gladu said at committee:

> . . . when people have good quality palliative care, 95 per cent of them will choose to live as well as they can for as long as they can . . .

Passing this bill is a step toward ensuring people are able to make that choice to live as well as they can for as long as they can. So I ask this chamber, colleagues, to vote in favour of Bill C-277.

The Hon. the Speaker: Honourable senators, it being almost 6 p.m. and as we still have a fairly lengthy Order Paper to go through, may I ask for consent now that we not see the clock at six o'clock so that we will not have to interrupt another senator speaking? Is it agreed, senators, to not see the clock?

Hon. Senators: Agreed.

Hon. Judith Seidman: Honourable senators, I rise in this chamber to speak in favour of Bill C-277, An Act providing for the development of a framework on palliative care in Canada. Specifically, I wish to address the urgency of passing this legislation and speak to the importance of timely and effective implementation.

Thousands of Canadians are suffering needlessly each year because they do not have access to palliative care. A 2016 study by the Canadian Cancer Society found that there are gaps in the system, there is no common definition of palliative care, and there is a lack of information about what services are available in which parts of the country.

At the time of the report's release, Gabriel Miller of the Canadian Cancer Society expressed what we have long known, saying:

> It has been a shameful secret of Canadian health care for many years that there are massive holes in the way that we care for our very sickest people, especially as they approach the end of life . . . .

Honourable senators, the current situation is unacceptable in a country like Canada, where we pride ourselves on making health care available to everyone. We are quite plainly failing the most vulnerable at the time when they need our help the most.

• (1800)

This is not the first time that parliamentarians have been faced with proposals to improve access to palliative care for Canadians. In 2011, the All-party Parliamentary Committee on Palliative and Compassionate Care released a report entitled *Not to be Forgotten: Care of Vulnerable Canadians*. In 2014, private member's motion M-456 called for the establishment of a "Pan-Canadian Palliative and End-of-life Care Strategy."

As countless expert witnesses have told us, the time for action is now. Fortunately, we are not starting from scratch. A wide range of information and resources have been established to guide the establishment of a national framework for palliative care. I would like to highlight the excellent work of *The Way Forward* initiative, led by Quality End-of-Life Care Coalition of Canada, managed by the Canadian Hospice Palliative Care Association, and funded by the former Conservative government.

The Way Forward culminated in the development of a comprehensive roadmap for an integrated palliative approach to care. Published in 2015, the report offers practical resources and tools to support governments, policy-makers, regional planners, health care organizations and providers. This document provides clear answers to questions that have been raised in committee and in this chamber about this legislation, and I encourage all senators to read it.

Beginning in 2015, I was very privileged to serve on the Special Joint Committee on Physician-Assisted Dying, along with fellow senators and colleagues from the other place. It became immediately clear to all of us who served on that committee that without a universal and accessible palliative care system in Canada, it would be extremely challenging to legislate physician-assisted death. Indeed, all witnesses who addressed the issue agreed that Canada must do more to improve access to palliative care.

The joint committee's final report made important recommendations with respect to palliative care that are aligned directly with the framework provided for in Bill C-277. In that report, we called on Health Canada to re-establish a Secretariat on Palliative and End-of-Life Care; we asked Health Canada to work with the provinces and territories, and civil society, to develop a flexible, integrated model of palliative care by implementing a pan-Canadian palliative and end-of-life strategy with dedicated funding; and emphasized the need to develop a public awareness campaign on the topic.

By now, we have heard the shocking figure that only 30 per cent of Canadians have access to high-quality palliative care when they need it. Of course, this challenge is particularly acute in rural and remote areas. However, there is so much we still do not know about palliative care. That is why the framework's objective to promote research and the collection of data is critical.

Rigorous scientific research is essential to inform sound, evidence-based decisions by clinical practitioners and policy-makers. However, palliative care research has historically suffered from a lack of strong public advocacy. As a result, the health research community has been limited in its ability to measure and report on palliative care services and practices across the spectrum of care because data are so sparse. Our limited understanding makes clear that we need better data to develop more meaningful ways to measure the quality and timeliness of palliative and end-of-life care in Canada.

The Canadian Partnership Against Cancer's most recent report from September 2017 identifies three key barriers and gaps we must bridge to bring about change. First, we need to understand patterns of palliative and end-of-life care for patients across all health care settings better, including acute care hospitals, outpatient care, homes, hospices and long-term care facilities.

Second, it is crucial that we learn more about the alignment of patient preferences and goals of care with the care patients actually receive. As of 2017, no national data are routinely collected to identify a person's care needs or preferred location of death.

Finally, information about inter-jurisdictional variations in access to community-based palliative care services will help inform solutions to address regional service disparities.

The framework's commitment to research and data collection will also increase access to evidence-based care, improve the ability to evaluate interventions, and enhance the quality of education for health care providers.

Dr. Bernard Lapointe, Director of Palliative Care at McGill and Chief of Palliative Care Services at the Jewish General Hospital, had this to say about the importance of education:

> Death is not optional, we will all face it one day; the teaching and learning about death should not be optional. Every provider should have core knowledge of palliative care.

Bill C-277's focus on identifying the palliative care training and education needs of health care providers and other caregivers aims to address this knowledge gap. In committee, we heard that most physicians and nurses are not trained to provide palliative care. On average, medical and nursing students spend as little as 20 hours of their four years of study learning about palliative and end-of-life care.

The Way Forward observes that while this kind of shift requires changes to health care provider education, it also requires champions in all practice settings and in all health professions.

The good news is that tools are at the ready. By leveraging existing training initiatives, such as the Educating Future Physicians in Palliative and End-of-Life Care program, the Learning Essential Approaches to Palliative and End-of-Life Care program, along with national competencies in palliative care for nurses and social workers led by professionals and educators in those fields, we can adapt these programs to focus on an integrated palliative approach to care.

Before I conclude my remarks, I wish to remind honourable senators of the review and reporting requirement contained in clauses 3 and 4 of the bill. Within one year of this legislation being passed, the Minister of Health must prepare a report setting out the framework on palliative care. Within five years, the minister must prepare a report on the state of palliative care in Canada and report back to each house of Parliament.

I cannot overstate the importance of consultation as the framework is developed, especially with community partners. Given the volume of palliative care delivered outside of hospital and long-term facilities, it is critical that local community representatives have a seat at the table. This is particularly important when we recall that the majority of funding for residential hospices is raised by community organizations through public donations. For this reason, community sector representatives must be an equal and valued partner alongside the federal, provincial and territorial governments.

Honourable senators, Canada's health care system was created nearly 50 years ago, when our population was just over 20 million and Canadians could expect to live until the age of 70. Today, we have a population of well over 30 million, and, on average, Canadians live a full decade longer. Our rapidly aging population is one of the most pressing policy challenges of our time. A comprehensive strategy that provides for the chronic and complex needs of our aging population must include access to quality palliative care. Bill C-277 helps to ensure that every Canadian can choose the end-of-life care they need, with the peace and comfort they deserve.

(On motion of Senator Gagné, debate adjourned.)

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Ringuette, seconded by the Honourable Senator Bovey, for the second reading of Bill S-237, An Act to amend the Criminal Code (criminal interest rate).

Hon. Pierre-Hugues Boisvenu: Honourable senators, I wish to take the adjournment in the name of Senator Maltais.

(On motion of Senator Boisvenu, for Senator Maltais, debate adjourned.)

• (1810)

SENATE MODERNIZATION

SEVENTH REPORT OF SPECIAL COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Massicotte, seconded by the Honourable Senator Moore, for the adoption of the seventh report (interim), as amended, of the Special Senate Committee on Senate Modernization, entitled *Senate Modernization: Moving Forward (Regional interest)*, presented in the Senate on October 18, 2016.

Hon. David M. Wells: I move the adjournment of this item, honourable senators.

(On motion of Senator Wells, debate adjourned.)

TENTH REPORT OF SPECIAL COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Cordy, for the adoption of the tenth report (interim), as amended, of the Special Senate Committee on Senate Modernization, entitled *Senate Modernization: Moving Forward (Nature)*, presented in the Senate on October 26, 2016.

Hon. Frances Lankin: Honourable senators, I rise today to speak to the tenth report of the Special Senate Committee on Senate Modernization as amended by the Senate on March 28, 2017. I don't expect to speak long this evening, and I understand that all groups might be ready for this to go to a vote. With that in mind, I'll just put a few words on the record.

The gist of the motion is to create a mission or purpose statement for this Senate. It's modelled on a motion that was first developed at what's referred to as the Massicotte-Greene conference, which was before I joined this chamber. There were a lot of people who participated in this and brought a lot of perspectives. As you can well imagine, it is a difficult job to take on trying to develop one statement that all can agree on and that captures the essence of this noble institution.

The words that have been put forward are suggested, and the motion says that the mission statement or the purpose statement or the nature of the Senate that is developed by the Rules Committee be modelled on these following words. I'll read them into the record:

(i) Providing "independent sober second" thought to legislation, with particular respect to Canada's national interests, aboriginal peoples, regions, minorities and under-represented segments of Canada's populations;

(ii) Undertaking policy studies, reports and inquiries on public policy issues relevant to Canadians; and

(iii) Understanding, sharing and representing the views and concerns of different groups, based on a senator's unique perspective.

I think we can all agree that it probably isn't productive to try to amend words and do a group edit within the floor of the Senate. It's something that should be dealt with by the Rules Committee.

Last week when Senator Tannas spoke to this, I did ask him whether or not the discussions that led to the development of this three-point statement included understanding the particular role that the Senate had with respect to ensuring constitutional compliance, for example. In the very early days of the Senate, that was one of the prime purposes of the Senate and that had to do with constitutional things like the division of powers between the federal government and the provincial governments, and there was a keen eye to that which was vested in the responsibilities of the Senate.

Second, I asked him whether or not there had been consideration of the importance of Charter compliance and the particular role that the Senate has to play in that. The Supreme Court ruling with respect to the Senate and the methods of appointments or non-appointments gave an occasion for the Supreme Court to opine upon the purpose of the Senate, its mission and its responsibilities. These aspects of constitutional and Charter compliance were elements that have been included in the list of references. It's probably important for us to consider whether or not they need to be included in this particular definition.

There are some important issues to talk about in terms of what some of these words mean and for us to come to a common conclusion about that. I've had some interesting conversations with Senator Bellemare, as an example, who has talked about the role of providing independent sober second thought. There's much discussion about that independence and what it means. Accusations are thrown around and uncomplimentary words used to describe other people in a way that I think diminishes this honourable place. But having said that, I think that all of us strive to understand independence both in terms of its personal import to each senator and what that means, and, as Senator Bellemare often speaks about, the importance of understanding the independence of this institution and what that means.

There have been occasions in the past where governments of different political stripes have been very engaged in the business within the Senate with clear evidence of directions from prime ministers' offices and interference and sanctions on people if there wasn't compliance. I think we all agree that that's not what we expect in terms of the independence of this institution.

Senator Bellemare makes another point about the equality of all senators and how we, as we move forward, talk about modernization. In a time when there's a repopulation of the Senate involving more independents and fewer members of political parties, what does that mean for the equality of all senators?

Those concepts, as we have started to talk about in different places, are probably not clearly expressed in this mission statement. Maybe they should be; maybe they shouldn't be. That's something I also would hope that the Rules Committee would take a look at and would understand as we go through a period of evolutionary change. What we envision for the future should be recognizable in the words that we adopt today.

With that, Your Honour, I thank the members of this chamber who were involved in the early work on modernization. I thank Senators Greene and Massicotte for their leadership and others who worked diligently along with them, like Senator Tannas, and who brought this through the work of the Modernization Committee and here to the chamber floor. I look forward to participating in the discussion when it gets to the Rules Committee.

Hon. David M. Wells: If I could have one question.

The Hon. the Speaker *pro tempore*: Senator Lankin, would you accept a question?

Senator Lankin: Yes.

Senator Wells: Thank you for your comments on the mission statement. I look at the Senate. It has been here for 150 years. It seems to have worked well, and I think the mission statement for the Senate is in the Constitution in how we're directed. I'm glad you spoke on it, because you have a history in parliaments.

I have a concern about the corporatization of the Senate. It's been free-flowing debate for 150 years. The Senate has executed its mandate. We're here to review and propose legislation. We're here to do studies that are important to Canada. Is there something more the Senate should do that's not encompassed in what we're required to do under the Constitution?

Senator Lankin: I'm not sure I have a fulsome answer. It is something that I will certainly give consideration to as I participate in the deliberation.

I don't agree with your basic premise that the debate here has always been free flowing. I think there are clear and evidenced instances of PMOs of different political stripes interfering in the work of the Senate, very direct, controlling and with sanctions. I think those are not the majority of experiences that people have had, but that has occurred. I think we have to recommit ourselves to a Senate that does not allow for that.

• (1820)

Senator Wells: Would the honourable senator take another question?

Senator Lankin: Sure.

Senator Wells: It's specifically on your comments, and I don't mean this to be tedious at all; it's not what I do.

On the question of PMO interference and specifically sanctions, of course, you will know that senators who are not under the thumb of the PMO have called for sanctions of other senators. Would you be including something like that, or are you speaking specifically about the PMO?

Senator Lankin: I'm sorry. I didn't fully understand the question.

Senator Wells: I know some senators were calling for sanctions of members of our caucus that weren't under the direction of the PMO, on either side. You mentioned the PMO specifically. Of course, in any free-flowing debate, people can speak as they wish, but you mentioned specifically the PMO and under the direction or thumb of the PMO. There have been ISG senators or independent senators or senators of all stripes who have called for such things. I was wondering why you mentioned specifically the PMO and not others.

Senator Lankin: I think that my reference to that is because I have a particular preoccupation and concern of the political structure ties that can sometimes direct what happens in this place. That is something that, through a process of continued discussion, I hope that we can discuss at the Modernization Committee.

I think that people, particularly from your caucus, have put squarely on the table your concerns about the importance of the role of opposition, and I have always remained open to those discussions. You will know at the Rules Committee I have suggested on some of the other provisions that were before us that we move forward only on those parts that don't directly engage on that issue, because there's a much bigger discussion to be had and I think one that has to be had with sensitivity.

I don't believe I have participated in calling for sanctions. In fact, I have at times, despite being disturbed by comments that I have heard from honourable colleagues, defended a right to free speech while I find things that have been said distasteful.

I do know, however, that there were sanctions exercised by your former interim leader, and I spoke to that during the point of privilege. She was quoted directly in the newspaper as saying with respect to one of your caucus members that she and the leader of the Conservative opposition in the Senate jointly made a decision to remove one of your members from a range of committees. So, in fact, she did play a role in that, despite all of the howls of outrage when I said it; that did happen.

I think we have to look at understanding the balance of the engagement and the involvement of people from the other place. I clearly accept that this is a point that should be handled with sensitivity and should be talked about mutually as we go forward. It doesn't need to be cast as laying blame. But neither is it helpful to disavow any knowledge of or any concurrence with the facts that these things have happened in the past under different political parties, and that it is not appropriate for an independent institution to have that kind of control coming from a Prime Minister's Office of any political stripe.

Hon. Leo Housakos: A question to Senator Lankin.

The Hon. the Speaker *pro tempore*: Would you accept another question, Senator Lankin?

Senator Lankin: No, thank you.

(On motion of Senator Fraser, debate adjourned.)

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. Yonah Martin (Deputy Leader of the Opposition): I would like to adjourn this item, with leave of the Senate, in Senator Plett's name for the balance of his time, if I could.

The Hon. the Speaker *pro tempore*: Honourable colleagues, do we have leave to leave it in Senator Plett's name for the balance of his time?

Senator Martin: That's why I'm asking for leave, senator.

The Hon. the Speaker *pro tempore*: I don't think leave is required. I think you have to reset it.

Senator Martin: He has reset it. But given that it's at day 14 and he is on the road with the committee, I would ask leave of the Senate to adjourn it in his name for the balance of his time.

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

Hon. Senators: Agreed.

(Debate adjourned.)

REGIONAL UNIVERSITIES

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Tardif, calling the attention of the Senate to regional universities and the important role they play in Canada.

Hon. Daniel Christmas: Honourable senators, I rise today to lend my voice to those of Senator Tardif and Senator Gagné and to join their chorus of enthusiasm and support for the role of small- and medium-sized universities in Canada, in particular, the importance of Cape Breton University, located next door to my community of Membertou, in Sydney, Nova Scotia.

I know to some it might seem ironic that I stand here as a Mi'kmaq, promoting the importance of post-secondary institutions, while acknowledging that only 9.8 per cent of indigenous people in Canada have a university degree, compared to 28 per cent of non-Aboriginals. But I'm delighted to share with you today how the Mi'kmaq Nation, by working with Cape Breton University, has challenged and overcome this statistic.

CBU has become a beacon of hope and opportunity in Cape Breton communities and has proven the power of positive change that can be realized through working together. This is a powerful story, nearly 40-plus years in the making, of the partnership between the Mi'kmaq Nation and Cape Breton University.

Cape Breton University's mission is to provide leadership and employ partnerships that assist learners and their communities to meet their educational, cultural and economic needs. CBU strives to be Canada's best university, to be understood and respected for its uniqueness, its sense of purpose, its creativity in learning, and recognized for the capabilities of its learners, as well as the quality of its educational, training and discovery models.

They put learners first in a community-based educational environment that identifies and celebrates humanistic values, while embracing creativity and innovation for the common good. They have the largest investment in student services of any university in Nova Scotia. They also offer the lowest average upper-year class sizes.

The university ranks among the highest in Canada for student satisfaction. In fact, in 2013, *Maclean's* magazine ranked them as having the highest senior year level of student satisfaction, noted as being "excellent."

Yes, there are many and numerous accolades for the school — but more important, it's what has been achieved by the Mi'kmaw Nation in partnership and cooperation with CBU that I'm anxious to share with you this evening.

• (1830)

It's a story that is a lesson in dreaming big, of the importance of listening to one another and respecting the value of indigenous presence as part of academics.

Compare what once was and what now is. Cape Breton University went from having no First Nations student graduates before 1986 to today where one third of the university's nearly 3,000 graduate student population identify primarily as Mi'kmaq.

This phrase I just mentioned, "indigenous presence," is important. It means so much more than just having Aboriginal students attending to post-secondary studies.

An indigenous presence means that faculty must include indigenous professors, and that courses must focus upon the dissemination of indigenous knowledge, and to ensure that the institution's governance structures benefit from the contributions of indigenous community members on either the Board of Governors or in their Senate.

Fundamental to this notion of indigenous presence was, is and will continue to be a focus on indigenous knowledge of things like language, culture, history and science — of one nation, the Mi'kmaq. This singular focus upon one nation was unique at the time of its introduction over 25 years ago and is still considered as such within many indigenous studies programs in universities across Canada today.

Currently, CBU's Mi'kmaq Studies discipline offers over 25 differentcourses — a far cry from only one course initially offered a quarter of a century ago. It started with language, but, as I mentioned, it grew to include history, treaties, culture and science. It bears noting, however, that getting there has been a daunting task at times.

Throughout the 1980s and 1990s, educators and leaders from the Mi'kmaq community have had to continuously push, sometimes relentlessly, to ensure that the nation's presence in university programming was palpable, acknowledged and understood in order to reap the results the Mi'kmaq Studies

program has achieved now. Changing academic or business culture requires no less than this, and there are many to be commented for bringing this about.

One such person is Sister Dorothy Moore, who is from my home community of Membertou. Sister Dorothy is an elder, mentor, teacher and intermediary who was determined to journey and walk alongside nine struggling Mi'kmaq students in 1985. She became the catalyst for instilling confidence, alleviating fear and engendering a sense of self-worth and achievement in these students which bore fruit in their success with their studies and continues to echo in their lives to this day.

Sister Dorothy notes that, "Cape Breton University has blossomed and has really been successful." She continues, "There are good things happening to this university because of the Mi'kmaq people. I have always been working to wake up the system, to wake up the world, by saying the Mi'kmaq people are here, the Mi'kmaq people are to be reckoned with."

Cheryl Bartlett is a Professor Emeritus in Biology and Integrative Science at CBU. Though non-Mi'kmaq, she has a profound understanding of the Mi'kmaq world view. Professor Bartlett pioneered the notion of what she terms "Two-Eyed Seeing." Two-Eyed Seeing encourages us to learn to see from one eye with the strengths of indigenous knowledge and ways of knowing while learning to see from the other eye with the strengths of Western knowledge and ways of knowing and applying the use of both of these eyes together for the benefit of all.

Using this model, she developed the Integrative Science Academic Program in the mid-to-late 1990s. The program's premise was that "mutually respectful discussions about Nature can occur between the worldviews of indigenous peoples and the worldview of Western Science, thus demonstrating that there is common ground between our knowledge, as well as differences which are to be respected." Her aim — and it worked — was to create a new and attractive approach for Aboriginal students to pursue science at the post-secondary level.

Another tireless champion at Cape Breton University is Dr. Stephanie Inglis, Professor of Mi'kmaq Studies with Unam'ki College at CBU. Dr. Inglis cites a number of reasons for the Mi'kmaq Studies program's success:

> The university began to pay attention to the communities, to what more they could do in terms of promoting education and what they could do to teaching language on the reserves.
>
> Some of the people who initially took that course are now leaders in teaching Mi'kmaw language. That sense of connection to community is so important.
>
> So is proximity to home. There are five Mi'kmaw communities in driving distance to the university, so students can live at home instead of in residence.

Dr. Inglis is clear about what the key to success has been.

> We have Mi'kmaw studies as a discipline, the actual culture of the students. This means they get to study themselves.
>
> Another huge connection is with the education directors of the Mi'kmaw communities and the Chiefs – they're very involved with what happens with their students.
>
> This means there's built-in student support and tutoring, as well as tools for issues management if there are problem situations in play.

In short, the program is geared for success, but it will only stay that way if the concept of one nation continues to be followed. The administrators are continually reminded, "Don't make it more general — you need personal connections and that can't be forgotten. You need to have First Nations connections within the universities if success is to continue. In the final analysis, this success must be continued because the sad truth is that the Mi'kmaq language is dying. There are only 8,000 speakers left. Mi'kmaq is the last language of its type in the world.

Of the Eastern Algonquin languages, all the rest are extinct except Maliseet. So as Dr. Inglis affirmed, "We're going to put our energies on our own people learning our language. It's about more than ticking a box as a university saying 'We teach indigenous language.'"

Colleagues, it is indeed so much more than that. You have to be understanding of what constitutes the culture. Getting into the details of these things, not just superficially glossing over them. Having a voice that's truly present, being listened to in the institution, being more humanist and holistic, which tends to fly in the face of the more prescriptive Eurocentric monocultures. That is what is being taught in Mi'kmaw studies at CBU. And through this they have created a legacy of success that has transcended generations.

The Mi'kmaq nation has graduation rates of 80 per cent — and not just in post-secondary studies at CBU. That figure reflects high school graduation rates as well. The secret to success has been the over 500 university graduates in multiple disciplines who have gone on to post-graduate studies and then returned home to their communities. Over a quarter century since the discipline began, it is now the children and grandchildren of these former students who are achieving the same 80 per cent graduation level. These numbers are a direct reflection of the value of the partnership between Cape Breton University, the Mi'kmaq Kina'matnewey, which is our education authority, and the Mi'kmaq nation in general.

Poet, essayist and feminist Adrienne Rich may have summed up the spirit of what the Mi'kmaq nation and Cape Breton University have built together best when she wrote:

> When someone with the authority of a teacher, say, describes the world and you are not in it, there is a moment of psychic disequilibrium, as if you looked into a mirror and saw nothing. Yet you know you exist and others like you, that this is a game done with mirrors. It takes some strength of soul — and not just individual strength, but collective understanding — to resist this void . . . and to stand up, demanding to be seen and heard.

Honourable senators, the Mi'kmaq nation is standing proudly at Cape Breton University. It is seen and it is being heard in no small part thanks to the efforts of those whom I have named, and along with so many others in the Mi'kmaq nation.

Finally, I remind honourable senators that call to action number 16 of the Truth and Reconciliation Commission report compels post-secondary institutions to create university and college degree and diploma programs in Aboriginal languages.

As government and academia undertake the commitment to move this call to action, it could perhaps learn a thing or two from what the Mi'kmaq nation and Cape Breton University have been doing in exactly this regard.

Honourable senators, I'm sure you can see that none of what Cape Breton University has achieved came about by accident. But there are threats to its continued existence on the horizon.

• (1840)

Changes to the Nova Scotia government's university funding formula have resulted in a $6 million drop in Cape Breton University's funding, a cut of about 19 per cent, greater than experienced by other regions in the province. Yet over the past years, total funding assistance for universities has increased by $107 million. Nova Scotia would do well to remedy this clearly unsatisfactory situation.

As I close and think about the partnership in place for so many years between Cape Breton University and the Mi'kmaq nation, I'm reminded of the words of the Irish poet William Butler Yeats, who wrote, "Education is not the filling of a pail but the lighting of a fire." May this symbolic fire lit by the Cape Breton University and the Mi'kmaq nation continue to burn ever brightly.

Wela'lioq. Thank you.

(On motion of Senator Cordy, debate adjourned.)

THE SENATE

MOTION IN RELATION TO COMMITTEE MEMBERSHIP ADOPTED

Hon. Joseph A. Day (Leader of the Senate Liberals), pursuant to notice of November 2, 2017, moved:

That, notwithstanding any provisions of the Rules or usual practice, and except in relation to the Standing Committee on Ethics and Conflict of Interest for Senators, as of the end of the day on November 19, 2017:

1.1. the senators who are members of the Committee of Selection, the Special Senate Committee on Senate Modernization, and the standing Senate committees cease to be members of those committees;

1.2. for greater certainty, the number of members of the Committee of Selection and the standing Senate committees be those provided for in rules 12-1, 12-3(1) and 12-3(2)(a), (b), (c), (d) and (e);

1.3. for greater certainty, the number of members of the Special Senate Committee on Senate Modernization be 15, as provided for in the order of December 11, 2015, establishing the committee; and

1.4. the Leader of the Opposition (or designate), the leader of the independent Liberal senators (or designate), and the facilitator of the Independent Senators Group (or designate) name, by notice filed with the Clerk of the Senate, who shall have the notice recorded in the *Journals of the Senate*, the new members of the Committee of Selection, the Special Senate Committee on Senate Modernization, and the standing Senate committees from their respective party or group according to the following proportions:

(*a*) for committees with nine members, other than the ex officio members:

(i) four Conservative senators,

(ii) one independent Liberal senator, and

(iii) four senators from the Independent Senators Group;

(*b*) for committees with 12 members, other than the ex officio members:

(i) five Conservative senators,

(ii) two independent Liberal senators, and

(iii) five senators from the Independent Senators Group; and

(*c*) for committees with 15 members, other than the ex officio members:

(i) six Conservative senators,

(ii) three independent Liberal senators, and

(iii) six senators from the Independent Senators Group;

That, for the remainder of the current session, the following committees be empowered to elect two deputy chairs:

2.1. the Committee of Selection;

2.2. the Standing Committee on Internal Economy, Budgets and Administration;

2.3. the Standing Committee on Rules, Procedures and the Rights of Parliament;

2.4. the Standing Senate Committee on National Finance;

2.5. the Standing Senate Committee on Transport and Communications;

2.6. the Standing Senate Committee on Legal and Constitutional Affairs;

2.7. the Standing Senate Committee on Social Affairs, Science and Technology;

2.8. the Standing Senate Committee on Human Rights;

2.9. the Standing Senate Committee on National Security and Defence; and

2.10. the Special Senate Committee on Senate Modernization;

That, if a committee has elected two deputy chairs:

3.1. the reference to the deputy chair in rule 12-18(2)(b)(ii) be understood as referring to both deputy chairs of that committee acting together;

3.2. the reference to the deputy chair in rule 12-23(6) be understood as referring to either deputy chair of that committee; and

3.3. any reference to the deputy chair of a committee in any policy or guideline adopted by the Standing Committee on Internal Economy, Budgets and Administration be understood as referring to both deputy chairs acting together, until the Standing Committee on Internal Economy, Budgets and Administration decides otherwise;

That, for the remainder of the current session, for the committees covered by the provisions of rule 12-3(3), and subject to the other provisions of the Rules relating to ex officio members:

4.1. in addition to the ex officio members provided for under rule 12-3(3) and point 4.2 of this order, the leader or facilitator of any recognized party or recognized parliamentary group, or, in the absence of such a leader or facilitator, the senator designated by that leader or facilitator as his or her deputy leader or deputy facilitator, be an ex officio member; and

4.2. either the Legislative Deputy to the Government Representative or the Government Liaison be an ex officio member if the Government Representative is absent; and

That, for greater certainty, nothing in this order affect processes under the Rules permitting membership changes once new members of a committee have been named pursuant to this order.

He said: Honourable senators, I move the motion standing in my name and I ask for leave of the Senate that it be noted as seconded by Senators Smith, Woo and Harder.

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

Hon. Senators: Agreed.

Senator Day: Thank you. Colleagues, you will see from your Order Paper a rather extensive motion. This is a motion that reflects an agreement that has been reached among the three major groups; the Conservatives, the ISG and the independent Liberals.

In reviewing the motion over the weekend, there is one part that doesn't fully reflect the agreement. It's a small one, and I'd ask for your indulgence in modifying that notice of motion in this regard, honourable senators.

Pursuant to 5-10(1), I ask for leave of the Senate to modify the motion by replacing the word "and" at the end of point 4.2 by the following, and then there's a semicolon. This is the actual addition:

That, notwithstanding rule 12-2(5), for the remainder of the current session, the Committee of Selection be a standing committee; and.

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

Hon. Senators: Agreed.

Senator Day: Thank you, colleagues. Now I will proceed with my remarks to put on the record what has been going on for at least two weeks, more likely three weeks, of a lot of late-night meetings between the individuals I named as supporting this particular motion.

As we all know, discussions have been taking place for quite some time and they relate to the sessional order that we had and that has been in existence now for almost one year. It was scheduled to run out at the end of October. We were working very hard to try and come up with a new sessional order or some changes that would allow things to reflect the changes in the Senate since the time that sessional order was made. We have finally come to an agreement. We're a couple of days late, so there has been a hiatus. We have the written agreement that has been signed by all those who have been involved in the negotiations, and there is a notice of motion that we have here that reflects the agreement that has been reached.

Some time ago, we started planning to do something about the house order of December 7, 2016, and that is what we are now dealing with, the culmination of the work that we have done.

I want to thank Senators Smith, Woo and Harder for seconding this motion, because that's an indication that we're coming together as senators, all of us recognizing the importance of keeping the Senate functioning. I believe this also shows how we can all work collaboratively so that the Senate can effectively carry out its constitutional role as an independent and important part of Canada's Parliament.

But let me begin my remarks with some background about how the issue of committee membership has evolved. I think it's important to place this on record. A year from now we won't remember all of the things that have taken place, so I think it's important to put this in our *Debates of the Senate* as a permanent record.

In June 2016, the Conservatives and Independent Liberals agreed to give up one of their positions on each Senate committee so that new senators appointed by Prime Minister Trudeau could have an opportunity to serve on committees.

On December 7, 2016, as the number of new senators grew even larger, Senator Carignan, seconded by Senators McCoy, Harder and myself, successfully moved a motion to increase the size of every committee by three members. In this way, new senators could quickly be placed on committees without removing the more experienced members in the middle of their legislative reviews and studies.

It was also unanimously agreed that the chairs and deputy chairs would not change during the life of that sessional order for the same reasons that I've just given. Generally speaking, all three of the new positions on every committee went to members of the ISG. This increase in committee size was made temporary and lapsed only a few days ago, on October 31, 2017. Had there been an earlier prorogation, that agreement would have lapsed even earlier, but there was no prorogation.

When this temporary house order lapsed on October 31, the problem was how to determine which three senators would be removed from each committee so that the committees could return to their original sizes. If we simply returned to the membership that existed immediately prior to the December house order, that would generally mean removing three members of the ISG from each of the Senate committees, and that was not an equitable solution.

It was suggested that each group remove one of their members from each committee. If this were done, the proportions on the committees would closely approximate the relative standing in the Senate. There are currently 94 senators serving in the 105-seat Senate. These 94 senators break down as follows: 39 Independent Senators Group, ISG, and they make up 41 per cent of the serving senators; 35 Conservatives, and they make up 37 per cent; 15 independent Liberals, and we make up 16 per cent of serving senators; and 5 non-affiliated, which includes the Speaker and Senator Harder's group.

• (1850)

If we had followed that suggestion, the results would have been as follows: for the four committees with nine members, : Defence, Human Rights, Official Languages and Selection, there would be four ISG members, and that is as close as we could come to the ISG percentage in the Senate of 41 per cent. They would make up 44 per cent of the members of that group of committees.

The Conservatives, which have 37 per cent of the serving senators, would have four members on the nine-member committees, or 44 per cent.

And the Independent Liberals, which have 16 per cent of the serving senators, would make up 11 per cent of the members of those committees.

That was the closest we could come to the existing percentages when filling the committees of nine.

Now we go to the 12-member committees. There are 10 committees of 12 members. Here we went with 5 members for the ISG, Conservatives 5 and 2 Independent Liberals. The percentage here is 42 for the ISG compared to the percentage in the Senate of 41.5 — pretty close. Conservatives 42 per cent compared to their 37 per cent in the Senate, and independent Liberals 12 per cent compared to their 16 per cent in the Senate.

I note that for all of the 9-member and 12-member committees, the independent Liberals would clearly be under-represented and the Conservatives and ISG slightly over-represented based on current standings in the Senate.

For the three committees with 15 members, the ISG would have 6 members, the Conservatives 6 and the Independent Liberals 3. The Independent Liberals have more than their percentage in the chamber. We would have 20 per cent, the Conservatives 40 per cent and the ISG 40 per cent.

So you can see that this is not a precise art, but it is a very good attempt by the leadership of each of the groups in the chamber to reach an equitable distribution of the seats on committees. That is what we have agreed upon and that's what's in the motion.

The proportions among the groups and caucuses for the 9-, 12- and 15-member committees I have described are in this particular motion. As to the mechanics of how the committees would be repopulated, the motion provides that committees will be cleared of members and then repopulated according to the numbers I just described to you.

How do we go through the mechanics? This is provided for in the motion. At the end of Sunday, November 19, at the end of our break week, all the members of all committees would be removed. They would immediately be replaced by senators on the basis of the proportions we've just described. The names of the senators who the respective caucuses and groups have decided will serve on the individual committees will be provided to the clerk prior to that. So the clerk of each committee will receive the names of the senators, whether it be for ISG, the Conservatives or the Independent Liberals. The clerk would know immediately who is on those committees. That's what is provided for when you adopt this motion, which I hope you will do. Those are the mechanics.

The names for each of the committees must be given to the clerk before Sunday, November 19. There's a break week in there. Hopefully those names will get in the latter part of this week so when we're away on our break week, doing our constituency work, the clerk for the committee will be able to get things ready so that as soon as we come back during that week of November 20, each of the committees, with the names that have been given, will be able to organize and determine who will be the chairs and who will be the deputy chairs.

Next year, in September 2018, the relative numbers on all committees will be revisited in the event that the proportions among the groups have changed as a result of new appointments and retirements.

I believe this motion ensures a fair and equitable balance of all groups and caucuses on all committees over the next year. It would allow our committees to operate normally now that they have returned to their original sizes as provided for in the *Rules of the Senate*. I believe this is a reasonable solution to a potentially serious problem we would have faced in the weeks ahead.

I should also explain that with the rise of multiple groups and caucuses in the Senate, we are also proposing in this motion that the long-standing House of Commons practice of co-deputy chairs for committees be considered for our chamber as well. If, as in the House of Commons, Senate committees have two equal deputy chairs, this would ensure a balance on the steering committee and would provide an opportunity for new senators in particular to gain experience with committee leadership responsibilities. Two equal co-deputy chairs of the committees, both serving with the chair on the steering committee, would help to manage the transition that we're going through.

This practice of two equal co-deputy chairs in the House of Commons has proven to be effective in accommodating the legitimate needs of the various groups and making committees more efficient. Frankly, although I would have preferred that all of our committees could have two equal co-deputy chairs just as in the House of Commons, for the time being we could only agree on those listed in the motion. There are 10 or 11 listed in the motion, so we've agreed on those. We will be watching very carefully to see how this works and perhaps this initiative can be incorporated into the Rules in due course if we feel that it has been a success.

I accept that when negotiations are successful it's because not everyone gets everything that he or she wants, but everyone needs to feel that progress is being made. And I believe progress has been made with this proposal for co-deputy chairs.

Finally, I should note that my motion makes no mention of committee chairs. That is because paragraphs 12 and 13 of our Rules provides that as soon as practicable, an organization meeting is called for a committee to elect a chair. That is exactly what will happen if this motion is adopted. Meetings will be held and committees will elect chairs and co-chairs.

There has obviously been discussion by the leadership teams of the caucuses and groups about committee chairs. There have always been such discussions in the past — this is nothing new — but they have normally taken place at the start of a session of Parliament rather than in the middle. That's just because of the particular circumstance in which we find ourselves. But as in the past, we were nevertheless able to reach an understanding about committee chairs.

• (1900)

The understanding is between the leadership as to which group or caucus would chair which of the committees. It is now up to each group or caucus to determine who from their group of members on that committee should be put forward and nominated as the chair, and the other groups would fill the co-deputy chair positions. There are two co-deputy chairs for 10 of the committees.

That election process goes according to the Rules, but with an understanding that has been reached between the various leaders. It has worked in the past, and I am confident it will work again. We will respect that which has been agreed to.

Although all committees have always had full authority to elect whoever they wished from among their members, those elections were always conducted on the basis of recommendations made to the committee members by their respective leadership teams. This has always been done in order to ensure an overall gender, language and regional balance on committees.

These considerations, this overall balance, is more difficult to achieve if each committee makes its decisions in total isolation from other considerations. That's why we have developed this practice. It has worked well in the past, colleagues, and I'm satisfied that the understanding we have reached on committee chairs is fair and equitable.

If there are any questions about which senator should fill any particular chair, that should be addressed by senators to the leadership of their respective groups or caucuses, because that's what we have agreed as to how that would be handled.

Colleagues, I would like to thank everyone who has worked long and hard to reach this agreement. This is a sessional order. It's not a rule change, but it is a framework that will lead us to an adjustment in August or September of next year, and then it will carry through to the end of this Parliament.

Colleagues, again, I ask for your support of this motion and your understanding of the road we've taken to reach it.

Hon. Claudette Tardif: Would my honourable colleague accept a question?

Senator Day: I would be pleased to. Thank you.

Senator Tardif: Thank you for your explanation regarding how the issue of committee membership has evolved and the work of the three leaders in achieving this goal. My question relates to the motion, in which 10 committees are listed that for the remainder of the current session will have two deputy chairs or, as you call them, co-deputy chairs; the other seven committees will have only one deputy chair. The committees that will have only one deputy chair are Aboriginal Peoples; Agriculture and Forestry; Banking, Trade and Commerce; Energy, the Environment and Natural Resources; Foreign Affairs and International Trade; Official Languages; and Fisheries and Oceans.

What is the rationale behind the addition of a deputy chair in some committees but not in others? Related to that is that the additional deputy chair on some committees will be reimbursed, while in some other committees, the third member of the steering committee will not be reimbursed. Do you view this as a fair and equitable way of proceeding?

Senator Day: No. But, like so many agreements, this is a compromise. This has gone through a lot of iterations. I personally started negotiating from the point of view that I thought every committee should have two equal co-deputy

chairs, like the House of Commons. There were those around the table who didn't want any. This is the compromise that we reached.

To say that it's based on understandable logic would be misleading you. It took into consideration a lot of factors, not excluding in those factors who was in certain positions and which group or caucus was going to chair that particular group.

You can see a number of special arrangements were made to accommodate individuals, to accommodate objectives. The result is that we are experimenting with this idea of co-deputy chairs. I'm hopeful that it will work like it does in the House of Commons, and we'll say we'd like to implement this for all of the committees.

In the meantime, this is what we've been able to agree to, and it is very unfair for those committees where we only have one deputy chair. The third person in steering will not be reimbursed, but on those committees where we have two deputy chairs, each of the individuals will be reimbursed. That's unfair, but that is a result of the compromise that we've reached.

Hon. Larry W. Smith (Leader of the Opposition): I wanted to add to what Senator Day talked about. I won't go into the details, but I wanted to congratulate him and the representatives he had, Senator Mercer, Senator Downe, Senator Woo, Senator Saint-Germain, and our group with Senator Plett, Senator Wells and me.

This was not an easy issue, because when you deal with history, you deal with two parties, two parties that have had an established way of doing business. Now we have a new group. We wanted to try to be as respectful to the new group as possible and recognize that with the numbers that the new group has, and going forward, this is going to be the largest constituted group and deserves to be respected and have an important place and role within the way the committees function.

Based on that mentality and principle, we fought hard. It was not an easy negotiation. But what was really interesting about it was that as we went forward, we got to know each other better, and we got to recognize the versatility that all three groups had in coming to the conclusion that we came to.

I want to thank the groups, from the independent Liberals to the Independent Senators Group, and, of course, our people. At the end of the day, you have to recognize that in negotiations you will never get 100 per cent of what you want. If you have a realistic expectation, then you should have a realistic result.

We have an agreement whereby the constitution of the committees, the people, will go until next September; and then the chair and deputy chair positions will go to when the Parliament ends. In that way, it gives people a chance to establish themselves, and it gives us a chance to see how the co-deputy chair position works.

Please understand; we started at zero for the co-deputy chairs. It evolved over time as people saw the potential advantages to making this work. But it is a trial balloon, and what it shows is that there's enough faith in doing a trial balloon that people make that significant adjustment in their thought process.

• (1910)

I thank everyone who was involved. At the end of the day, we all work for Canada. I sincerely thank you all for your participation.

Hon. Yuen Pau Woo: I also want to join Senator Smith in thanking Senator Day for this motion and for his very detailed, clear and thorough explanation.

I want to speak briefly to express my support for the motion and the support of the Independent Senators Group. As he has mentioned, and as Senator Smith reiterated, the motion reflects a deal that was worked out over many hours of discussion and not a few late nights. It was also put in place with moral support from the Government Representative in the Senate, Peter Harder, and I want to acknowledge his role in helping us come to this deal. The fact that the leaders and facilitators of the four groups in this chamber have agreed, and three of us have seconded the motion from Senator Day, I think underscores the collective support for the negotiated deal, even if we all feel that we did not get everything we wanted.

This agreement, honourable senators, marks, I believe, another milestone in the modernization of the Senate. It entrenches the principle of proportionality in the distribution of resources and responsibilities in the Senate, and it further confirms the rightful place of parliamentary groups not amounting to political caucuses as full players in the Senate of the 21st century.

I would like to thank Senator Day and Senator Smith and their respective negotiating teams for the respect and collegiality they showed Senator Saint-Germain and myself as newbies in this chamber. I believe we were all motivated, above all, by the desire to not disrupt the work of the Senate. This motion is the result of our efforts, and I look forward to calling the question today so that we can all vote in support of the motion.

[*Translation*]

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable colleagues, I too would like to comment on Senator Day's motion about committee membership for the rest of this session.

I am very happy that representatives of recognized parties and parliamentary groups, as defined in Appendix 1 of the Rules of the Senate, have reached an agreement on the matter.

As you know, all senators like working on committees because they can get personally engaged, and all of the groups can bring projects to fruition together.

I would, however, like to bring to your attention certain consequences of this motion that bear mentioning. Rest assured, I will not be proposing any amendments to this motion, nor will I oppose it, because it is a sessional order that all of the recognized parties and groups have agreed on.

Nevertheless, I want to emphasize that this motion raises issues around respect for one of the Senate's basic operating principles: equality among all senators. This agreement is silent on the subject of current and future non-affiliated senators, who cannot sit as regular members of a committee if they are not

affiliated with one of the three groups. I understand that this motion is the result of negotiations that prioritized the principle of proportionality over that of equality among all senators.

Accordingly, as you all know, the new rule 12-1 states that, for the purpose of committee of selection membership, non-affiliated senators are to be treated as if they were members of a separate group. By extension, it recognizes the right of non-affiliated senators to be members of a committee. This motion does not mention that.

I do not want the motion we pass to set a precedent and I hope that, in the near future, all senators will be treated equitably, as provided for in the new rule 12-1 of the Senate, because it is certainly in the spirit of Senate modernization to treat all senators equally.

[*English*]

After all, a senator is a senator is a senator.

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

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Day, seconded by the Honourable Senators Smith, Woo and Harder, that notwithstanding any provision of the Rules — shall I dispense?

Hon. Senators: Dispense.

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

Hon. Senators: Agreed.

(Motion agreed to, as modified.)

(*At 7:16 p.m., the Senate was continued until tomorrow at 2 p.m.*)