SENATE SÉNAT

CANADA

DEBATES OF THE SENATE

1st SESSION • 42nd PARLIAMENT • VOLUME 150 • NUMBER 158

OFFICIAL REPORT
(HANSARD)

Thursday, November 9, 2017

The Honourable GEORGE J. FUREY,
Speaker

CONTENTS

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

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

Published by the Senate
Available on the Internet: http://www.parl.gc.ca

THE SENATE

Thursday, November 9, 2017

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

Prayers.

SENATORS' STATEMENTS

INDSPIRE AWARDS

Hon. Murray Sinclair: Honourable colleagues, I rise today to bring to your attention and to give honour to the 2018 Indspire Awards recipients who were named yesterday by the Indspire foundation. They are amongst some of the great indigenous leaders in this country, both young and old, and they come from a variety of backgrounds and spheres of influence. These individuals are part of the growing number of faces of young indigenous leaders that the next generation can begin to look up to.

Two particular recipients that I would like to bring to your attention are from Manitoba.

The first is this year's Law & Justice Award recipient, Mr. Paul Chartrand. He is a Metis man from St. Laurent, Manitoba. Mr. Chartrand is a former professor specializing in Aboriginal law and policy. He served on the Royal Commission on Aboriginal Peoples and has authored numerous publications, including a book on Metis land rights.

The second Indspire 2018 Awards recipient that I would like to bring to the Senate's attention is a young Metis woman by the name of Tracie Léost. Tracie is an activist and an athlete. She recently starred in a music video for the song "Run Sister Run" by American singer-songwriter Cass McCombs. This song is about women's rights and was inspired by Ms. Léost's 115-kilometre run to raise awareness about Canada's missing and murdered indigenous women and girls.

This four-day Journey of Hope run that she was involved in was in response to the lack of action by the government on the National Inquiry into Missing and Murdered Indigenous Women and Girls. Ms. Léost started the run alone and without any funding or media attention. However, with the help of social media, Ms. Léost was able to raise $6,000 for the Families First Foundation, which provides assistance to the families of missing women.

If that wasn't impressive enough, Ms. Léost represented Manitoba at the 2014 North American Indigenous Games in Regina when she was only 16 years old and brought home three bronze medals.

Honourable senators, I ask you to join me today in acknowledging and giving honour to these young indigenous people.

AUSPICIOUS ANNIVERSARIES

Hon. Kim Pate: Honourable senators, Monday marked the twenty-seventh anniversary of my son's birth, the seventy-fifth anniversary of Senator Ogilvie's birth, the one-hundred-and-fiftieth anniversary of the first sitting in this place and the eight-hundredth anniversary of the 1217 Charter of the Forest, a lesser-known companion to the Magna Carta.

[*Translation*]

The Charter of the Forest is remarkable in many respects.

[*English*]

It is one of the world's longest-enduring statutes, having been in effect in England from 1217 until 1971. Even more significant, however, is the continuing relevance, eight centuries later, of its concern for basic principles of equality, justice and fairness.

The Charter of the Forest is an early example of the acknowledgment of environmental rights, women's rights, the rights to preserve nature and animals, limitations on natural resource exploitation, and the assertion of the principle of communal stewardship of nature.

How did this advance feminism? Through the Charter of the Forest, widows were given the right to refuse to be remarried, which at the time looked like a small but significant step, because at that time women were viewed as the property of the men who fathered them or who married them.

This legal document set the precedent for public access to Crown land as well, mostly forest at the time, and for the common stewardship of shared resources. Placing limits on state property rights, the Charter of the Forest was the first legislation to provide rights to those who did not own real property.

Today, these principles concerning universal access to resources and income are at the heart of discussions about reconciliation, nation-to-nation relationships and the need for steps such as the implementation of guaranteed livable income, as we seek to remedy the marginalization, injustice and inequality experienced by too many in this country.

The Charter of the Forest, like our current discussions about Bill S-3, serves as an important reminder that the right to substantive equality is not a particularly new, revolutionary or radical idea. On the eve of the first anniversary of many of us in this Senate, I am also reminded that part of our role here in the Senate is to represent the interests of those marginalized by economic, social, racial and gender inequalities in our communities.

Finally, not only are we recognizing all of these anniversaries, but I want to take this opportunity to thank all of you who were here before the 14 of us were invited here a year ago tomorrow, and to thank you for the ways that you have shown your compassion and caring, and for the ways you have contributed to

our education and initiatives. I look forward to learning more over the next number of years that I have the privilege and opportunity to be in this place. I want to thank all of you for encouraging and supporting us as we joined this place one year ago tomorrow.

Thank you, *meegwetch*.

REMEMBRANCE DAY

Hon. Yonah Martin: Honourable senators, we recognize Remembrance Day every November 11 at 11 a.m. It marks the end of hostilities during the First World War and provides a grateful people the opportunity to reflect on the sacrifices of all those who served in the defence of the nation, who went "over there" to shield those who could not defend themselves and to preserve the principles that Canadians cherish.

Remembrance Day ceremonies are solemn occasions, usually held at community cenotaphs and war memorials, sometimes at schools or other public places. On these occasions we stop for two minutes of silence; we listen with heavy hearts to the playing of the "Last Post" and the recitation of "In Flanders Fields"; we raise our heads and gaze upon the field of poppies adorning the gathered while the pipes mournfully play "Amazing Grace."

It takes but a moment of time to remember those who stood and faced the flames of war. Who had the courage to draw a line against despotism and tyranny. Who, without hesitation, honoured the call of their nation. Who understood "all that is necessary for the triumph of evil is for good men to do nothing," and the weight those words convey.

Who did not accommodate, who did not appease, who pressed on when shots rang out and comrades fell. Who overcame fears on surrounded hills and who stood resolute in the face of bayonet charges.

Who understood their life could end in a moment of time. Who, with sombre clarity, comprehended that in that precious moment, they would never again see the grey coasts, majestic mountains, wide-open plains and timbered hills and valleys of their homeland. Who would never again hold the tiny hands of their children or feel the warm embrace of those that loved them so desperately and unconditionally.

• (1340)

It takes but a moment of time to remember the fields where our tanks held the line; the heavens where our pilots duelled; the beaches where our soldiers crawled, inch by inch, to steal the cliffs; the cold deep of an unforgiving ocean, hiding death for our sailors and merchant marines. A moment to remember the over 117,000 who paid that most awful price that any nation can ask of its children, to be ever so softly carried from the field of battle by their brothers in arms.

When you take a moment this November 11 to stand in remembrance at your local memorial or cenotaph, think of those who have stood in that place before you, who laid their cherished upon the altar of sacrifice, whose precious moment to stand in that place with their dad, mom or child was taken from them because their beloved was carried ever so softly from the field of battle. Carried ever so softly so that your loved ones could live, live to pause for a precious moment of time to honour the fallen, to remember the horrors of war and to embrace peace.

Lest we forget.

[*Translation*]

We shall remember them always.

[*English*]

NATIONAL CHILD DAY

Hon. Terry M. Mercer (Deputy Leader of the Senate Liberals): Honourable senators, National Child Day, celebrated every November, celebrates the United Nations' adoption of the Convention on the Rights of the Child, which Canada ratified in 1991.

To mark this special day, I would ask all senators to create something special. I invite you to ask a young person the following question: What is it like to be a child in Canada? If you record these comments and post them on Twitter and other social media on November 20, the official National Child Day, the effect will be spectacular. The more senators participate, the more the collection and the effect will grow.

As well, an event to celebrate National Child Day is taking place right here in the Senate Chamber. Of course, this year is an especially monumental event as Canada celebrates its one hundred and fiftieth birthday. Talented children will perform song, music, and dance and give speeches on the importance of youth rights, right here on the Senate floor. We are expecting approximately 300 students from across the National Capital Region. It is an event celebrated by youth, for youth.

Along with my colleagues Senators Munson, Martin and Gagné, I would like to invite all of you to our National Child Day events. Join us and celebrate the importance of children in the Senate Chamber on Tuesday, November 21.

As well, a breakfast will be held in the Senate foyer on Wednesday, November 22, which will bring together parliamentarians, stakeholders and humanitarians to discuss youth rights in Canada and around the world.

We hope to see you all there.

DEMPSTER HIGHWAY EXTENSION

Hon. Dennis Glen Patterson: Honourable senators, on Wednesday of next week, the 140-kilometre all-weather extension of the Dempster highway from Inuvik to Tuktoyaktuk, Northwest Territories, on the Arctic Coast will be officially opened.

This four-year project to replace the Tuktoyaktuk winter ice road is a major engineering feat, built on some of the most sensitive and challenging terrain in Canada on an elevated base to prevent thaw and soil migration.

The Government of Canada pledged $200 million of the $300 million cost at a time of budgetary cutbacks, with the Government of Northwest Territories contributing the balance, including engineering costs.

This is the first link to the Arctic Coast with the North American highway network. It will be built on continuous permafrost.

I am hoping that our current federal government will support a second link of the North American highway network to the Arctic Coast and a gateway to tidewater for rich mineral deposits in Nunavut, the Grays Bay Road and Port, which I have spoken about in this chamber.

Today I wish to pay tribute to two former Conservative prime ministers whose visions of a Canada of the North have inspired this project. The first was my hero, the Right Honourable John George Diefenbaker, whose Roads to Resources vision saw the construction of the Dempster Highway from Dawson City, Yukon, to Inuvik on the Mackenzie Delta.

In 1958, speaking of his northern vision, Diefenbaker said:

> Sir John A. Macdonald . . . saw Canada from east to west. I see a new Canada — a Canada of the North. . . . We will open that northland for development by improving transportation and communication and by . . . the building of access roads.

Then I was with the Right Honourable Stephen Harper in Inuvik in January of 2014 to mark the beginning of construction on the road to Tuk when he said:

> Prime Minister Diefenbaker knew then what our government is undertaking today: constructing a highway will improve the lives of people living in the North for generations to come, facilitating economic development, creating jobs and enabling cost-effective, safe and reliable transportation of goods to and from Northern communities.

Sadly, the promise of developing an economy in the Beaufort Delta with the stimulus of this new major transportation artery has been shattered by the federal government's arbitrary and unilateral decision last December to announce a moratorium on oil and gas development in the Arctic without any consultation with indigenous people and Northern governments.

The current government's priority on creating parks that few people except rich cruise ship passengers can afford to visit in the North and more and more protected areas is scaring away investment in the North's rich resource potential, leaving fewer and lesser-paying jobs in the territory.

Premier Bob McLeod has called this a re-emergence of colonialism, saying the dreams of northerners are dying, and we are left sitting here without jobs and basically no economy in the Beaufort Delta.

Former Tuktoyaktuk mayor and major Tuk employer Merv Gruben called this decision a kick in the head and said it will just keep our people on social assistance.

As we celebrate the opening of this major leap forward in closing the huge infrastructure gap in Northern Canada, I endorse Premier McLeod's call for Canada to reset its relationship with the North. I hope we can work to truly achieve the Trudeau government's stated goals of balancing environmental protection with economic development.

Thank you.

CANNABIS

Hon. Tony Dean: Honourable senators, on October 31, I was privileged to attend an important symposium at St. Michael's Hospital in Toronto, one focused on young people and cannabis.

The symposium brought together international experts on cannabis harms and harm reduction and followed a similar gathering of experts in Calgary earlier this year. We heard presentations on policy and regulatory approaches to harm reduction in several U.S. states, Uruguay and Canada.

One of the highlights of the day was a discussion with two youth panels, including harm reduction workers and those familiar with the consumption and impacts of cannabis.

We heard about a study at the Centre for Addiction and Mental Health summarizing the research evidence on the health, psychological and social effects of adolescent cannabis use. We also heard about CAMH's research on youth perspectives on cannabis and its discussions with young Canadians about how we can better educate and communicate with them.

Not surprisingly, the answer to this question from the young people was, "Talk to young people about our experience and what makes sense for us. Give us the information we need, rather than the information that you think we need."

A key take-away for me at the end of the day was that after decades of relatively harsh criminal sanctions, recreational cannabis is widely used and easily available to young people in Canada despite its known harms.

One third of Canadian adults have used cannabis. And 22.4 per cent of young people aged 15 to 19 and over 26 per cent of young adults aged 20 to 24 use cannabis. These high rates of consumption and similarly large rates of criminalization are proportionately higher for indigenous young people and other young racialized Canadians.

Honourable senators, Canada's recreational cannabis market is 100 per cent illicit, and it's worth an estimated $7 billion a year. Criminalizing cannabis hasn't worked.

There is a strong feeling among the experts at the St. Michael's symposium that in the last several months, a hugely important discussion and opportunity has opened up, one that is honest about the ubiquity and harms of cannabis, and also about the much more realistic and relevant approaches available to address it.

I'm hopeful, of course, that we will continue that conversation in the weeks and months ahead. Canadians, and particularly young Canadians, deserve to hear and benefit from that conversation. And to the extent that we talk about these issues in this place, we should provide Canadians with an opportunity to know when we are debating these issues and how we are doing that.

• (1350)

Honourable senators, I think you'll agree that the many serious issues associated with the criminalization and health-related harms of cannabis demand a better than business-as-usual approach in this chamber.

[*Translation*]

ROUTINE PROCEEDINGS

TREASURY BOARD

2016-17 DEPARTMENTAL RESULTS REPORTS TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the Departmental Results Reports for the fiscal year ended March 31, 2017.

[*English*]

JUSTICE

CHARTER STATEMENT IN RELATION TO BILL C-46—DOCUMENT TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, a Charter Statement prepared by the Minister of Justice in relation to Bill C-46, An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts.

Going forward, honourable senators, I will undertake to table these Justice statements, Charter statements, in the Senate. And I would note that Bill C-51, now being debated in the other chamber, will require this, should that bill be passed.

[*Translation*]

STUDY ON THE CHALLENGES ASSOCIATED WITH ACCESS TO FRENCH-LANGUAGE SCHOOLS AND FRENCH IMMERSION PROGRAMS IN BRITISH COLUMBIA

FOURTH REPORT OF OFFICIAL LANGUAGES COMMITTEE—GOVERNMENT RESPONSE TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the government response to the fourth report of the Standing Senate Committee on Official Languages, entitled *Horizon 2018: Toward Stronger Support of French-language Learning in British Columbia*, tabled in the Senate on May 31, 2017.

(Pursuant to rule 12-24(4), the report and the response were deemed referred to the Standing Senate Committee on Official Languages.)

[*English*]

STUDY ON ISSUES RELATING TO FOREIGN RELATIONS AND INTERNATIONAL TRADE GENERALLY

SEVENTH REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE—GOVERNMENT RESPONSE TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the government response to the seventh report of the Standing Senate Committee on Foreign Affairs and International Trade, entitled *Free Trade Agreements: A Tool for Economic Prosperity*, tabled in the Senate on February 7, 2017.

(Pursuant to rule 12-24(4), the report and the response were deemed referred to the Standing Senate Committee on Foreign Affairs and International Trade.)

QUESTION PERIOD

VETERANS AFFAIRS

PENSIONS FOR INJURED VETERANS

Hon. Larry W. Smith (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate.

Senator Harder, the government has repeatedly committed to re-establishing a lifelong pension as an option for injured veterans. However, despite repeated promises over the past two years, no action has been taken.

Could you please tell us what the specific policy challenges are on this particular issue? And why hasn't the government kept this promise to veterans?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. It is entirely appropriate that we all focus on issues of veterans around the time period in which we memorialize and remember all of our veterans.

Obviously, there is a whole series of issues the government is dealing with to improve the care and concern we all share in providing to veterans, whether that's homelessness or pensions.

With respect to the specific question that the honourable senator is asking, I will see where the state of implementation rests and be happy to report back. But I would also want to refer to a broad range of responses that the government is initiating to enhance the delivery of services to these very rewarding Canadians who are deserving of our attention and support.

Senator Smith: Senator, just to follow up on your response, could you find out when veterans can expect action on this matter? Do you anticipate that we could potentially see enabling legislation tabled in Parliament anytime soon?

Senator Harder: I will definitely make inquiries and add that to my specific inquiry.

[*Translation*]

INDIGENOUS AND NORTHERN AFFAIRS

NATIONAL INQUIRY INTO MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS

Hon. Jean-Guy Dagenais: My question is for the Leader of the Government in the Senate.

The National Inquiry into Missing and Murdered Indigenous Women and Girls is, in my opinion, a total failure. There have been numerous resignations, the process has been called into question, and indigenous communities are dissatisfied. The Prime Minister's $54-million initiative already has a dismal track record, and nobody is likely to be satisfied with the report anyway.

Why, then, will the government not put an end to this inquiry immediately, and perhaps return to it at a later date? If we have to put up with the government's obstinate determination to carry on despite the never-ending problems, how much does the government plan to spend beyond the $54 million? How much will Canadians end up paying for this very questionable endeavor?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. I am not up to date on the disbursement of the funding of the commission. Let me simply say that the government is very committed to the issue that is being studied and examined, and it looks forward to both hearing the report but also, in the interim, taking the steps it can to deal with the interim recommendations and other matters that can bring at least some relief to those affected.

NATIONAL REVENUE

LICHTENSTEIN—OFFSHORE TAX HAVENS—TAX RECOVERY

Hon. Percy E. Downe: Honourable senators, I would like to follow up with Senator Harder to see if he can get some answers from the Canada Revenue Agency about overseas tax evasion. I notice that the department continues with a line about how hard they are working. In 2009, the Minister of National Revenue said:

> People realized that it's a question of time before we get them. . . . I tell them, "We'll get you, we'll find you."

Around that very same time, we had the first of many tax leaks, and that was from Liechtenstein, where 106 Canadians had accounts. There was over $100 million in those accounts, and the information was given to the Government of Canada by the Government of Germany. The Government of Canada took no initiative. The Government of Germany got the list of everyone who had accounts in that bank and shared it with countries all around the world.

We have now found out that, unlike other countries that immediately swung into action when they received information — such as people who were charged, convicted and paid fines — in Canada, not one person was charged or convicted. Nevertheless, the Canada Revenue Agency identified a large sum of money owing to the Canadian treasury. The assumption one could reasonably assume was some of those people were hiding their money overseas to avoid paying taxes.

I'm just wondering if you could tell us two things. How much money did the Canada Revenue Agency collect? How much did they identify was owing from Liechtenstein? I understand there is a major discrepancy between the two.

Hon. Peter Harder (Government Representative in the Senate): Again, I thank the honourable senator for his question and attention to this issue. I will endeavour to find out the specific answers.

But I would remind the honourable senator, as I reported the other day, as a result of the leaks and attention being brought to the offshore and international aspects of tax evasion, the CRA completed more than 990 audits, and more than 42 criminal investigations related to offshore financial structures are under way as of the end of September of this year.

Senator Downe: Thank you. We look forward to finding out if there are any convictions because in Liechtenstein, as I mentioned, millions of dollars were identified, not one Canadian was charged and obviously no one was convicted. No one was charged, and they recovered very little of the money.

• (1400)

Unlike Australia, for example. Immediately after receiving the same information, Australia formed a cross-government, seven-department committee; identified their target; advised Australians how much they intended to recover, a target they exceeded; and advised Australians how many were charged. And, of course, everyone saw the convictions because they were public.

The Australians tell me that that served two purposes: They recovered more money than they intended, and the people who were thinking of moving the money overseas lost interest when they saw their friends and neighbours going to jail. None of that happened in Canada.

Two years after Liechtenstein, we had another leak from one bank in Switzerland. This is even more interesting, colleagues, because the information was then obtained by the Government of France, and to show the initiative of the Government of Canada and the Canada Revenue Agency, they never asked for the information. The Germans in Liechtenstein gave the information to Canada. The French sent a note to Canada, and we had this in writing in information tables in the Senate to one of the questions asking the Canadian government to ask for the list of names.

The Minister of National Revenue then went to France and asked the French for the names and got the names. There were over 1,700 Canadians in that bank in Switzerland.

I wonder if you could find out how many of them were charged, if any, how much money was identified as owing and how much was actually collected, none of which the Canada Revenue Agency would disclose because they hide now behind secrecy law given the negative media coverage they got on Liechtenstein.

Some Hon. Senators: Hear, hear.

Senator Harder: I take it the applause is for the question, not the answer.

Some Hon. Senators: Hear, hear.

Senator Harder: Senator, I will be happy to undertake to find out the answer to your questions.

Some Hon. Senators: Hear, hear.

Hon. Michael Duffy: I have a supplementary question. Colleagues, following up on the excellent questions from my expert colleague from Prince Edward Island, I wonder if Senator Harder could tell this chamber if it is the view of the Government of Canada that because the so-called "leaks" have come from overseas, the leaks would not be accepted by Canadian courts as being legitimate and, therefore, the view of the government is that any of these offshore accounts that have been identified in leaks will not be pursued because the courts of Canada, the government believes, would not allow the evidence.

Senator Harder: Again, I will make inquiries as to the legal position of the Government of Canada. I would, though, reference the statistics that I described earlier, which are based on this information, and they have led to a number of prosecutions.

COMMENTS OF PRIME MINISTER

Hon. Leo Housakos: My question is a supplementary question to that of Senator Downe, and it's in regard to his question about the tax evasion issue.

I was wondering if the government leader in the chamber can explain and justify to us how the Prime Minister of Canada, the head of the executive branch of our government, can make the declaration he made yesterday that he is satisfied that in the case of Mr. Bronfman, his offshore accounts did not signify tax evasion, and he is confident that he has paid the taxes.

I would like to know how the Prime Minister came to that conclusion without an audit by CRA, and why he made such an exception and such a grand declaration in regard to some serious questions that are hounding Mr. Bronfman.

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. I can only report, as the honourable senator suggested in his preamble, that the Prime Minister has satisfied himself that the person in question is operating with the clear intent of abiding by all the laws of Canada. It is not for the Prime Minister to determine whether or not that is the case. Obviously, all Canadians are subject to the appropriate laws governing taxation and revenue generation.

Senator Housakos: Well, government leader, you're absolutely right. It is not up to the Prime Minister to determine whether he has or hasn't broken the law. It is up to the CRA.

Why did the Prime Minister weight in and come to a public determination? It's heavy when the Prime Minister of Canada publicly declares that he is satisfied Mr. Bronfman has not broken any laws. How has he come to that determination? Does he recognize that that's a great deal of influence he's laying on the shoulders of the CRA before they even conclude an investigation?

Senator Harder: Again, I thank the honourable senator for his question. Let me simply assure all Canadians that the statement by the Prime Minister reflects his view in this matter after receiving and taking, on face value, the assurances that he has been provided.

ENVIRONMENT AND CLIMATE CHANGE

ENERGY-EFFICIENT HOUSING

Hon. Nancy Greene Raine: My question is for the Leader of the Government in the Senate. Honourable senator, the government leader may remember that on Tuesday I asked the Minister of Environment about the possible cost to existing homeowners resulting from changes to the National Building

Code of Canada to include increasingly stringent energy codes which are to be completed by 2022. I asked this question to the minister twice and did not receive an answer.

Could the government leader please seek a written response to my question?

I would like to know what analysis, if any, has been done on the costs that will be imposed on existing homeowners as a result of the revision of the code. As well, can the government provide a guarantee that no additional costs will result for Canadians when they sell their homes?

Hon. Peter Harder (Government Representative in the Senate): I will seek to do that.

Senator Raine: Thank you.

FOREIGN AFFAIRS

DIPLOMATIC RELATIONS WITH IRAN

Hon. David Tkachuk: Senator Harder, last week, *The Hill Times* reported that in mid-October Canadian officials travelled to Iran for the second set of talks with Iranian officials, signalling, the report said, forward momentum in the fraught relationship between the two countries. Indeed, we're also told that Canadian Foreign Affairs Minister Chrystia Freeland met with Iran's Foreign Minister Javad Zarif at the UN in September and that Global Affairs officials also travelled to Iran in May for discussions. *The Hill Times* cautioned officials, advocates and former diplomats suggest Canada is still a long way off from re-establishing these ties.

Senator Harder, is it your understanding that Canada has been engaging in talks with Iran towards re-establishing ties?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. The policy of the Government of Canada is to seek to have an appropriate engagement with, in this case, Iran. It is the view of the Government of Canada that such engagement is in Canada's interest both in terms of defending the values that we bring to these discussions and, frankly, in terms of the consular interests of Canadians who may or be affected in travel to Iran.

As you know, there has been a history of this. Senators will also know that until recently we did have an embassy and diplomatic relations.

While I cannot predict the time frame in which diplomatic relations may be restored, the engagement that Canada is pursuing would have that as an objective.

Senator Tkachuk: Senator Harder, can you confirm that while Canada has been engaging in talks with Iran, the SEMA sanctions against Iran have been in place?

Senator Harder: Again, the engagement that Canada is proceeding with is fully consistent with our policies with regard to both bilateral and multilateral sanctions that we are a party to. The senator will know that many of the countries party to sanctions also have relationships with Iran.

[*Translation*]

HEALTH

GENETIC NON-DISCRIMINATION

Hon. Claude Carignan: My question is for the Leader of the Government in the Senate. Early in the year, the Parliament of Canada passed the Genetic Non-Discrimination Act, which was introduced by Senator Cowan and passed unanimously here in the Senate. In the House of Commons, however, it did not pass unanimously. Many MPs voted to support the bill, but most cabinet ministers voted against it. Nevertheless, the bill did pass and received Royal Assent.

A little later, in June of this year, the Government of Quebec announced its intention to refer the matter to the Quebec Court of Appeal to challenge the constitutionality of the act. My question is simple. Can the Leader of the Government in the Senate confirm that the federal government will make representations in this application to the Quebec court in support of the constitutionality of Canadian law?

• (1410)

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. I will make inquiries as to what the position of the Government of Canada may be in this court application.

INNOVATION, SCIENCE AND ECONOMIC DEVELOPMENT

CHINESE INVESTMENT IN CANADA

Hon. Thanh Hai Ngo: Honourable senators, this question is for the Leader of the Government in the Senate.

Last week, I asked a question to find out if the Government of Canada would administer a full national security review process before approving the takeover of the Aecon Group by the Chinese state-owned enterprise China Communications Construction. In your response, you assured this chamber that:

> . . . it is indeed the expectation and intention of this government to have a national security review process apply.

I think the government owes its citizens some clarity on this matter because this Chinese state-owned enterprise has built an artificial island in the disputed region and was blacklisted by the World Bank because of its reputation of allowing corruption to thrive.

In its 2016 report on transparency in corporation reporting, Transparency International Canada evaluated the China Communications Construction Company as a multinational that is "doing immense damage to local economies." In that report, the China Communications Construction Company received a failing score of 3.3 out of 10.

Senator Harder, can you clarify if the government will order a full-scale national security review before approving the purchase of Aecon?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. I thought I was being very direct and full in my earlier answer but let me repeat.

As the honourable senator will know, the Investment Canada Act provides for the review of significant investments by non-Canadians to determine the likely net benefit for Canada. "Significant" is determined at a financial level of the transaction, and this exceeds that financial transaction. The Investment Canada Act also provides for the review of investment that could be injurious to national security.

The proposed acquisition will be reviewed on its merits on the overall economic benefit for Canada and, as with foreign investments, the national security review will apply. As the senator will know, this is a multi-step process led by Canada's security agencies and one that will be used in this application. The honourable senator will also know that the application has not yet been received by the government, but the government expects this application to go forward.

I should also undertake, as I did then, to assure you that during the net benefit review, the government will also be applying the guidelines regarding state-owned enterprises because the potential acquirer is a state-owned enterprise. While Canada welcomes state-owned enterprise investment that is commercially motivated, we must assure ourselves that the investors will adhere to Canadian standards and incorporate appropriate corporate governance. The guidelines on state-owned enterprises provide added assurance that Canadian businesses will continue to operate on a commercial basis. That is the policy through which this application will be viewed.

As one would understand, it would be inappropriate to comment on the process of that application except to assure all Canadians — and I hope the honourable senator will agree that it is important to assure all Canadians — that the Investment Canada Act is a robust instrument to protect the interests of Canada.

Senator Ngo: China's Ambassador to Canada, His Excellency Lu Shaye, was reported saying through an interpreter while he was in Halifax that "there is no need for a national security review of a Chinese firm's $1.5-billion bid to take over Canadian construction giant Aecon." The same ambassador who requests unfettered access to the Chinese state-owned firm to all key sectors of the Canadian economy also said:

> The technology from the Chinese side is much higher than the Canadian side . . . it is not necessary for them [the Chinese government] to steal technologies from Canadian companies.

Can you tell us if Minister Bains has been formally notified about this transaction, or should Canadians rely on what the Chinese ambassador has to say about the national security review?

Senator Harder: Again I thank the honourable senator for his question. As my earlier response indicated, there's a very clear process that this application will be adjudicated within. Notwithstanding the opinion of anybody, including somebody as distinguished as the Chinese ambassador, the process is the process. It will be followed. However, as I indicated, the application has not yet been received, which is not unusual as it does take some time for a formal application to proceed.

The Investment Canada Act is a robust instrument to protect the interests of Canada and it will be vigorously pursued.

[*Translation*]

CANADIAN HERITAGE

BOOK OF REMEMBRANCE

Hon. Jean-Guy Dagenais: My question is for the Leader of the Government in the Senate. The Memorial Chamber in the Peace Tower houses books containing the name of every Canadian soldier who has made the ultimate sacrifice. However, there is still one book missing from one of the altars in the chamber, the book honouring those killed in the War of 1812. I have learned that this book has been completed and contains the names of more than 1,600 Canadians and allied First Nations warriors who lost their lives during the War of 1812.

Could the government leader explain why this book, which is now complete, has not yet been placed in the Memorial Chamber, and could he tell us when that might happen?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I'm not aware of the situation and will make inquiries.

TRANSPORT

CHAMPLAIN BRIDGE

Hon. Leo Housakos: My question is to the Leader of the Government in the Senate.

Senator Harder, this past October 26, I asked you whether your government would honour the contract with the consortium responsible for the new Champlain Bridge project in Montreal, including imposing penalties if the project is not completed by December 1 of next year.

Your answer at that time was ambiguous, so I would like to clarify: Yes or no, is the Trudeau government committed to the terms of its contract with the consortium? Will your government impose penalties for late delivery of that project?

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, in response to the question, let me simply repeat the answer that I provided, which is the position of the Government of Canada. That is to say, the contract is one that the Government of Canada is seeking to ensure is completed and is working on the basis of that contract being fulfilled.

I know there are additional actions being taken by the contract provider to try to meet those deadlines, and that's the view of the Government of Canada.

[*Translation*]

PUBLIC SERVICES AND PROCUREMENT

NATIONAL SHIPBUILDING STRATEGY

Hon. Claude Carignan: My question is for the Leader of the Government in the Senate. Yesterday, Quebec's National Assembly passed a resolution about work being done at the Davie shipyard. The resolution reads as follows:

> THAT the National Assembly recognize the expertise of Lévis's Chantier Davie;
>
> THAT it ask the Federal Government to adjust Canada's National Shipbuilding Strategy so that Québec gets its fair share of federal contracts;
>
> THAT the National Assembly request that the Federal Government award Québec the contracts needed for its plan to replace Canadian Coast Guard and Royal Canadian Navy vessels, among others through acquisition of the second Resolve-class replenishment ship.

As you know, the shipyard is currently putting the finishing touches on the *Asterix*, which will be delivered sometime in the next few hours. After that, the shipyard employees will be out of work.

Will the federal government respond favourably to the request of the National Assembly and Davie shipyard workers?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for bringing to our attention the motions of the Quebec National Assembly. I will make inquiries as to whether the Government of Canada intends on responding to those motions.

The tradition in the Government of Canada has been to exercise its procurement in these matters in a way that is commercially viable, recognizing that there is a capacity in a limited number of locations for the contract execution and that the distribution of those contracts is being done in an independent and arm's-length process.

[*Translation*]

TRANSPORT

ST. LAWRENCE SEAWAY

Hon. Ghislain Maltais: Could the Government Representative also ask the government, particularly the Minister of Transport, if they intend to reopen the St. Lawrence channel and the Strait of Belle Isle with the tugboats used to maneuver vessels in the harbours? That is the only remaining way for us to keep a path open through the ice.

• (1420)

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I will make an inquiry of the responsible minister.

[*Translation*]

ORDERS OF THE DAY

INDIAN ACT

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

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. Renée Dupuis: Honourable senators, in Canada, the path to true equality for women in general, and for native women in particular, is far from smooth. It is built on ground broken by the First Nations women, Indian women for the purposes of the act, and Aboriginal women's groups who fought to have their basic rights recognized.

I rise today to pay homage to all these generations of women, both for their personal determination and for the example they set for all of the women who have followed in their footsteps to this day. This long list, stretching back through the history of our society, should stand as a monument to the uninterrupted struggle waged by all of these women. Furthermore, I want to commend them today for their direct contribution to the enrichment and development of our society, because they were willing to make a positive contribution to society despite the clear discrimination they suffered and continue to suffer due to a succession of laws Canada has passed since its creation in 1867.

I would like to highlight the extraordinary contribution made by two of our colleagues, Senator Lillian Dyck and Senator Sandra Lovelace-Nicholas. I have not forgotten. We will not forget.

All societies must concern themselves with how to protect their citizens from discrimination, especially when those citizens are made vulnerable by the very discrimination they endure. In the context of human rights, the term "equality" refers to all humans being equal before the law and having the same rights. To clarify, discrimination can be considered a form of inequality, but not all inequalities are necessarily discrimination. This is why words are so critical in matters of law.

Honourable senators, some milestones in the history of our society are worth recalling to help us fully appreciate the motion we will be voting on here today.

First of all, historical context matters. In 1927, the Prime Minister of Canada pointed to a common law rule from 1876 in order to maintain that women could not be appointed to the Senate. The rule stated, and I quote:

[*English*]

Women are eligible to pains and penalties, but not rights and privileges.

[*Translation*]

Later, the Canadian Bill of Rights, also known as An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms, which was passed by the Parliament of Canada in 1960, first recognized an individual's right to equality before the law and the protection of the law without, and I quote:

. . . by reason of race, national origin, colour, religion or sex . . .

The limitations of that piece of legislation were revealed in 1964 when the Supreme Court ruled in Lavell that equality before the law under the Bill of Rights meant equality of treatment in the enforcement and application of the laws of Canada. In other words, insofar as the law discriminated equally against all Indian women because of their sex, the Indian Act did not violate the Canadian Bill of Rights.

Subsequently, the federal government passed the Canadian Human Rights Act in 1978. It, too, prohibited discrimination on several grounds, including sex, in matters under federal legislative jurisdiction. The Act's section 67 shielded actions made under the Indian Act from complaints , thus preventing Indian women from challenging the discrimination enshrined therein. I should mention that the committee I was a member of, which the Minister of Justice tasked with reviewing the Act in 1999, recommended repealing section 67 in its 2000 report. Section 67 was finally repealed in 2008, 40 years after the Act was passed.

Meanwhile, in 1982, the Canadian Constitution was amended to incorporate the Canadian Charter of Rights and Freedoms, whose section 15 establishes that every individual is equal before the law on various grounds including sex. The courts' subsequent interpretation of this constitutional right to equality clarified that it is not formal equality before the law, as in the *Lavell* decision, but a right to substantive equality.

It is surprising that the courts refused to give the Native Women's Association of Canada the right to participate directly in the constitutional conferences that took place between 1983 and 1987, which were intended to define the scope of special collective rights belonging to the Indigenous peoples of Canada and which addressed the gender equality of ancestral and treaty rights.

The Charter included a three-year waiting period for the implementation of the right to equality to provide enough time to review all existing legislation and ensure its compliance with the new Charter. This led to amendments to the Indian Act in 1985 that, among other things, transferred discrimination against Indian women to future generations. We therefore have 30 years of experience with changes to the Indian Register and registering people who have regained status lost because of the Act. Further amendments in 2010 in response to another ruling, as in the *McIvor* decision, failed to resolve the problem completely. Since 1985, court challenges have resulted in findings of various forms of discrimination in the Indian Act. One of those rulings, as in the *Descheneaux* decision in 2015, led to Bill S-3.

Dear colleagues, the message from the House of Commons returning Bill S-3, as amended by the Senate, came with changes that we are being asked to support. According to the government, the principle of the elimination of discrimination against women is now enshrined in Bill S-3, a precedent that is not insignificant and whose importance we must truly appreciate today. We are told that its implementation will be subject to broader consultations.

We understand that implementing the principle now enshrined in Bill S-3 will give effect to it. A law that does not come into force cannot confer rights. My dear colleagues, this is where our responsibility as senators comes into play. We must remain very vigilant throughout the entire period of time when the imminent expanded consultations, which have been scheduled for early next year, will be held and throughout the review of the act, scheduled to be conducted three years after it is passed, as well as with every report that must be tabled in Parliament, and therefore in the Senate, as these consultations take place.

Honourable senators, establishing a new relationship with indigenous peoples requires the consultation of First Nations, a recognized constitutional right for indigenous peoples. This consultation has been announced. At the same time, reconciliation with indigenous peoples requires eliminating discrimination against women in the Indian Act, a form of systemic discrimination written into the act by the legislators who preceded us. It our responsibility, as legislators, to eliminate this discrimination today. It is also our responsibility to understand the complexity of the current situation. To give but one example, the Canadian Human Rights Tribunal concluded that the current federal underfunding of social services for First Nations children was discriminatory. Thus, we imagine that the consultation announced will focus on, among other things, funding of such services for new members who become eligible for Indian status under Bill S-3. We certainly do not want the addition of these new members to lead to even more grossly underfunded services.

Colleagues, it falls on us as legislators to determine whether the implementation period, which is yet to be determined, exceeds reasonable limits and if so, it is incumbent on us to find what means the Senate has at its disposal to have the federal government proceed with implementing the clauses of Bill S-3 that may not have yet been implemented.

• (1430)

[*English*]

Hon. Sandra Lovelace Nicholas: Honourable senators, I stand before you to say thank you for your collective support to end gender discrimination for all indigenous women which is enshrined in the amendment to Bill S-3. I also want to thank all the members of the Aboriginal Committee on both sides, and in particular I thank my indigenous male colleagues for standing in the Senate Chamber in support of their sisters.

It has been a long road from 1867 to 2017. So many people have given their time and lives in the hope that the government would finally see them as fully human and deserving of their status and equal rights. It is still difficult for me to accept that it has taken this long to grant indigenous women equal rights in a land that is their birthright.

As much as I support the amendment to Bill S-3, I have to say I am concerned about what will follow in the months ahead. Without a specific date, that still leaves thousands of indigenous women in limbo.

Without a specific date for the enactment of the bill, it feels like we are in another situation of take-it-or-leave-it legislation. Indigenous people have a long history of being brought to the brink of a better relationship with the government only to have it postponed, denied or forgotten; half promises and partial settlements followed. So you will understand that I am not celebrating until I see this government follow through and this bill and its amendments become law.

I sincerely hope that this time the government will do the right thing and not delay any longer and end gender discrimination once and for all. This will be a big step towards reconciliation.

Hon. Senators: Hear, hear!

Hon. Serge Joyal: Honourable senators, I would like to underline the continuous efforts of Senator Sandra Lovelace Nicholas, Senator Dyck, Senator Sinclair, Senator Patterson, Senator Christmas and all the Aboriginal senators that we had the privilege of having assist us in the road to reconciliation.

That being said, we have to understand the issue at stake here. Essentially, it is the Indian Act adopted in 1876, more than 140 years ago. What are the essential elements of the Indian Act that are so insidious, so tricky and so nasty? It's essentially the principle of discrimination.

With the Indian Act, what have we enshrined in an act of Parliament? In those days, parliamentarians voted in both chambers thinking that they were doing the right thing. What did they do? They put forward the principle that if you are an Aboriginal, you will be pushed out of the mainstream of Canada. You were either pushed onto reserves, or on reserve you were denied the natural law of succession of your forefather's identity. How did they do it? Of course by singling out women. According to most Aboriginal tradition, the identity passed through women in matrilineal societies. The authors of the Indian Act then had one idea in mind: How do we squeeze the identity through women?

As Senator Lovelace Nicholas fought against, if you were an Indian woman marrying a non-Indian man, bingo, you were out. If your family line had any dilution of identity, you were also out. The philosophy was that through attrition the number of Indians would shrink to a point of being meaningless and suffocating on reserves. In the meantime, we tried to deprive them of their ancestral land by pushing them in front of the courts to try to reclaim title — in other words, denying their rights and then saying, "Go to court to prove your rights." That's what you did. That's what *Descheneaux* did. That is what *McIvor* did. Honourable senators, there have been 250 decisions in the last 40 years in Canadian courts where we tried to take away Aboriginal title of their land.

It was fought by the Canadian government with an army of lawyers from the Justice Department of Canada and with all the money required all the way up to the Supreme Court. It cost thousands and thousands of dollars, and it tests the will of survival because you get exhausted, you get psychologically crazy with the fact that you have to always fight to maintain the dignity of who you are.

Do you know how many claims are still pending? There are 503 different claims, special claims, particular claims of the government's failure to honour the treaties that were signed to push the Aboriginal people out of the land because Canada was moving west.

We have to reflect upon those things, and this is what is in Bill S-3. Now we are asked by the government leader to accept and remove the discrimination against women, but we won't give you a date. Beware of the white man. There is a dictum that says, "Fool me once, shame on you. Fool me twice, shame on me."

Honourable senators, the story of Canada in relation to Aboriginal people is a story of deception, hypocrisy and broken promises. Do you know how long it took for *Descheneaux* and associates to receive a decision? The decision was given in August 2015. Two years later we are still fighting against the government. Mind you, honourable senators, if we had not insisted last June on the proposed section 6(1) and the rest on this bill, you would not hear us today, and we would not be debating this afternoon how to address the issue of discrimination in relation to women in the Indian Act. That would have been out of the agenda. It would be out of the radar screen.

• (1440)

We are here debating this because we insisted, because the Senate stood up to its constitutional duty, to speak for a minority that has been battered for 140 years. Now the government asks us to accept their word that one day along the road, after consultation, and there is no limit on the road, everything will be fine in the land of bounty that is Canada.

On the basis of past history, should we believe this? Would you believe this, if you would have been cheated for 450 years, that someone with good and express intentions would come to you and say that after you have fought for four years, after the Minister of Justice, honourable senators, went in front of the Court of Appeal last summer and requested an extended time to come forward with the solution?

You know what the Court of Appeal stated last August in relation to that request of extension by the Minister of Justice? I will read it:

[*Translation*]

> The declaration of unconstitutionality has been suspended for over 24 months now and the Attorney General of Canada is asking that it be further suspended to 29 months. Such a lengthy suspension could undermine public confidence in the ability of the courts to respect and uphold the Constitution.

[*English*]

What did it say? It said, essentially, that the Minister of Justice is asking for an extension that will bring the judicial system in disrepute because she is extending the time too much. That's what is in this decision of the Court of Appeal, August 18 last summer, less than three months ago.

Now the same minister comes to us and tells us, "Well, trust me. I'll do this in consultation."

Unfortunately, I will have to paraphrase the government leader for whom I have a lot of admiration: Well, if the government doesn't do its job, you parliamentarians will do the job on its behalf.

Do you want me to repeat what it means? It means that your rights are still in the hands of the majority. Your rights are not protected by this bill. Your rights will be again at the whim of the majority of parliamentarians. Who are they? The other place and us — 338 and 105 members respectively, 443.

How many Aboriginal women are there here? You will be standing on your feet again pleading to us, the majority, to recognize your rights and to continue to eliminate discrimination.

We have to be very mindful of what we are doing today on the basis of what has happened before.

I can't trust a minister who has been fighting this tooth and nail for four years, who at the same time was fighting in the Human Rights Tribunal of Ontario for the status of Aboriginal children, fighting all the way. Even though the decision went against the government, the government was in slow motion. So much slow motion that the United Nations Human Rights Committee — you know, this is not me. The United Nations Committee on the Elimination of Racial Discrimination, on August 25, 2017 — three months ago — said that it is "alarmed," despite its previous recommendation and multiple decisions by the Canadian Human Rights Tribunal, that "less money is reportedly provided for child and family services to Indigenous children than in other communities . . . ." Even though three years ago there were fresh court decisions, the government is still fighting and now even at the level of the United Nations.

So do you still believe the minister, who pledged to you that she is going to be coming sometime, and we will all, down the road, celebrate the happy evening that discrimination is gone?

With regard to discrimination, honourable senators, the Canadian government, in June 2016, accepted, without reservation, to subscribe to the United Nations Declaration on the Rights of Indigenous Peoples. What does Article 8 say? I will read it to you.

> 1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.
>
> 2. States shall provide effective mechanisms for prevention of, and redress for:
>
> (*a*) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;

And finally, to provide for an effective mechanism for redress of "Any form of forced assimilation or integration."

The Canadian government subscribed to that. The Prime Minister was at the podium of the United Nations last September in front of the whole world claiming that we subscribe to this without reserve. But today what are we asking for from the government? We're asking to recognize the principle but to let it move along at the pace of a little train.

You and I, honourable senators, will be charged with the responsibility to keep him under watch.

Is this really a solution to the recognition of those minority rights? Should we not do today what should be done, which is to say to the minister that let's make an appropriate timeline? We're not stupid. We recognize that there is a need for consultation regarding adaptation of the structure, for the evaluation of the amount of additional money that will be needed. We know that. We're grown adults. We are responsible.

But should we not specify a target date and say that on the basis of the past we should be very mindful that we are dealing with someone who will be fighting us in court with all the might of the Department of Justice, with all the might of the public purse, for women who are covered, in principle, in the amendment of the government but with no time frame? That is no real right.

What is a real right? It's a right for which you can stand in a court of law and get a decision from a judge, and an order of compliance for the government that is at the root of the violation of your rights.

Honourable senators, in my soul and conscience, this is what I think about this bill and those amendments. I commend the government for having done some part, but the government would not have done it, honourable senators, if we would not have stood tall in this chamber — may I have five minutes?

The Hon. the Speaker: Honourable senators, Senator Joyal is asking for five more minutes. Is leave granted?

Hon. Senators: Agreed.

Senator Joyal: I'll conclude, honourable senators. I get impassioned by this issue. Senator Watt can attest to this. In 1980-81, when we were drafting the amendments to the Constitution, we had to wrestle with the issue of Aboriginal women. It is through the representations of Senator Watt — at that time he was not a senator; he was an Aboriginal leader — and other Aboriginal leaders that we added a paragraph to section 35. I want to read you that paragraph because it is important that we remember today what we are doing and how we want to deal with this responsibility.

• (1450)

Section 35(4) states that the rights recognized to Aboriginal people are recognized equally to Aboriginal women. We were proud of doing that because we thought it would be sufficient to redress the torts and damages that have been inflicted on Aboriginal people through centuries of discrimination, assimilation and colonial policies.

When I am confronted yet again today, 40 years later, with the responsibility to try to pronounce on a decision that would have important lasting effects on Aboriginal women who must continue to fight to have their rights recognized, their dignity respected, their cultural identity appraised, and to be part of that

great movement of reconciliation, I say that we must think twice before accepting the amendments as they stand, and ask ourselves whether there is an additional step we should take to ensure that there is a deadline and there is light at the end of the tunnel — even though it might be a little far, at least we know the tunnel ends somewhere. Unfortunately, with this bill, it doesn't end; there is still darkness ahead of us.

That is why, honourable senators, I ask you to think twice before happily voting for the amendments brought forward by the government leader.

Hon. Patrick Brazeau: Honourable senators, I would like to begin my remarks by acknowledging the indigenous women who, since Canada's earliest colonial days, have been denied their rights due to the imposed colonialist sexism of the Indian Act.

The denial of status is a denial of identity, value and dignity. This sexism was imposed by outside forces. It was forced upon indigenous women by newcomers to this land. This mandatory, state-sanctioned sexism was not a creation of indigenous communities, and yet the effect upon these women and their descendants was immediate and has been long-lasting. The women and their descendants who were robbed of their status were alienated from their communities. This has caused spiritual, physical and emotional damage. They became women without full identity rights in any community. It is for those women and their descendants that I rise today, honourable senators.

As we look back on the decisions made by those who created the Indian Act, surely most Canadians can agree that the party with power — the government — imposed a destructive, colonialist policy upon indigenous women. We can see this clearly when we look far backwards in time, but can we see it when we are enacting the same dysfunctional patterns today?

It does not matter which political stripe, honourable senators. The history of the Government of Canada vis-à-vis indigenous people is one of broken, empty promises, and of agreements that favour the powerful over the less powerful.

How is this different from what is happening here today, honourable senators? Why do the human rights and Charter rights to equality before the law not pertain to indigenous women born before 1951? How is a lack of equality rights a national disgrace and a legislative emergency for everyone else in Canada but these women?

Some of my colleagues would argue that the government has backed down and has conceded that indigenous women deserve their equality rights. The government, we are told, is now prepared to allow indigenous women their full rights — but after, and only after, an unspecified time of consultation. We are asked to accept, on faith, that the consultations will conclude at some point and that indigenous women will be granted their full equality rights.

However, the government will not commit to a fixed end date for these consultations and full implementation. We seem unable to even get an agreement that the consultations could be completed before the next federal election.

Honourable senators, while some may point to me in this place and think of me as young — which I am — I can assure you that I have been dealing with various governments, with the Privy Council Office and Prime Minister's Office, and with Aboriginal governments for many, many years. I have seen consultations with no fixed end date go on for decades. Why should this time be any different?

How is the government harmed by simply attaching a fixed end date? Is it because the work will be difficult? Is it to limit the number of status Indians in Canada? Is it because of financial implications? We don't know, honourable senators. We don't know the government's rationale for allowing an undetermined period of consultation because they simply will not tell us; yet, we are asked to believe we are living in a time of reconciliation.

It is puzzling, to say the least, honourable senators, that the government has sat on this bill for four months, yet are suddenly in such a rush. Many senators are under pressure to pass the motion as it is, without a fixed end date to the consultation period. We are supposedly in a new, independent Senate.

Honourable senators, Dr. Pam Palmater has written succinctly about the devastation caused by denying indigenous women their equal rights. She lists six reasons why this government-imposed sexism has to end: first the current policy discriminates against women; second, it may keep children in poverty; third, it restricts the ability to participate in their community; fourth, it systematically eliminates Indians; fifth it penalizes relationships with non-First Nations people; and finally, it violates Canada's Constitution Act.

As Dr. Palmater said so clearly yesterday, incremental or delayed equality is no equality at all — it's inequality. As Dr. Lynn Gehl has testified, senators have a role in ensuring all the sex discrimination is addressed. We must move beyond what has been determined to be Charter violations. Ms. Gehl has expressed to me her lack of confidence in the motion put forward by Senator Harder. She wants to know why indigenous women and their descendants born prior to 1951 have to wait for their equality rights to be addressed. She wants to remind this chamber about the dangers of using vague language to grant equality in stages, as such legislating has caused her 30 years of unneeded pain and suffering.

Dr. Gehl was not the only one who was alarmed by Senator Harder's motion, honourable senators. I received an urgent letter from Shelagh Day of the Feminist Alliance for International Action. She had consulted with Sharon McIvor, Pam Palmater, Mary Eberts and Gwen Brodsky on the lack of a fixed end date in Senator Harder's motion. For them, honourable senators — as it should be for all of us here today — it is unacceptable that equality for some indigenous women be delayed.

Many of the women whose rights have been denied are over 60 years of age today. They should not be asked to wait any longer.

Honourable senators, the Government of Canada is capable of imposing fixed dates for consultations. A quick look at the government's searchable Consulting with Canadians website reveals hundreds of consultations with fixed end dates, including those dealing with indigenous issues. The government should

justify to this chamber why, when it comes to the equality rights of indigenous women, they cannot bring themselves to impose an end date. The government should justify to each of us here today — and, more important, to the indigenous women and their descendants who the government tried to erase with its sexist, assimilationist, colonial policy — why their rights need to be consulted about indefinitely.

We have heard how hard parties have worked to come together on this bill, and we have heard how the government has now decided to listen. However, we are also hearing whispers that any attempt to insist on a fixed end date for the equality rights of indigenous women may lead to no equality rights for them at all. It is for this reason that I stand here so torn, honourable senators. I feel we are under threat — and under threat is how I imagine my ancestors felt when they negotiated treaties and agreements. They too were afraid of the consequences of not coming to an agreement with a more powerful party. They too worried about losing everything by asking for too much. But how much equality is too much to ask for in Canada, honourable senators?

This is why I implore my colleagues here today and I ask the government to commit to concluding consultations and to the full implementation of Bill S-3 before the next federal election. After all, if they can commit to ending sex discrimination in the Indian Act, they should commit to ensuring that they do it before the next election.

In light of the devastating effects of sexual discrimination on indigenous women, I think this is not too much to ask for at all.

• (1500)

On the personal side, I had not one but two great-grandmothers who lost their status because of the discrimination in the Indian Act.

Some of you were here a few weeks ago. I had four of my five children in the gallery: my daughter Kegona, which means hope in Algonquin; my other daughter, Patience — I named her Patience because I have none; my son, Kiniw. And I had my youngest daughter who just turned two years old, Elie.

Well, my first three children that I named are status Indians. My two-year-old is not.

The reason I'm standing here today is to do the right thing, because down the line, I don't want to answer to my daughter asking me why I had the power to do something and sat back and allowed the government to get its way. I'm doing this for her and many other First Nations people here today.

Some Hon. Senators: Hear, hear.

MOTION IN AMENDMENT

Hon. Patrick Brazeau: Therefore, honourable senators, in amendment, I move:

> That the motion moved by the Honourable Senator Harder be amended in the second paragraph by replacing subparagraph (*f*)(ii) with the following:
>
> "(ii) by adding after line 30 the following:
>
> "**(2) Sections 2.1, 3.1, 3.2 and 10.1 come into force 18 months after the day on which the order referred to in subsection (1) is made.**"; and".

Honourable senators, I introduce this motion with the hope that it will get support because this is not only about righting the wrongs of the past; it's about bringing justice and ensuring that our Aboriginal women and their descendants have the equality that they deserve in this country.

Some Hon. Senators: Hear, hear.

The Hon. the Speaker: On debate or question first?

Hon. Dennis Glen Patterson: I would like to reserve my right to debate as well.

Senator Brazeau, I'd like to ask you this. The government has committed to enshrine the rights that we all care about in this bill. They have also committed to come back with an implementation plan and costs. This was a solemn commitment made by the Government Representative in the Senate this past week.

My concern is that if this amendment should be approved by the Senate and sent back to the other chamber, which is scheduled to adjourn on December 14, with the court deadline looming on December 22,and if cabinet sticks with its commitment not to impose a fixed date and instead to do the consultation they say is required, we risk having the bill punted, the message again punted back to the Senate and starting a time-wasting delay that could result in the bill failing. And the 35,000 Quebec women who will be immediately helped by the *Descheneaux* decision and other women in their category across Canada will not be registered, and we risk losing the progress that we've made to date on this bill.

Have you considered the risk of the delay that your amendment will certainly cause?

The Hon. the Speaker: Senator Brazeau, before answering, I should point out to honourable senators who may wish to have a copy of the amendment that the amendment has not been presented in both official languages. I'm calling on the Law Clerk now to prepare it in both official languages, but if it's the will of the Senate to continue debate before we have that, we will.

Is it your pleasure, honourable senators, to continue?

Hon. Senators: Agreed.

The Hon. the Speaker: Senator Brazeau.

Senator Brazeau: Thank you for the question, Senator Patterson, and all I have to say is that you bring up a valid question, but having said that, that's the fear mongering we've been hearing for so many years with respect to status provisions under the Indian Act. The motion put forward is simply to do the right thing, and I just hope you agree with that.

Hon. Lillian Eva Dyck: I'm very grateful for the long debate we're having today and the amendment. I thank you, Senator Brazeau, for tabling that motion.

I believe it's the first time in the 12 and a half years that I have been here that we have actually taken the time to debate a bill related to First Nations with such in-depth debate, and I'm very pleased that that is happening.

I think it's really important not only to put on the record the good things about what's in the amendment to Bill S-3 that Senator Harder talked about but also to point out that there are deficiencies, and I thank Senator Joyal especially for that. He's an excellent and articulate speaker. And thank you, Senator Brazeau, for your thoughts as well.

The reality is we all want that fixed date of implementation. We all want that. I don't think there is a single senator in this place that doesn't want that. But we also have to face the reality that we are faced with a majority government. If they had wanted a fixed date of implementation, it would be in the bill now, so quite clearly they don't want it, for whatever reasons. I know a number of senators have spoken personally to the minister or to various people in her office pleading for that, but it was not successful.

Your amendment is good. If we pass that amendment today, what happens? It goes back to the House of Commons. We have a majority government. They reject it. It comes back here. We haven't really gained anything, but we have lost time. I know Senator Patterson sort of alluded to this in terms of delays.

The House of Commons is set to adjourn the second week in December. Next week is a break week. There's not a lot of time. I don't think the government deliberately waited to force us to make this decision as soon as possible, but I think we're in the position now where we cannot face any more delays because there is a risk — small, I think — that if we send it back they will do more than just send it back to us as is. They could reject it. That's why I think it's really good that we have groups like FAFIA lobbying. I believe the debate now should move to the House of Commons, that we should lobby the House of Commons. They are an elected body and they have yet to really grapple with the ins and outs of this bill.

They have a break week next week. We send it to them. They and their staff get a chance to look at it, and it gives FAFIA and the other groups time to look at it and determine. Press them to do it. Because no matter what we do, it makes no difference. It has to pass through the House of Commons, and then it comes back to us. Anything we do here is not going to make any difference unless we get agreement with them, and we do not have that agreement with them.

I would love to have that date of implementation in there, believe me. I hold my breath. The thing is, the reporting and the consultation are not unspecified. The bill does very clearly say one year, reporting at five months, reporting at 12 months, reporting to both houses. Our committee. Our Senate. I know the Senate will not let this go. We will not forget. It's not just me; it's everybody here. We are so actively engaged.

• (1510)

Hon. Senators: Hear, hear!

Senator Dyck: You were right Senator Joyal; we should not trust the government. We don't trust the government. That's why we have a Senate. We are the house of sober second thought. We stay here regardless of whether we have a Liberal government next time or not. That is one of the values of having the Senate. We have the memory.

We remembered what happened last time, in 2010, with Bill C-3. We pushed and, Senator Brazeau, at that time I tabled amendments. I tabled so many amendments when we had another government with the knowledge that they would not get passed — knowing they would not even get passed in the Senate, let alone in the House of Commons. So it's really important that you put this forward today to remind us of what's wrong and that we have to keep pushing because they will not accept it.

I'm very happy you have put this amendment forward because we need to know it's not perfect and we're not going to forget because you have reminded us and so has Senator Joyal. They have both done a wonderful job of reminding us that this bill is not perfect but that's what life is like. In my opinion, we have moved it along to a major milestone.

I would love to have that date of implementation, but we don't. I fear that if we tinker around now, we will lose. There is a real risk, as Senator Patterson indicated, that if we don't meet the deadline of December 22, those people covered in the bill, such as the *Descheneaux* group — 35,000 people — will not get their registration. The register will be shut down.

And we used that tactic to push the government in the past. We knew the government was under pressure, and 11 months ago our committee said that we don't think this bill has gone far enough. We suspended the study. We forced them to get an extension knowing the chances of their getting an extension was high, and they got it.

They missed the second deadline. We were surprised they managed to get a safeguard order and another extension. And it was great that you quoted from the Court of Appeal. But now there is no more extension available. This is the final deadline. We cannot use delay tactics because now all we will do is imperil the people who were trying to help.

As I said, I would love that we could have it, but I don't think there is any way. We do not have the tools at our hands to do it. The only tools we have that are effective — and they are effective — is to be the watchdog to implement what we have now, to agree with the motion that we have. We will play the watchdog role. We will ensure that the coming into force does actually happen and that the bill is actually proclaimed.

In the past, as Senator McCoy mentioned, sometimes the proclamations don't come into force, but that's because people forget. None of us in this room will forget because we have engaged with this debate and, my lord — I almost swore — I am so happy that we have engaged in this debate. That's why we're here. All these words put forward are wonderful and we have to point out the deficiencies as well.

Senator Brazeau, you also mentioned the impact of this on your children. I was also contacted by Lynn Gehl. I responded by telling her essentially what I'm saying today but probably better because I spelled it out in logical words. When you stand up here to speak, sometimes it doesn't come out so logically.

The FAFIA group said that I won't be allowed to transmit my status to my grandchildren. Well, they're not right. I will be allowed to do that. If we pass this bill I will be allowed to do that, but maybe if someone was affected by the pre-1951 date then they won't be able to do it until, let's say, a year or 18 months. It's not going to linger on forever. And the three-year timeline that was brought up was to review the whole thing — to review the impact of the bill as is. At that point, we can say we thought we eliminated it all but there is this one little case here we didn't catch.

The Indian Act is so incredibly complicated that it's like a rat's nest. I spent all summer going through it to figure out what was what. I am confident that the government has drafted a bill that does what it says it does. Other senators have gone through the bill with their staff. Bill S-3 will do what it says it's going to do, but it does not have that fixed date of implementation. And there are perhaps other reasons why it isn't in, but we just could not get that commitment. They control what happens in the House of Commons because they are the majority.

I really suggest that the pressure be put on members of Parliament by groups like FAFIA, by Pamela Palmater, Sharon McIvor, Shelagh Day and the others. They need to take action because they have the power at the moment and we do not. So I would say let us pass this motion.

Senator Brazeau, I will not support your motion today, as much as I would like to, because I want the motion as is to be passed today or as soon as possible and put it over to the House of Commons. Let's pressure them. Let's make them do the right thing. Let the external people work on them. We're just not able to do what you want us to do, as much as we would all like to do it.

And that's pretty much all that I had to say, so thank you.

Hon. Senators: Hear, hear!

Senator Patterson: As Deputy Chair of the Standing Senate Committee on Aboriginal Peoples, who has been grappling with this complex matter, intensively, for over a year, first let me say what I don't believe I need to say and which I said the other day: Yes, I do share Senator Brazeau's, Senator Joyal's and Senator McCoy's concern that there is no fixed date for proclamation of this bill respecting provisions which will eliminate the so-called pre-1951 cut-off. Although, as I want to say again, the bill will remedy the problems that arose in the *Descheneaux* case. Those 35,000 women, and others in that category across Canada, have been patiently waiting since 2015 for redress of their rights. That's also in play with this bill.

But, colleagues, there is a reason for the government asking for delay. I don't know if it's parliamentary, but I think I've just been accused of fearmongering, which may be imputing motives against the parliamentary rules, and maybe now I will be accused of being an apologist for the government. But I have served in a cabinet and I do know how the federal cabinet works and I do understand the reason for this provision to delay proclamation. As Senator Harder clearly expressed to us, at the moment we do not have even a reasonable estimate of the numbers — the impact — let alone an implementation plan, let alone a plan for consultation. By the way, that's going to be a challenge for the government because sadly we do know that there are chiefs and band councils in this country who will resist this progressive elimination of gender discrimination, which I believe everyone in this chamber supports. So the government has work to do.

The main risk we take in amending this bill is that, frankly, it will require the Minister of Indigenous Affairs to go to cabinet and seek a new mandate to present an amended bill, which will include a fixed date. And I don't want to raise the spectre of costs like it should be a barrier to human rights — and I said that in my speech the other day — but if this amendment succeeds, the people of Canada, and if not the people the cabinet, will require an estimate of the costs and a source of funds for those costs. That's going to take time. It's not easy to just go and get a cabinet mandate. I know that much. That is the way government works.

Since the government doesn't know the numbers and therefore doesn't know the costs, I do believe that is one reason we're being asked for more time.

• (1520)

The new cabinet mandate may not be given to Minister Bennett, in which case, as I say, the amendment to the message will be defeated by the majority government on the other side, and it will be punted back to us while the clock ticks. And the court deadline, which is a final court deadline — the judges made it clear in the third extension of time that that would be it — is a risk we need to consider in devoting time to this amendment. We risk losing the bill and having those sections of the Indian Act declared invalid.

The delays, which I am reluctant to forecast but know to be true, from the Senate approving this amendment could well have the effect of causing the bill to fail.

Colleagues, this chamber, by supporting the reports and recommendations of the Standing Senate Committee on Aboriginal Peoples, has pressed the government and the Minister of Indian Affairs hard twice to seek further court extensions and to get the bill to what it purported to do. We now finally have a bill which enshrines the right of indigenous women to equal treatment with respect to their children under the Indian Act. It is not perfect, but it is a huge leap forward.

Senator Sinclair pointed out today or yesterday, and I think that is the reason he supported the bill, that the right is enshrined in this bill. So as Senator Dyck said, let us hold the government to account. This government has made it a priority to reconcile with indigenous people. There is no higher priority, the Prime Minister said.

I think there is a very realistic expectation, unless they want to let down a lot of people and break more promises, that they will make a massive effort to get this work done before the next election, as Senator Brazeau has suggested in his amendment. I don't think, politically, it will be necessary.

I say let us not jeopardize the good progress we have made by risking missing the looming court deadline and undoing all that progress. In simple terms, we've played chicken with the government twice, and now you're proposing we do it a third time on the eve of a court deadline. There is a lot of risk in that, honourable colleagues.

It's good that we are united in supporting the elimination of gender discrimination under the Indian Act. We will not let this go by. We have enshrined in the bill two compulsory reporting dates to this chamber through the committee after five months and after 12 months. We'll have a minister on the hot seat telling us why, after all this delay, the work isn't getting done. Politically, I don't believe that's going to happen.

It's a good thing we agree on the principle. The real question is how we get there.

Politics is the art of the possible and, I've learned in my career: the art of compromise. I believe that were this chamber to insist on imposing a deadline, we will risk undoing the progress and good work we have already accomplished. We risk losing everything if, for the third time, we play chicken with the government. We'd be playing with fire.

Honourable colleagues, with all due respect to the concerns about not having a fixed proclamation date, I think we will get there. I know the Senate, united as we are, has the muscle, the political power and the moral authority to have a very good chance of making that happen.

I urge you not to support this amendment. It risks undoing all the progress we've made to date. Let's send the message back to the House of Commons and let them do their work. As Senator Dyck says, it is the Commons that can deal with these strong voices from Shelagh Day, Lynn Gehl and those who have written. I've received the messages and have responded to them as well. It is the Commons that should deal with that problem and can still deal with that problem.

We've done our work. We have gotten the bill as far as we can. Let's send it back to the Commons and let them deal with it. Let's do this today. We should not support Senator Brazeau's amendment, as much as I respect the reasons for him doing so.

Some Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Brazeau, seconded by the Honourable Senator Duffy, that the motion moved by the Honourable Senator Harder be amended — may I dispense?

Some Hon. Senators: Dispense.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

(Motion in amendment of the Honourable Senator Brazeau negatived, on division.)

An Hon. Senator: Question.

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

An Hon. Senator: On division.

(Motion agreed to, on division.)

PRECLEARANCE BILL, 2016

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Black, seconded by the Honourable Senator Mitchell, for the second reading of Bill C-23, An Act respecting the preclearance of persons and goods in Canada and the United States.

The Hon. the Speaker: Honourable senators, are you ready for the question on Bill C-23?

Some Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

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

STATISTICS ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Cordy, seconded by the Honourable Senator Richards, for the second reading of Bill C-36, An Act to amend the Statistics Act.

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

An Hon. Senator: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Cordy, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.)

TRANSPORTATION MODERNIZATION BILL

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Grant Mitchell moved second reading of Bill C-49, An Act to amend the Canada Transportation Act and other Acts respecting transportation and to make related and consequential amendments to other Acts.

He said: Honourable colleagues, the measures proposed in Bill C-49, the transportation modernization act, are the product of extensive consultations undertaken in 2016 by Transport Canada. This process involved over 200 meetings and round tables all across the country with transportation and trade stakeholders, indigenous groups, provinces and territories, and individual Canadians in order to hear their views on many varied and important transportation issues.

• (1530)

It built upon the review of Canada's economic framework for transportation led by David Emerson from 2014 to 2015, and it formed the basis of Transportation 2030, the government's strategic plan for transportation in Canada, which was released late last year. Bill C-49 is the first step in implementing that plan.

As such, this bill introduces a wide range of measures to enhance the service, safety and competitiveness of our airlines and railways, to stimulate greater investment in airlines, railways and ports, and to improve the efficiency of marine shipping in Canada.

A careful review of this bill reveals what I believe to be a legitimate and worthy effort to balance clearly competing and significant commercial interests, to recognize the need for competitiveness in various complex transportation markets, to pursue fairness for sometimes if not often vulnerable shippers, and to respond to the need for safety and enhanced customer service in transportation systems.

I will begin by outlining the air transportation features of this bill.

First, Bill C-49 addresses many air travel irritants by strengthening airline passenger rights. To do this, the bill will ensure that, first, passengers are provided with plain language, information about air carriers' obligations and how to seek compensation or file complaints. It will also ensure that standards are set for the treatment of passengers in cases of denied boarding, delays in cancellations, including provision for compensation. It will, among other things, result in prohibiting one particular manifestation of this problem, involuntarily removing someone from a plane due to overbooking once they have taken their seat.

The bill will also ensure standardized compensation levels are established for lost or damaged baggage; ensure standards are established for the treatment of passengers in the case of tarmac delays over a certain period of time; and it will ensure that children, including grandchildren — I can hardly wait — are seated close to a parent or guardian at no extra cost. It will also ensure that air carriers develop standards for transporting often very valuable musical instruments.

Airlines clearly cannot be held responsible for weather, emergency, medical or security incidents. But Canadians have a right to responsive and reasonable treatment in the ways that I have listed above.

Bill C-49 will require the Canadian Transportation Agency to develop, in collaboration with Transport Canada, regulations to implement these important initiatives. They will be expected to consult further with Canadians and industry stakeholders in doing this. These regulations will apply to all carriers when operating to, from and within Canada.

Reporting is important to measuring and managing. To strengthen the application of these initiatives, the bill will ensure that appropriate reporting is provided by all service providers involved in air travel, including air carriers, airports and the Canadian Air Transport Security Authority. This information will include data on the travellers' experiences and the quality of service. The data provided will help measure compliance with the proposed air passenger service rights, and will inform future policy decisions.

Second, Bill C-49, in addition to establishing this passenger bill of rights, will increase the limit of foreign ownership of Canadian air carriers from 25 per cent to 49 per cent while ensuring that Canadian control over our airline industry will exist with two associated safeguards. First, a sole international investor will be permitted to hold no more than 25 per cent of voting shares in a Canadian airline; and, second, no combination of international air carriers, either directly or indirectly through an affiliate, will be permitted to own more than 25 per cent of the voting shares of a Canadian carrier.

These changes will not apply to specialty air services such as heli-logging, aerial photography, or fire fighting, where the foreign ownership restrictions would remain at 25 per cent of voting shares. There is already a great deal of competition and cross-border access in these markets.

Amending international ownership limits will have a number of important benefits. First, it will allow Canadian air carriers to access more capital investment, stimulating innovation, growth, more route choice and improved service for travellers; and, second, these amendments will also encourage investment in new, possibly low-cost carriers, creating more competition in our airline industry and providing even more choice for Canadians.

Third, Bill C-49 addresses joint venture arrangements between and amongst airlines. Joint ventures are increasingly common and critical to international competitiveness in this very complex industry. Joint ventures enable air carriers to coordinate and integrate functions, including scheduling, pricing, revenue management, marketing and sales. They allow for greater international reach, greater access for Canadian travellers to more international routes, cost-reducing efficiencies and greater traveller convenience. These joint ventures raise the issue of balancing competition against certain broader public interests in air travel service. To meet this challenge, the bill will allow the Minister of Transport, in consultation with the Commissioner of Competition, to review such arrangements before they are implemented.

Currently, collaborations between airlines are subject to review only under the Competition Act. They are therefore conducted from a single, somewhat restricted perspective, competition alone, and they are conducted as after-the-fact reviews. The new process will allow the Minister of Transport, in consultation with the Commissioner of Competition, to consider and balance market competition with broader public advantages anticipated in proposed joint ventures. It will involve preauthorizing joint venture proposals and rigorous ongoing monitoring.

Bill C-49 will bring the Canadian process — this review process of joint ventures — in line with those of other countries, notably the United States, where such joint ventures are also considered from both competition and public interest perspectives.

To be sure, it is important to be highly cognizant of competition requirements and to be wary of eroding them. To address that concern, the bill requires that a summary of the commissioner's advice to the minister on these proposals would be made public, without compromising the applicant's confidential information. The minister will also be required to make a summary of his or her decisions public — again, while protecting the confidentiality of the applicants — and there will be zero tolerance for any divergence from the parameters of approved joint ventures without approval from the minister.

Fourth, Bill C-49 will allow for better access by airports to security screening services. With aggressive growth in the airline industry comes a continual need to improve passenger security screening services. Bill C-49 provides a flexible framework in which community airport operators without security screening services could enter into agreements with the Canadian Air Transport Security Authority to implement security screening on a cost-recovery basis. This would allow those smaller airports the ability to offer travellers greater connectivity, domestically and internationally. In addition, larger airport authorities would be able to opt for supplementary screening services, over and above what is offered now, to make passenger travel more efficient, improving their marketability as important, efficient and travel-friendly transportation hubs.

Rail initiatives are next. The bill also deals with a number of important rail issues. It addresses certain railway transport issues with provisions to improve railway safety, increase efficiencies, encourage capital investment by railway companies and sustain lower costs for shippers, including — and importantly including — grain farmers from my region and province.

First, improved safety through Locomotive Voice and Video Recorders referred to as LVVR.

Voice recorders have been required in airplane cockpits, as we all know, for decades. I was struck to learn that neither voice nor video recorders are required to record internal locomotive conversations and activity in this country. This means that policy-makers, accident investigators and railway operators are without access to this kind of information — information that is critical to determining why accidents have occurred, why they might occur and how to avoid them.

Bill C-49 will mandate the installation of voice and video recording equipment in all locomotives operating in Canada. Locomotive video and voice recordings will provide objective data on train operations for two fundamental purposes: for accident and incident investigation and for proactive identification of safety concerns to facilitate steps to improve systems, policies and training in order to avoid accidents.

• (1540)

The information provided by these devices would be available, in particular, to railway companies for proactive action to enhance safety, to the Transportation Safety Board to investigate accidents and incidents and to Transport Canada for policy development and accident and incident investigation.

Clearly, this kind of video and voice recording raises privacy concerns for workers. In order to mitigate these concerns, the bill contains numerous safeguards, the most important ones being that, first, access to the data for proactive safety issues can only be done through a legislatively imposed, random process. It can't be targeted; it has to be random.

And second, the data cannot be used to pursue enforcement action against an employee, with a single proviso, which is in cases where someone has specifically tampered with the LVVR equipment or where a threat to safety has been identified.

Transport Canada will conduct audits to ensure compliance with these requirements and has the authority to take enforcement action if infractions occur.

Almost as important as safety in the railway industry are competitive pricing and high-quality responsive transportation services for shippers. Among them: farmers, forestry companies, mining companies and many other enterprises like them critical to our economy. Many shippers are captive, meaning they have limited access to competing transport, in particular to competing railways. They can therefore be held hostage to a single rail provider's service level and pricing.

To address this problem, the bill introduces a new competitive access measure called long-haul interswitching, which I will refer to as LHI. It's easier that way. This requires one immediately available railway to transport a shipper's goods to a place where there is access to a competing railway. The further the long haul, the greater the benefit to captive shippers. Previously, the reach was 160 kilometres under the temporary extended interswitching provisions of the Fair Rail for Grain Farmers Act. It will now be extended to the greater of 1,200 kilometres or 50 per cent of the total movement in Canada. This will accommodate all captive grain elevators.

Moreover, contrary to extended interswitching that was limited to only the Prairie region in the previous temporary circumstance, the new LHI remedy will apply broadly across the country.

LHI rates will also be established by the Canadian Transportation Agency at a reasonable and fair level based on comparable traffic moving elsewhere in the system. This means LHI rates will reflect rates established in competitive markets.

The LHI remedy is supplemented by a suite of initiatives that will further contribute to keeping price and service competitive for the benefit of shippers; once again, for farmers. The level of service that railways are required to provide, known as adequate and suitable service, has now been clearly and robustly defined for the first time in over 100 years. It will ensure that railways provide the highest level of service that they can reasonably provide, and it will give shippers guarantees that is the case. Railways will have to provide weekly information on their service and performance.

Reciprocal financial penalties will be instituted. Currently, as hard as this is to believe, railways can apply for penalties against a shipper if they believe the shipper has not complied with the terms of their shipping agreement or tariff. But that is not the case for shippers. This bill will make it so that shippers will be able to apply for penalties against railways. In addition, the agency will be given enhanced powers to resolve commercial disputes between shippers and railways.

Bill C-49 will also encourage investment in the freight rail system by reforming the Maximum Revenue Entitlement regime — I will refer to that as the MRE — which establishes the maximum revenue that CN and CP can earn in a crop year for the movement of grain.

While the CTA review report recommended that MRE be eliminated, this bill proposes to keep it in place, as it is very helpful for farmers. However, the MRE has also inhibited the two major railways from investing in hopper cars and making other capital investments. Currently, if one of the major railways invests in capital equipment, the other railway benefits from the resulting adjustment of the cost component of the formula that is used to determine each railway's maximum revenue. In other words, the cost component is shared between CN and CP. It becomes a case of "you first; no, you first."

By splitting the cost component of this MRE and applying it separately to each railroad, it will remove this impasse and facilitate capital investment.

The railways will also be given more credit for investing in new, modern-capacity hopper cars. The bill will also relax CN's majority ownership restrictions from 15 per cent to 25 per cent to further encourage investment in that railway line.

Overall, the freight rail measures in Bill C-49 strike a delicate balance between railway and shipper interests and should stimulate the continually required capital investment of these enterprises.

Finally, the bill provides two enhancements to marine transportation. Currently, only Canadian and EU marine vessel owners are allowed to reposition their empty containers on a non-revenue basis between locations in Canada. The bill will extend this provision to all vessel owners. The effect will be that our ports will become more efficient, making them busier and more competitive.

Important amendments are also proposed that allow Canadian port authorities to access loans and loan guarantees from the newly created Canada infrastructure bank. This would support infrastructure investments in critical elements of Canada's trade corridors.

In conclusion, Bill C-49 goes a long way to enhancing service, safety, competitiveness and capital investment in our rail, air and marine transportation systems. It is based upon a thorough consultation process. It is good public policy, and it has broad support amongst the industries it addresses and the people and markets they serve.

The prospect of a winter like that of 2013-14, which hampered grain shipments, enhanced advantage for farmers and other shippers, improved safety for rail service providers, a passenger rights regime for air travellers and the incentives for capital investment countenanced by this bill all argue for its timely passage. I believe it to be worthy of Senate support.

The Hon. the Speaker (*pro tempore*): Senator MacDonald, do you have a question?

Hon. Michael L. MacDonald: Yes, I do.

The Hon. the Speaker (*pro tempore*): Will you accept a question, Senator Mitchell?

Senator Mitchell: Yes.

Senator MacDonald: Thank you. We have received a lot of correspondence about this particular bill. One of the things that has been brought to my attention and certainly left an impression with me is the installation of these voice and video recorders.

With the presence of a black box, I think we can all appreciate the importance of this in terms of recording information. I have some sympathy for the installation of even a voice recorder, but the installation of a video recorder inside the locomotive is something that I certainly believe to be intrusive and reflective of Big Brother. I'm just curious. You apparently think this is a good idea; I would like to you share with the Senate why you believe this is the way to go.

Senator Mitchell: Thank you, senator. It is a difficult issue and it reflects, in fact, the nature of a number of important issues that had to be balanced in this bill. I really believe this bill has been skillfully prepared and, as a result of extensive consultation, has come to about as good a balance on each of these issues as could reasonably be expected. But I share your concern because privacy is a right and we're here to defend rights.

It's also true that the public is very concerned about rail safety. Clearly, there was the serious, horrible Lac-Mégantic case. Also, in 2012 in Burlington, a train missed three stop signals, was travelling too fast, crashed and killed three employees. It raises the point that in establishing greater safety, it won't just protect the public; it will also protect the employees who work on these trains.

• (1550)

Yes, I am convinced of the importance of enhancing rail safety, remembering that the Standing Senate Committee on Energy, the Environment and Natural Resources did a study — and I think you may have been on it — on transporting dangerous goods by rail and other mechanisms. It's not just bitumen and oil that are transported. There are highly dangerous and poisonous gases — ammonia and others — that go right through residential areas in cities and towns and municipalities across this country. Canadians are highly concerned about this.

If you can imagine having an airplane that didn't have any kind of recording, I can't. The dangers inherent in train safety are probably commensurate, if not greater, than that of airline safety, in some respects. I think they found a balance.

They are not going to be able to peer all the time. The railways and the transportation department are only going to be able to randomly access information. That will be legislated and regulated specifically by a regime on establishing the randomness of that. They won't be able to use that, as is the case with airline pilots, to prosecute a violation on the part of an employee, unless very specifically that employee has covered up the video and voice equipment, for example.

So I think it finds a balance. It will provide greater safety in train transportation. It will actually provide greater safety for the people concerned about their privacy, and there have been measures put in place to ensure their privacy as much as I think is reasonably possible.

Senator MacDonald: In the case of Lac-Mégantic, there was no one in the train; the train was stopped and abandoned. You certainly haven't convinced me yet about the privacy issues. The idea that safety would be more secure because you can have a visual recording of the people who are working in that workplace, if someone is going to conduct themselves in an inappropriate fashion or criminal manner, I don't think it matters if they are videotaped or not, if that's their intent.

My instinct is that this is grossly intrusive to the workplace. I believe privacy has a place in the workplace. Although I do confess the jury is still out on this, as far as I'm concerned, the government has to do a better job at convincing people or making its case, because at the moment I don't think the case is made.

Senator Mitchell: I appreciate your point. We will certainly agree to disagree. We don't know what we might have found in the Lac-Mégantic case that went on before, but I hear your point.

It's a great and important issue to be discussed and pursued at the committee level where we can bring in experts from both sides, and we can listen to the unions. Because, clearly, the unions are concerned about this, and the unions are the strongest advocates about this issue.

By and large, it is one of the rail companies' priority issues. They are very concerned about rail safety. One of the minister's great priorities is rail safety. In fact, some stakeholders are saying, well, there are parts of this have bill they don't like, but this is so important that they are willing to accept the bill to get this particular provision.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: I carefully examined this bill and there is one thing that I find particularly worrisome. I would appreciate an answer in that regard. It is the part about joint ventures, which are becoming increasingly common with airlines. I am referring to the agreements that Air Canada has with Lufthansa and American Airlines. These companies are entering into agreements that are a much closer to mergers than partnership agreements.

If you are flying from Montreal to Romania, you may think that are you travelling with Air Canada the entire way, even though you are actually switching airlines in Germany. These companies now have agreements around competition and prices, which means that smaller airlines like Air Transat and WestJet are being left out in the cold because the American government reviews the agreements every year to make sure that they benefit travellers.

What this bill seeks to do is to transfer responsibility from the Competition Commissioner over to the Minister of Transport in order to allow these companies to make agreements that are closer to mergers than partnership agreements.

In my opinion, this is a dangerous bill because it would jeopardize small businesses like Air Transat and WestJet. They are unable to compete with the larger airlines, which could merge and attract over 90% of the aviation market worldwide, resulting in job losses in Quebec and Canada.

[*English*]

Senator Mitchell: I certainly appreciate your Air Transat example. I have met with Air Transat, and I have pursued that issue.

Again, here is the balance that is being sought in this bill. The risk is that if we're not allowing our airlines to enter into joint ventures which extend their reach internationally, they will be washed aside. I'll give you an example of a personal experience with this.

In Edmonton, we had two airports. We had a downtown airport that everyone loved because you could fly on a 737 to Calgary, and we had an international airport. Well, one ate the other. Eventually, we shut the downtown airport and began to see the Edmonton International Airport build and become a remarkable international hub.

What will happen is that if we're not allowing our national airlines to have a presence internationally in a significant, competitive way, our airlines run the risk of simply being left to feed other major airports, probably in the United States or certain limited centres in the country. In turn, that will simply make travel more complicated for our travellers and limit our commercial reach as well.

To the extent that it hurts national airlines like Air Canada, for example, that will damage jobs in Quebec and Montreal as well. It can hurt that airline grievously.

Air Transat will not be forgotten or brushed aside either. The Commissioner of Competition must be consulted by the minister. The commissioner's recommendations to the minister must be made public. The minister's decision and process and recommendations must be made public.

There is nothing to stop Air Transat from entering into international agreements because I know they have European routes that compete with Air Canada and WestJet, for example. There is nothing to stop them from entering into international route agreements that will actually extend and enhance their business as well.

I understand their concern. I'm glad that you're reflecting it, and I'm glad that they're reflecting it and pressing it so it won't be lost in debate or in the mix of debate or policy-making.

[*Translation*]

Senator Boisvenu: Senator, do you think that it would politicize the process to give the minister the Competition Commissioner's exclusive authority to lay charges in situations where there is unfair competition, thus relegating the commissioner to an advisory role with no decision-making power? That authority should remain with the commissioner.

[*English*]

Senator Mitchell: It seems to me if someone is elected, they are likely to be somewhat more responsive than someone who is appointed. You have to find the balance between those two models, of course.

Absolutely, these joint ventures will be reviewed. In fact, one of the concerns of the major airlines is that the reviewing will start at two years, which they believe is too short a time to allow them to negotiate with their partner, to establish, to implement, and then to begin to see the results.

The government has tightened up and is restraining that process by limiting the buildup period to two years, not three or four or further.

At two years, the government, and very likely the commissioner too, can review this at any given time. Again, that's a bit of a concern to the other airlines, but nevertheless it's the right thing to do.

• (1600)

Let's remember that the Commissioner of Competition views these kinds of arrangements and any other kind of competition arrangements simply from competition. Competition is extremely important for keeping costs down. There are other elements of this bill that will work to keep costs down as well, but the air traffic, air service, airline industry parameters and pressures,

particularly internationally, are defined by many things other than simply competition. So that's going to be a prominent feature.

The other side, the side about public advantage and public good that might otherwise be lost if we looked at it in a limited way, will be emphasized by allowing the minister to bring that to bear. This is not uncommon. It's done in the United States. In the United States, they review all the time. So it isn't inconsistent with frequently consistent review to have this arrangement set up the way it is.

Hon. Yonah Martin (Deputy Leader of the Opposition): I also have a question for the senator. Thank you, colleagues, for asking those questions because I too have received many emails expressing concern about this bill.

The one question I didn't hear from my colleagues, senator, is the fact that Canada is one of the most expensive jurisdictions for air travel, and you did just say that there are elements of the bill that will keep costs down. However, as part of this bill, airport authorities will be able to purchase screening services from the Canadian Air Transport Security Authority to supplement services provided by the Government of Canada. This change could lead to travellers potentially being billed both by the airport and the Government of Canada, further increasing the cost of flying.

I'm talking about potential hidden costs to the traveller, whether it's airport security fees or airport improvement fees or user fees. We know that travellers in Canada pay a lot to supplement these programs and the expenses that these added features will require. I'm certain that added security will translate into added expenses. What assurances do you have for Canadians that they are not going to be the ones to bear the burden of added fees, and are you concerned about these provisions that may do exactly that, increase costs to travellers?

Senator Mitchell: With respect to screening services, there is a good deal of pressure on the government from airlines and airport authorities and so on, from travellers like all of us, to improve that. In fact, I understand that the second phase of the government's rollout of the plan will look at that and is probably reviewing that now in great detail. It is a concern.

Just because there's going to be a joint venture that is going to consider, in the process of its review, more than just competition doesn't mean that prices will go up. A joint venture that gets us one flight rather than having to take several flights in collaboration with another airline internationally — maybe gets us into China or Korea in ways we can't right now — can create greater efficiencies for airlines and may reduce costs. So I don't think it's immediately obvious that anything in here will end up creating hidden costs.

This is an extremely competitive industry, particularly internationally but also internally in Canada. Look at the pressures on airlines of keeping costs down and look at the level of service over the years that we have been flying. You can see changes. I think there is unbelievable competitive pressure. I think prices are being kept low, and I don't accept that there will be hidden costs passed on to travellers.

Senator Martin: I appreciate the confidence that you are expressing, but I am thinking about the realities of improving security, improving the systems, and I think all of that will translate into costs. My concern is regarding whether there are assurances that those added costs will not be passed on to the traveller. In Canada people have to fly; in some cases, they have no other choice. I'm asking about certain assurances that you have heard in your own briefings and whether this is something you could follow up on. I'm sure the committee will also study it very carefully.

Senator Mitchell: I haven't heard that there is a grave concern about costs of security being passed along, but it is certainly a logical possibility and question. I think it's a great question to be reviewed at the committee level.

It might be that additional services might just mean more efficient services and managing those services better. I would hope that much of the review will be looking at that. You might actually find that you will get better security services for not much extra cost.

We also have to remember that security and the strength of the airlines are extremely important. This bill will support and sustain those airlines in a very significant way for a long time to come and make them even greater international competitors and proud representatives of Canadians and servers of Canadian travellers' interests.

Senator MacDonald: Senator Mitchell, one of the great concerns expressed in Canada over the years, and we have all experienced it, is the lack of passenger rights when it comes to aviation. This bill confers absolutely no new rights on passengers. In fact, it gives the authority to establish any such rights to the Canadian Transportation Agency, which is, let's face it, tightly tied to the industry itself. The only thing that has really changed is that in terms of waits on the tarmac, it stretched the acceptable length of time from 90 minutes to three hours. There is absolutely no way to enforce new rights or support for passengers, no matter how poorly they're treated. I'm curious why you think this bill is adequate and should be supported given this obvious lack of enforcement.

Senator Mitchell: First of all, these regulations won't be established simply by the Canadian Transportation Agency. They will be established with the Canadian Transportation Agency in collaboration with Transport Canada. So there will be that element to it.

Second, it hasn't been finalized, but there is a good deal of thinking about what the rights and the penalties for not upholding them will be.

Let me just mention a couple of them. It's clear that we have nothing now that addresses penalties for keeping people too long on a tarmac. We have no way to ensure that a musician with a $250,000 violin has a way to carry it. We have no way to ensure that a grandparent or parent who wasn't seated beside their child won't have to pay extra money to get that child to sit beside them. We have no standard way to ensure that if one airline loses your bag you get paid something, and if another airline loses your bag you get paid the same amount, or at least you get paid adequately.

I believe there is a strong commitment on the part of the government. The bill lays out the parameters of what these rights should be. We'll see the regulations. If you don't like them, we can go back at it.

Senator Martin: I move the adjournment of the debate.

(On motion of Senator Martin, debate adjourned.)

[*Translation*]

THE SENATE

MOTION TO AFFECT QUESTION PERIOD ON NOVEMBER 21, 2017, ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of November 8, 2017, moved:

That, in order to allow the Senate to receive a Minister of the Crown during Question Period as authorized by the Senate on December 10, 2015, and notwithstanding rule 4-7, when the Senate sits on Tuesday, November 21, 2017, Question Period shall begin at 3:30 p.m., with any proceedings then before the Senate being interrupted until the end of Question Period, which shall last a maximum of 40 minutes;

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

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

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

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

Hon. Senators: Agreed.

(Motion agreed to.)

• (1610)

ADJOURNMENT

MOTION ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of November 8, 2017, moved:

That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, November 21, 2017, at 2 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*English*]

THE SENATE

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

On the Order:

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

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

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

"; and

Human Resources

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

2. updating all cross references in the Rules accordingly.

(On motion of Senator Gold, debate adjourned.)

STATE OF POLITICAL PRISONERS IN TIBET

INQUIRY—ORDER RESET

Hon. Dennis Glen Patterson rose pursuant to notice of June 20, 2017:

That he will call the attention of the Senate to the state of political prisoners in Tibet.

He said: I am still assembling my notes on this inquiry and I expect to speak to it upon the resumption of the chamber after the break. I would like to move adjournment for the remainder of my time in my name.

(On motion of Senator Patterson, debate adjourned.)

(*At 4:16 p.m., the Senate was continued until Tuesday, November 21, 2017, at 2 p.m.*)