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The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Tuesday, February 6, 2018

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

Prayers.

TRANS MOUNTAIN PIPELINE

LEAVE GRANTED TO CONSIDER MATTER OF URGENT
PUBLIC INTEREST PURSUANT TO RULE 8

The Hon. the Speaker: Honourable senators, earlier today the Clerk received a request from the Honourable Senator Tkachuk for an emergency debate about the actions of the government of British Columbia with respect to the Trans Mountain pipeline. Copies of the request are available at your desks.

When a request for an emergency debate is received, Senators' Statements are replaced by consideration of the request. The time for consideration of the request is a maximum of 15 minutes, and interventions are limited to five minutes. At the end of the 15 minutes, I must determine whether, in light of the criteria set out in rules 8-2(1) and 8-3(2), the request can be granted.

I will now recognize Senator Tkachuk.

Hon. David Tkachuk: Honourable senators, last week the Government of British Columbia announced that it would develop new measures to respond in the event of a spill of diluted bitumen. It sounds innocent enough, but the effect of the announcement was to effectively block the expansion of the Trans Mountain pipeline, a project that has been approved by the National Energy Board following a review process that took two and a half years. It was approved by the federal government in November 2016, although 157 conditions were attached to its approval, and it has been green-lighted by British Columbia's own Environmental Assessment Office.

The Premier of Alberta, Rachel Notley, reacted immediately, calling B.C.'s actions an unconstitutional attack on jobs and working people. "We will not let it stand," she said. On Wednesday, January 31, she called an emergency cabinet meeting and threatened B.C. with legal action.

Jason Kenney, the Leader of the Opposition in Alberta, reacted by saying, "If the B.C. NDP wants to start a trade war, we will finish it."

Honourable senators, when Rachel Notley and Jason Kenney vehemently agree on something, using very heated rhetoric, I might add, you know the situation is serious.

The federal government, whose policy it is that the environment and the economy must go hand in hand "like a paddle in a canoe," the Prime Minister said, approved the Trans Mountain pipeline in November 2016, so one would think the environmental t's had been crossed and the i's dotted. Other pipelines have been cancelled, such as Energy East and Northern

Gateway. Oil tankers have been banned from the northern B.C. coast, such is the attention of this government to environmental concerns.

So surely when it approves a pipeline, the approval of which is in federal jurisdiction, we can be certain that it has done its environmental homework. And let me repeat: The NEB spent 29 months reviewing this project, and 157 conditions were attached to its approval, all of which Kinder Morgan agreed to meet. More than 10 shippers have made 15- to 20-year commitments to the pipeline. They endured nearly four years of the project being adjudicated, along with a more than two-year review by the NEB. Surely the investors in this project have a right to some certainty after all that. The danger I see is that they will walk away. How can anyone be expected to do business if even after a project goes through all the regulatory process required and is approved, someone can do an end run and effectively scuttle the whole thing.

Much is at stake here. The constitutional issues, Your Honour, need to be sorted out, and they need to be sorted out now. I would argue that this is the type of grey area of jurisdiction where a firm, immediate response should be followed by equally firm and immediate action. B.C. and pipeline opponents are looking to investor fatigue to kill the project. The seemingly endless supply of delays, judicial and extrajudicial processes and endless hearings are precisely what they want. It worked on Northern Gateway, Energy East and Mackenzie Gas.

As you are all aware, senators, one of our primary functions is to represent our provinces and our region. The Western region that I represent has one of the most advanced internal trade agreements — the New West Partnership Trade Agreement — in the entire country. A trade war between two of these provinces now is a very real and imminent threat. As Andrew Coyne put it in the *National Post* yesterday, "Things could get very ugly, in a hurry." That would be a giant step back for the region and for the country.

Given the difficulties we are facing in the NAFTA negotiations, the seriousness of this situation cannot be underestimated. We as senators need to weigh in now before the situation deteriorates any further.

Some Hon. Senators: Hear, hear!

Hon. Yuen Pau Woo: Your Honour, the issue at hand today is whether or not this grave matter constitutes an emergency for which we have to have a debate very soon and disrupt the proceedings that are already planned.

I agree with much of what Senator Tkachuk has said, and in fact would concur that this issue is of great importance. It is of great importance particularly to Western provinces, including my own, British Columbia, but there is a very direct and significant economic impact on the part of Alberta and Saskatchewan.

It is important also because there are significant environmental concerns in British Columbia, and indeed in Alberta and Saskatchewan, which have to be addressed.

It is also important because of the national interest that is in play when we talk about resource development and the ability of resource owners and provinces to get commodities to new markets, and to do so, first and foremost, by getting those resources to tidewater.

As many of us know, the discount on Canadian oil coming from Alberta and Saskatchewan is now at its highest level compared to West Texas Intermediate and even higher when compared to Brent Crude. That discount is money we are not getting for our people, for our citizens, and for the governments of those provinces to use for social programs and other activities.

It is also a very important issue because it is about the reconciliation of differences among provinces and dealing between provinces and the federal government. As senators representing different provinces and regions, we have a special responsibility and interest in dealing with such differences. However, Your Honour, this does not constitute an emergency, for the following reasons.

• (1410)

First of all, the B.C. government has signalled its intention to do “everything in its means to stop the Trans Mountain project.” This has been in its platform from the time of the election and was reiterated when the government came to power.

Second, the latest announcement from the B.C. government is a statement of its intention to deal with the issue of diluted bitumen. It is not yet in effect, and therefore there is some time for the various parties to talk about some compromise or indeed reversal of that policy.

Third, Your Honour, the federal government has already made very clear, as Senator Tkachuk mentioned, that it not only has approved the Trans Mountain pipeline, but it wants it to go ahead and it wants the project to go ahead as soon as possible.

Colleagues, B.C. and Alberta are also engaged on this issue, albeit with some acrimony, and I believe those discussions are under way and should be allowed to evolve.

A number of ISG senators are following this issue very closely. I want to share with colleagues that we are already intending to move an inquiry very soon, which I think would be a more appropriate format to discuss this important issue and which we can use to signal our commitment to provinces working together and the role of the federal government in asserting and following through on its promises.

In conclusion, Your Honour, I do believe this is an important issue. I also believe that it is an urgent issue, but with due respect, this is not an emergency.

Hon. Terry M. Mercer (Deputy Leader of the Senate Liberals): Honourable senators, I would agree with Senator Tkachuk that this is an important issue and one that needs to be addressed fairly quickly.

The political theatre of watching two NDP governments fight with each other is interesting for those of us who aren't New Democrats, but that should not be our preoccupation. Our preoccupation should be the issue of the importance of getting the product from Saskatchewan and Alberta to tidewater so that we can, as Senator Woo talked about, get the world price and not the West Texas Intermediate crude price that is discounted. Canadians don't understand that, generally speaking, we're selling our product at a discount.

However, it's important that we understand that this is a bit of political theatre. The issue that Senator Tkachuk has brought up is an important one. The opportunities for the expansion of the western pipeline, and indeed for the Energy East pipeline, which has been put on hold as well, are nation-building opportunities, opportunities to get product to tidewater, opportunities to get more money into the Canadian economy. However, I would suggest that an emergency debate may not be the best method to do that.

I would suggest that our best effort would be to invite the minister responsible here for our Question Period next week, and if need be extend our Question Period by some time so that we can hear the minister here, ask the appropriate questions, give our opinion, and bring in the opinions of not only people from Alberta and British Columbia but also all of us across the country who all have an interest in this. The success of getting our product from Saskatchewan and Alberta to market is just as important to Nova Scotians as it is to Albertans. It's important that we have that discussion. But having that discussion with each other is a nice debating point. Let's have that discussion with the minister sitting here so that we can quiz the minister, find out what the government will do and urge them to get on with the show. Let's start getting some nation-building decisions done instead of having just political debate.

Hon. Richard Neufeld: To follow Senator Mercer, we can do that along with an emergency debate, because we should bring a bit of a head to this issue and have an emergency debate next week or whenever we can get the minister here. However we should do this one today.

Honourable senators, I rise to support Senator Tkachuk in a request for an emergency debate on Kinder Morgan's Trans Mountain pipeline expansion project. As a senator from British Columbia, I'm quite familiar with this matter. As a resident of northeastern B.C., I'm well aware of the hardships hitting our oil and gas-producing regions. I think it falls upon this chamber to put aside the regular order of business to consider the matter contained in Senator Tkachuk's notice.

Last week's ploy by the NDP government in B.C. is putting a major Canadian infrastructure project in turmoil. This has to end. The issue at hand is not about pitting those who support resource development and pipelines against those who don't. Whether you agree with the pipeline or not is beside the point. After 29 months' review, the National Energy Board concluded that the construction of the pipeline was in the Canadian public interest, and the federal government granted its approval with 157 conditions in November 2016.

The NDP provincial government, which does not have jurisdictional powers when it comes to interprovincial pipelines, cannot hold a rich and valuable resource hostage by adding more barriers. That is the matter before us.

I strongly believe that the request for an emergency debate is justified on the merits of the economy alone. Numbers speak for themselves. Federal and provincial governments will see \$46.7 billion in additional taxes and royalties from construction and 20 years of operation. It is estimated that 15,000 construction jobs would be created and 37,000 direct, indirect and induced jobs per year of operation. Just think how many people will be bringing home a good paycheck if in fact that goes ahead.

Further, this is not exclusively a West Coast matter. While the oil sands are located in northern Alberta, Canadians from across the country benefit from this regional resource — all Canadians do. Thousands of Atlantic Canadians work in the oil sands. A recent report also shows that suppliers in Quebec alone were awarded contracts totalling \$1.2 billion, and these expenditures have added \$1.25 billion to Quebec's GDP. The economic spinoffs of the oil sands are felt across the country.

Some senators may argue that this request does not meet the criteria stated in rule 8-3(b) and that the Senate is unlikely to have an opportunity to debate this matter within a reasonable period of time. What is a reasonable period of time?

For Kinder Morgan, each day is another day of wasted opportunity and wasted money. But most important for the thousands of Canadians who have jobs or who could have jobs thanks to the oil sands, this is an emergency for them and their families.

The Senate should address this issue now and show our unanimous support. We need to call upon the federal government to take a firm and definitive stand on this matter beyond the catchy media sound bites and take all necessary measures at its disposal to ensure this project moves forward immediately.

I strongly encourage the Speaker to rule in favour of Senator Tkachuk's request. As a senator from Newfoundland and Labrador, I'm sure the Speaker can appreciate how devastating it would be for his own province's economy if the offshore oil and gas projects were shut down or held hostage.

We owe it to ourselves and we owe it to the people we represent to have this fulsome debate now, not tomorrow. To say otherwise would be an affront to all Canadians who benefit from this region's rich petroleum resource.

Some Hon. Senators: Hear, hear!

Hon. Douglas Black: I rise obviously as a concerned Canadian and also as a senator from Alberta. I support Senator Tkachuk's motion, and I identify with the comments of Senator Neufeld and as well with my colleague. I think bringing the minister forward would be a good idea.

I come from the energy industry. Canada is a country built on the rule of law, and we are facing a simmering blaze here. The Senate can provide leadership. No one else is. It is time for an organization, an institution of this country, to stand up and say what matters to Canada.

Your Honour, you have a decision to make. Why is this an emergency? Certainly nothing has really changed over the last couple of years. Certainly nothing has really changed over the last couple of years.

• (1420)

I want to share with my colleagues what is actually happening on the street.

Investment has stopped into Western Canada, and investment is going to stop into Canada. Businesses look at how we are conducting our affairs. Businesses are looking at this stunt that the British Columbia government did last week, and they're saying, "And you can get away with this in Canada," and they're putting their money in Mississippi, Houston, and Louisiana. That is what is happening.

So what flows from that? Taxes dissipate.

What is of great concern in Alberta is we're losing many of our youngest, brightest and most innovative people to the United States because they don't see a future here, because while we, as a country, rag the puck, investment is simply walking away.

We have an obligation, it seems to me, to stand up for this country. Don't worry about British Columbia or Alberta or Saskatchewan. We need to stand up for our provinces, because you can be next. If we allow these games to continue and if we don't put a clear stake in the ground that this is unacceptable, then what is our role? In my view, this is an emergency, and in my view this has been an emergency for two years.

Some Hon. Senators: Hear, hear!

Hon. Scott Tannas: Thank you, Your Honour. I want to commend my colleague Senator Black and others. I agree and associate myself with their comments.

I want to talk a little bit about my own experiences on the streets of my hometown in Alberta. Certainly we all know that tensions right now between Alberta and British Columbians are flaring. We can't forget that the tensions between Alberta and Quebec are simmering. They have not gone away. In Quebec, they may have forgotten. Alberta has not forgotten.

Thirty-five years ago, Alberta elected a separatist member of its legislature. I remember those days. I was a young adult, and I remember what happened to the separatist movement. It was defused by Brian Mulroney's government. When he was elected in 1984, he took swift action and leadership to quell the anger and the concerns that were in Alberta as a result of the National Energy Program.

Today we are in a situation — I can tell you — where separation talk is again on the lips of many Albertans, and this time it's even a little bit worse because they're on the lips of eminent Albertans, not just angry cowboys from the sticks.

The other issue that I find worrisome, and it is happening daily now, is ordinary Albertans are beginning to take actions that will hurt ordinary B.C. people. There are Facebook discussions about cancelling vacations in British Columbia. Alberta is the largest contributor to tourism in British Columbia. B.C. wines have been disappearing from restaurant lists, and in liquor stores they're reporting that nobody is buying B.C. wines. These are all things that will hurt regular British Columbians — actions by regular Albertans. Why? Because there is a vacuum of leadership that exists now, and into that vacuum are ordinary Albertans stepping forward.

Canada needs to take leadership. The Canadian government needs to take leadership. We are a part of that apparatus, and we need to have that discussion soon.

Some Hon. Senators: Hear, hear!

[Translation]

Hon. Pierre-Hugues Boisvenu: What happened in Quebec a few months ago is going to happen in British Columbia and Alberta. The fact that Quebec has no pipelines is a disaster for Canada. Every day that we pump oil out of the ground, we lose between 20 per cent and 25 per cent of its value because we have a single buyer, the United States. To add to that, billions of dollars flow out of Canada and Quebec every year to pay for foreign oil. That money could be invested in social programs, our youth, victims and seniors. If the current government refuses to take the lead on this, it is up to the Senate to do so.

We need to take action on behalf of Canadian workers, on behalf of all Canadians. It is our duty as senators to draw attention to the disaster that will befall us if the government does not show the kind of leadership we need to ensure that Western Canadian resources benefit all Canadians from coast to coast. Senator Tkachuk's request for an emergency debate on this topic is a worthy one. Resources that could be serving Canadians are evaporating. It is our duty as representatives of Quebec, Ontario, the West and the Maritimes to have this debate because we need leadership and it is up to the Senate to provide it.

[English]

The Hon. the Speaker: Honourable senators, the time for debate under the request has expired. This is a very important debate, and I would ask honourable senators that we suspend for a short period of time so I can review the arguments and review the rules surrounding this particular request, and that we return to the chamber with a five-minute bell.

Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Thank you. We will suspend.

(The sitting of the Senate was suspended.)

• (1510)

(The sitting of the Senate was resumed.)

[Senator Tannas]

The Hon. the Speaker: Honourable senators, the sitting is resumed.

[Translation]

SPEAKER'S RULING

The Hon. the Speaker: In reaching a determination on the request for an emergency debate the Speaker must make reference to the criteria in rules 8-2(1) and 8-3(2). Senators are apprised of, and recognize, the critical importance of this issue. Although the request specifically addresses actions by the British Columbia government, actions by the federal government or a federal department could indeed be involved. It may not be perfectly clear how the request meets the specific requirement of rule 8-3(2)(b), which is that "the Senate is unlikely to have another opportunity to debate the matter within a reasonable period of time."

However, as Speaker, the Rules give me some latitude with respect to determining what constitutes an emergency, a responsibility I take seriously. I recognize that this is a grey zone. Of course, having a debate would not preclude an inquiry, as suggested by Senator Woo, or an invitation to the Minister to answer questions, as proposed by Senator Mercer, but, given the particular circumstances of this case, I am prepared to allow the emergency debate to proceed.

Honourable senators, the emergency debate will take place at the earlier of 8 p.m. or the end of the Orders of the Day. At that time, Senator Tkachuk will move that the Senate do now adjourn — this is the procedure that is normally used in these circumstances — and we will debate the emergency matter for up to four hours. Each senator has only 15 minutes to speak, and no motion, except that a senator be now heard, can be moved during the debate.

What happens after the emergency debate will depend on when the debate actually started and the time it concludes, but items on the Notice Paper will not be called today.

ROUTINE PROCEEDINGS

GOVERNOR GENERAL

COMMISSION APPOINTING ASSUNTA DI LORENZO AS DEPUTY—
DOCUMENT TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, a copy of the commission appointing Assunta Di Lorenzo Deputy Governor General.

[English]

FISHERIES AND OCEANS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

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

That the Standing Senate Committee on Fisheries and Oceans have the power to meet on Tuesday, February 13, 2018, at 5 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Frances Wright, founder of the Famous 5 Foundation. She is the guest of the Honourable Senator Woo.

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

Hon. Senators: Hear, hear!

QUESTION PERIOD

ANSWERS TO ORDER PAPER QUESTIONS TABLED

NATURAL RESOURCES—INDIGENOUS PEOPLE AND RESOURCE DEVELOPMENT PROJECTS

Hon. Peter Harder (Government Representative in the Senate) tabled the reply to Question No. 59, dated October 18, 2017, appearing on the *Order Paper and Notice Paper* in the name of the Honourable Senator Pate, respecting Indigenous People and resource development projects (reply by Natural Resources Canada).

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS—INDIGENOUS PEOPLE AND RESOURCE DEVELOPMENT PROJECTS

Hon. Peter Harder (Government Representative in the Senate) tabled the reply to Question No. 59, dated October 18, 2017, appearing on the *Order Paper and Notice Paper* in the name of the Honourable Senator Pate, respecting Indigenous People and resource development projects (reply by Public Safety Canada).

NATIONAL REVENUE—CANADA CHILD TAX BENEFIT

Hon. Peter Harder (Government Representative in the Senate) tabled the reply to Question No. 67, dated November 22, 2017, appearing on the *Order Paper and Notice Paper* in the name of the Honourable Senator Downe, respecting the Canada Child Tax Benefit.

NATURAL RESOURCES—PAN-CANADIAN FRAMEWORK ON CLEAN GROWTH AND CLIMATE CHANGE— RETROFITTING EXISTING BUILDINGS

Hon. Peter Harder (Government Representative in the Senate) tabled the reply to Question No. 68, dated December 6, 2017, appearing on the *Order Paper and Notice Paper* in the name of the Honourable Senator Seidman, respecting the Pan-Canadian Framework on Clean Growth and Climate Change — retrofitting existing buildings.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, I will inform you that Orders of the Day will commence but will be interrupted at 3:30 for Committee of the Whole.

ORDERS OF THE DAY

STRENGTHENING MOTOR VEHICLE SAFETY FOR CANADIANS BILL

BILL TO AMEND—AMENDMENTS FROM COMMONS— DEBATE ADJOURNED

The Senate proceeded to consideration of the amendments from the House of Commons concerning Bill S-2, An Act to amend the Motor Vehicle Safety Act and to make a consequential amendment to another Act:

1. *Clause 9, pages 5 and 6 :*

a) on page 5, replace lines 11 to 26 with the following:

“**10.51** A company that is subject to an order made under section 10.5 may correct a defect or non-compliance by doing one of the following:

- (a) repairing the vehicle or equipment, including by adding to, removing anything from or modifying the vehicle or equipment, as the circumstances require;
- (b) replacing the vehicle or equipment with a reasonable equivalent;
- (c) reimbursing

(i) the reasonable cost of repairs to the vehicle or equipment that have already been undertaken before a notice of defect or non-compliance has been given, or

(ii) the sale price of the vehicle or equipment, less reasonable depreciation in the case where the vehicle or equipment has been sold to the first retail purchaser, on return of the vehicle or equipment.”;

- b) on pages 5 and 6, replace line 27 on page 5 to line 17 on page 6 with the following:

“10.52 For greater certainty, any person, including an automobile dealer, may benefit from any measure referred to in section 10.51 and any payment of costs under subsection 10.6(1).

10.53 For greater certainty, nothing prevents a company that is subject to an order under subsection 10.1(7) or 10.4(4), section 10.5 or subsection 10.6(1) from entering into an agreement with any person, including an automobile dealer, in respect of any matter related to the order — including, in the case of a vehicle or equipment that has not been sold to the first retail purchaser, in respect of the reimbursement of reasonable costs incurred — in addition to complying with any terms and conditions specified in the order.

10.54 For greater certainty, a correction to a vehicle or equipment in accordance with section 10.51 does not affect the right of any person, including an automobile dealer, to exercise any other right or remedy available at law, including a right or remedy to recover reasonable costs incurred as a result of an order under section 10.5.”.

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

That the Senate concur in the amendments made by the House of Commons to Bill S-2, An Act to amend the Motor Vehicle Safety Act and to make a consequential amendment to another Act; and

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

He said: Honourable senators, I'm pleased to speak to Bill S-2, the Strengthening Motor Vehicle Safety for Canadians Act, which passed third reading unanimously in the other place on January 31, 2017.

Over the past few decades Canada has experienced significant growth in population and the number of licensed drivers, yet over the same period we've seen tremendous improvements in road safety with rates of both fatalities and serious injuries now approximately two thirds lower than compared to the mid-1970s. These improvements were achieved through higher vehicle safety due to innovation, higher safety standards, as well as government policies such as those surrounding impaired driving.

However, in recent years we've seen a rise in the number of fatalities associated with new types of impaired driving, such as distracted driving behaviour, which accounts for 22 percent of fatal collisions.

Innovation in this sector, such as the introduction of connected and automated vehicles, needs to be supported by strong and flexible legislation to protect the safety of Canadians. I note that the Transportation and Communications Committee has recently produced an important study on this subject which the government welcomes and will be reviewing closely. That is why this legislation is an important step in bringing the Motor Vehicle Safety Act into the 21st century and provides the minister as well as the industry with the flexibility to foster and regulate the early adoption of emerging innovative technologies in Canada.

This bill would also provide the Minister of Transport with the ability to order a company to correct a defect at no cost to the consumer as well as establish an administrative monetary penalty regime.

As honourable senators will recall, this chamber passed Bill S-2 on February 2, 2017, last year, with amendments to include safeguards for Canada's dealers in the event of an order by the Minister of Transport to accompany, to correct the defect or non-compliance, or an order to a company to pay the costs of a safety defect repair.

These amendments, introduced at committee by our colleague Senator Greene, were in response to concerns raised by the Canadian motor vehicle dealers regarding the financial protections afforded them under the bill. I would like to express my appreciation to Senator Greene for his work on this issue as well as the important contributions of the Standing Senate Committee on Transport and Communications.

Recognizing the importance of addressing stakeholder concerns, Transport Canada has worked closely with the Canadian Automobile Dealers Association in this regard. Based on this collaborative work, a further amendment was introduced in the other place and we now have legislation that further clarifies the rights and protections of dealers and recognizes the existing commercial relationship between automotive companies and dealers.

I'm pleased to explain these new amendments to Bill S-2, which in essence replaces the original amendment that was adopted in this chamber while still addressing its fundamental objectives.

First, it has been clarified that automobile dealers would benefit from the same protections afforded to Canadian consumers when vehicles are subject to orders of correction and the payment of costs. For example, this means that dealers would also be eligible for repayments of costs of correcting a defect if the automotive companies are ordered to do so by the minister.

• (1520)

In addition, the amendments clarify that agreements between automotive companies and dealers would not be impeded by recall orders. This means that recall orders would not affect existing contracts between automotive companies and dealers.

Finally, it is important to note that the orders would not limit a person, including a dealer, from exercising any other right or remedy available to them in law. This means that, if a person chooses to do so, they could take an automotive company to court, regardless of an existing order.

The Canadian Automobile Dealers Association is content that their concerns have been addressed and, in fact, I would like to read into the record a statement from Mr. John White, the president and CEO of the association:

On behalf of more than 3,200 new vehicle dealers across Canada, we would like to thank the Senate for the leadership it has shown on Bill S-2, an important piece of legislation for Canadian consumers and for the automobile industry. The process that has brought us to where we are today on this Bill demonstrates how careful collaboration in both houses of Parliament can improve legislation for all Canadians.

CADA supports Bill S-2 as amended by the House of Commons.

In 2016, the Senate amendment to S-2 sought to accomplish several objectives. They were:

- Ensuring no new obligations for the recall process for vehicle dealers under the Act;
- Ensuring manufacturers continued to be responsible for the recall process;
- Extending to dealers a vehicle buyback provision at the invoice price in the event of a long-lasting recall for which a fix is not immediately available, and;
- Compelling manufacturers to reimburse dealers for carrying costs for inventory in the event of long-lasting recalls which render dealer inventory unsellable for extended periods of time.

The amendment passed by the House of Commons accomplishes most of these objectives, and as such CADA supports S-2 in its current version, as passed by the House of Commons.

We hope that this important consumer and road safety bill becomes law in a timely manner.

The letter goes on to say that:

CADA is happy to participate in any Senate hearings that may take place on S-2 when it returns to that chamber before what we hope is its eventual passage into law.

CADA and more than 3,200 new vehicle dealers across Canada would like to thank all members of the Senate and the House of Commons for the instructive and positive process that has brought us to this point on S-2. Dealers from all over Canada engaged on this important issue for the auto sector and for consumers, and as such, we have an improved version of the bill we hope becomes law very soon.

I think this is a very good example, senators, of how both houses of Parliament can work together in a complementary fashion.

Honourable senators, to conclude, I ask that we accept Bill S-2, the Strengthening Motor Vehicle Safety for Canadians Bill, in its current form, by concurring with a message from the other place so that this important bill can begin to improve road safety for all Canadians and that the guarantees it provides to consumers and dealers can be in place in a timely fashion.

I thank you for your consideration.

Senator Eggleton: I'd like to adjourn the debate, if I might, unless anybody has a question first.

Hon. Stephen Greene: Ladies and gentlemen, I rise today to support Senator Harder's motion that the Senate concur in the amendments made by the House of Commons to Bill S-2, An Act to amend the Motor Vehicle Safety Act and to make a consequential amendment to another Act.

Senators will recall that the bill sent to the other place was not the same version as the bill first introduced by Senator Harder. That's because the bill was amended in one of our committees, following testimony from industry stakeholders.

The amendment, at that time, was an attempt to add balance in the unequal relationship between the large automobile manufacturers and the small business dealers by ensuring that the dealers were properly compensated for costs associated with fixing or replacing a defective vehicle as a result of a mandatory government recall. I normally am not one for government intervention in the marketplace. However, as the government was interfering already by ordering vehicle recalls, there was a need to ensure that one of the parties could not unduly harm the other.

At the time I introduced the amendment in committee, Senator Harder expressed concerns on behalf of the government, which caused some concern for myself and industry, particularly the automobile dealers, that the government would use its majority in the other place to return the bill to its original form. I'm pleased to see that that has not happened.

While the amendments made in the other place are not exactly the same as the ones made by the Senate, I believe them to be an appropriate compromise. I have reached out to the Canadian Automobile Dealers Association, who first flagged the issue in committee, and have been reassured that they are 100 per cent supportive of the amendments.

In conclusion, I want to say again that I am supportive of the motion to accept the amendments made by the House of Commons. This is a win for the Senate as it maintains the spirit of our amendments. It is a win for small businesses like the small-town car dealer, and it is, most importantly, a win for consumers and all Canadians because it ensures that cars sold in Canada are safe to be on the road.

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

Senator Greene: Of course.

Senator Day: Has there been any thought given to sending this now-amended bill, which has come from the House of Commons further changed from what we had proposed, back to the committee that originally proposed it and considering these amendments?

Senator Greene: Well, I haven't given that any thought, and I think the automobile dealers themselves — I'm just projecting — would oppose that because they are interested in the legislation just as it is.

(On motion of Senator Eggleton, debate adjourned.)

ACCESS TO INFORMATION ACT PRIVACY ACT

BILL TO AMEND—SECOND READING— DEBATE

Hon. Pierrette Ringuette moved second reading of Bill C-58, An Act to amend the Access to Information Act and the Privacy Act and to make consequential amendments to other Acts.

She said: Honourable senators, it is my pleasure to rise in this chamber as the sponsor of Bill C-58, An Act to amend the Access to Information Act and the Privacy Act and to make consequential amendments to other Acts.

The bill before us today modernizes legislation that hasn't been substantially changed since 1983. That was the year my daughter was born, and she's 35. It does this by expanding access and by giving the Information Commissioner the power to order that government information be released.

[Translation]

In addition, passage of this bill would mean that, for the first time, the Access to Information Act would also apply to ministers' offices, the Prime Minister's Office, senators and members of Parliament, the institutions that support Parliament and the institutions that support the courts. This would come in the form of a standardized proactive disclosure system. Later on, I will talk about how the government will make the processing of information requests more efficient.

• (1530)

[English]

But before I proceed, I want to acknowledge the great work done in the other place, including a robust and collaborative effort by the Standing Committee on Access to Information, Privacy and Ethics, resulting in several amendments that strengthen this bill.

Let us briefly look at the history and the context for this bill.

I think we all agree that Canadians have a right to access the information of the government. The government works for the people and they are our bosses.

Access to information is essential for a functional democracy and the legitimacy of government to its citizens. Access to information was virtually non-existent in Canada and most of the world before World War II. It was during this time that the size of governments and the volume of information it collected and stored grew. Access to that information was required to ensure a democratic and accountable government while also protecting individual privacy.

In the early 1970s, the federal government began to study both the right of access and the protection of privacy. It wasn't until July 1, 1983, that the Access to Information Act and the Privacy Act became law, and its three principles reflect the right of access we have today. Those were that government information should be available to the public; that necessary exceptions to the right of access should be limited and specific; and thirdly, that there should be appropriate oversight of the decisions on the disclosure of government information. That was in 1983.

Honourable senators, over three decades since that act, and we have advanced admirably in access to information. Look at the numbers. Almost 850,000 requests have been processed.

[Translation]

The Hon. the Speaker: I wish to inform the honourable senator that the ministers have arrived.

Honourable senators, pursuant to the order adopted December 14, 2017, I leave the chair for the Senate to resolve itself into a Committee of the Whole to consider the subject matter of Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts.

[English]

CANNABIS BILL

BILL TO AMEND—CONSIDERATION OF SUBJECT MATTER IN COMMITTEE OF THE WHOLE

On the Order:

The Senate in Committee of the Whole, at 3:30 p.m., pursuant to the order adopted on December 14, 2017, in order to receive the Honourable Jody Wilson-Raybould, P.C., M.P., Minister of Justice and Attorney General of Canada, the Honourable Ginette Petitpas Taylor, P.C., M.P., Minister of Health, the Honourable Ralph Goodale, P.C., M.P., Minister of Public Safety and Emergency Preparedness, and Mr. Bill Blair, M.P., Parliamentary Secretary to the Minister of Justice and the Attorney General of Canada and the Minister of Health, accompanied by officials, for the consideration of the subject matter of Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts.

(The Senate was accordingly adjourned during pleasure and put into Committee of the Whole, the Honourable Nicole Eaton in the chair.)

The Chair: Honourable senators, rule 12-32(3) outlines procedures in a Committee of the Whole. In particular, under paragraphs (a), (b) and (d), “senators wishing to speak shall address the chair”, “senators need not stand or be in their assigned place to speak” and senators have ten minutes to speak — including questions and answers.

Honourable senators, the Committee of the Whole is meeting pursuant to an order adopted by the Senate on December 14, 2017. The committee will hear from the Honourable Jody Wilson-Raybould, P.C., M.P., Minister of Justice and Attorney General of Canada; the Honourable Ginette Petitpas Taylor, P.C., M.P., Minister of Health; the Honourable Ralph Goodale, P.C., M.P., Minister of Public Safety and Emergency Preparedness; and Mr. Bill Blair, M.P., Parliamentary Secretary to the Minister of Justice and the Attorney General of Canada and the Minister of Health.

The witnesses will be accompanied by Simon Kennedy, Deputy Minister of Health; François Daigle, Associate Deputy Minister of Justice; and Vincent Rigby, Associate Deputy Minister of Public Safety.

I would now ask the witnesses to enter.

(Pursuant to rule 12-32(4) of the *Rules of the Senate*, the witnesses were escorted to seats in the Senate chamber.)

The Chair: I thank you for being with us today. Honourable senators, and witnesses, I note that we only have two hours for this Committee of the Whole and there will be a great deal of interest from senators, so I encourage senators to be brief in their questions, and witnesses to be as succinct as possible. This will allow as many senators as possible to participate. I would now invite the witnesses to make their introductory remarks.

Hon. Jody Wilson-Raybould, P.C., M.P., Minister of Justice and Attorney General of Canada: Thank you. Honourable senators, it's my pleasure to join with my colleagues and the parliamentary secretary to appear before the Committee of the Whole on Bill C-45.

This legislation proposes a major shift in Canadian public policy. Our commitment to legalize and strictly regulate cannabis responds to the fact that Canada's current approach is not working. Despite prohibition, Canadian youth continue to use cannabis at some of the highest rates in the world. Thousands of Canadians end up with criminal records for minor cannabis offences each year, and organized crime reaps huge profits from the sale of cannabis while exposing consumers to health and safety risks. Bill C-45 proposes a better approach, one rooted in public health.

In proposing this bill, the government was informed in large part by the advice it received from the Task Force on Cannabis Legalization and Regulation in its December 2016 final report, a report that the Honourable Anne McLellan, chair of the task force, described as “the result of a truly national collaboration.”

I would also like to acknowledge the importance of this chamber's comprehensive 2002 report that called for the legalization and regulation of cannabis; the collaborative work of federal, provincial and territorial officials that has been ongoing since the summer of 2016; the work of the Standing Committee on Health in hearing nearly 100 witnesses and improving the bill; and the work of government officials in laying the groundwork for the implementation of the act.

From the outset, our government has been clear that a new framework for regulating and restricting access to cannabis must achieve several objectives, which are reflected in clause 7 of Bill C-45.

Our legislation will protect the health and safety of Canadians, particularly that of our youth, and deter and reduce illicit activities in relation to cannabis.

Honourable senators, I would now like to briefly address the treatment of young people under Bill C-45. Our government's position is clear: Youth should not have any amount of cannabis. There will be no legal means for a young person to obtain recreational cannabis. We have introduced several measures to protect young people in the bill, including significant penalties for adults who distribute to young people, and clearly defined prohibitions against advertising and promoting cannabis to youth. A robust public education and awareness campaign will also serve to educate youth and parents about cannabis risks.

• (1540)

However, we have decided to exempt young people from criminal prosecution for possession or sharing very small amounts, up to five grams of cannabis. Why? For these very small amounts, there is a better way to deal with youth than subjecting them to the lifelong consequences that exposure to the criminal justice system can have for them.

We have encouraged the provinces and territories to create administrative offences similar to what is done now for tobacco and alcohol that give police the authority to ticket and seize small amounts of cannabis from youth. I'm happy to report that such prohibitions have been included in all recently introduced provincial cannabis legislation.

I'm also aware of the concerns that provinces and territories will not be ready, that law enforcement will not be ready, and that more time is needed to implement this initiative. I would submit that the opposite is true. Provinces and territories have, in fact, been working expeditiously to position themselves for the implementation of the cannabis act. To date, five provinces have introduced cannabis legislation, with Ontario having passed Bill 174. The other jurisdictions have completed public consultations, and all but one have announced their planned framework.

In closing, I would like to highlight the testimony of the Canadian Public Health Association before the Standing Committee on Health, and I quote:

Unfortunately, we don't have the luxury of time, as Canadians are already consuming cannabis at record levels. The individual and societal harms associated with cannabis use are already being felt every day. The proposed legislation and eventual regulation is our best attempt to minimize those harms and protect the well-being of all Canadians.

I will now turn it over to my colleague, Minister Petitpas Taylor.

Hon. Ginette Petitpas Taylor, P.C., M.P., Minister of Health: Good afternoon, honourable senators. I'm pleased to be here with you today to speak about Bill C-45. Over the past months, we have spoken with Canadians about this new cannabis legislation. Our aim with the proposed cannabis act is to do what the current system has failed to do — to prevent youth from accessing cannabis and protect public health by establishing strict quality requirements. We also want Canadians to make informed and responsible choices about cannabis and talk to their youth about the risks associated with cannabis.

To this end, our government is investing \$46 million in public education and awareness. Our government is committed to a renewed nation-to-nation relationship with indigenous peoples. We must ensure that the unique needs of indigenous peoples are addressed as we move towards a new cannabis framework.

That's why the Task Force on Cannabis Legalization and Regulation consulted national indigenous organizations across the country, indigenous communities and elders. In addition, Canada's health ministers met with indigenous leaders at the 2017 annual meeting. I have also personally reached out to the Assembly of First Nations, the ITK and the Métis National Council to seek their active participation in consultation on the proposed regime.

Indigenous peoples raised a number of diverse interests, including public health and safety, economic development opportunities and issues of jurisdictions and authority. Health Canada officials continue to engage with national indigenous organizations and communities to share information and identify opportunities for collaboration.

[Translation]

When examining the bill, the House of Commons debated whether to change the provisions regarding home growing. The bill would allow adults to grow up to four marijuana plants per residence. The objective of allowing limited home growing was twofold: first and foremost, to prevent the needless criminalization of otherwise law-abiding Canadians who grow a small number of plants for responsible personal use; and second, to help eliminate the illegal market. The approach we are proposing is based on the recommendations of the Task Force on Cannabis Legalization and Regulation and the approach adopted by most of the American states that legalized cannabis. What is more, under no circumstances will commercial size grow-ops be permitted in personal residences.

[Ms. Wilson-Raybould]

[English]

I now want to talk about our preparations for implementing the proposed legislation. Many of the questions that Canadians, members of Parliament and other levels of government have asked relate to the implementation of the proposed legislation, such as, "When can provincial retailers start taking possession of product?" or, "When will Canadians be able to legally consume cannabis in Canada?"

For close to a year now, our government has been working closely with provinces and territories and other partners to prepare an orderly and responsible transition. Provinces and territories are preparing for the start of legal cannabis sales later this year by making progress in setting up legislation and infrastructure. As a practical matter, they told us that they need 8 to 12 weeks following Royal Assent for preparatory activities to occur, such as lawful movement of product from licensed producers to distribution and retail outlets before legislation comes into force and Canadians can legally buy cannabis.

Health Canada continues to engage national and community partners to share information related to implementation and ensure all levels of government are prepared for the prospective coming into force of Bill C-45.

[Translation]

The passage of Bill C-45 will make history in Canada. We will be the first G7 country to adopt a public health approach to strictly regulate access to cannabis. Over the past two years, our government has been engaged in careful analysis and planning to support the bill you have before you today. We believe that Bill C-45 provides us with the best possible conditions to protect Canadians, particularly young people, from the risks associated with cannabis. Thank you. I now give the floor to my colleague, Minister Goodale.

[English]

Hon. Ralph Goodale, P.C., M.P., Minister of Public Safety and Emergency Preparedness: Honourable senators, thank you for inviting us to be here today and for the careful attention that you are all giving to this important legislation.

[Translation]

Throughout the entire process to develop this new system, which aims to keep cannabis out of the hands of children and keep the profits out of the hands of criminals, the safety of Canadians was always our priority. This is, I am sure, a priority that we can all agree on.

[English]

Right now, Canadians are among the heaviest and youngest users of cannabis in the world, to the great profit of criminals. Under the existing system, the illegal cannabis trade in this country puts at least \$7 billion — that's with a "B" — annually into the pockets of organized crime. Canadian law enforcement spends upwards of \$2 billion every year trying to enforce what is clearly an ineffective legal regime.

With legalization, regulation and strict control, we can enable the more effective use of law enforcement resources, and we can dramatically reduce the involvement of criminal elements in cannabis production and sales. In Washington State, for example, legalization recently shrank the criminal share of the cannabis market by almost 75 per cent. That improvement is obviously very significant from a public safety perspective.

Another public safety concern related to cannabis is drug-impaired driving. As the Cannabis Task Force report points out:

... cannabis-impaired driving is not a new challenge. It is a criminal offence that exists today and is a challenge that must be addressed, irrespective of how or when the Government legalizes cannabis.

Drug-impaired driving has existed in the Criminal Code since 1925.

And we are tackling the modern challenge head on. We have proposed Bill C-46 concurrently before a Senate committee, which will strengthen our laws regarding driving while under the influence of either drugs or alcohol. We have launched a major public awareness campaign with public messages on social media, television, in movie theatres and so forth to inform Canadians, especially young Canadians, about the risks of driving impaired.

• (1550)

We have announced \$274 million to support law enforcement agencies as they do the important front-line work of deterrence, detection, border protection and punishment. Much of that funding will go toward training and equipping police, and some of it will go to the Canada Border Services Agency to enhance anti-smuggling efforts.

It is important to be clear that under Bill C-45 it will remain illegal, as it is today, to take cannabis into or out of Canada. Border officers are already trained and equipped to interdict a range of controlled substances, including cannabis, and the new funding will bolster the efforts that already exist.

Finally, while I'm on the subject of the border, I'd like to make sure that honourable senators are aware that I have discussed the impending changes to our cannabis regime with American officials, including the new U.S. ambassador to Canada and the new Secretary of Homeland Security. It is naturally the prerogative of every country to make their own admissibility decisions when people present themselves at the border to enter a particular country. Canadians need to understand that Americans have the right to establish their own laws. But we have been making sure that the United States understands our approach to cannabis, our objectives in making the changes that we are proposing and our expectation that all travellers, going in both directions, will be treated fairly, respectfully and consistently at the border, in accordance with all relevant law.

Honourable senators, this has obviously been a very quick overview that we have provided in the last few moments of some of the matters related to Bill C-45 and Bill C-46 from a public policy perspective. We want to thank you for your attention, and we look forward very much to your questions this afternoon.

The Chair: Thank you very much, witnesses. Now I'll go to our first questioner, Senator Smith.

Senator Smith: Thank you all for joining us today. Conservative senators will have a number of questions for you this afternoon on Bill C-45, both on the details of the legislation and on the ramifications of your government's decision to legalize marijuana. Briefly, I'd just like to point out that, as always on this side of the chamber, our senators will approach our work on Bill C-45 in the days and week weeks ahead with the seriousness and careful attention it deserves.

Ministers, I would like to make it clear to you and anyone else who may be watching that Conservative senators will not proceed in an obstructionist manner, as some in the media and elsewhere have seemed to suggest. I promise you, however, that we will give a voice to those in the Canadian public who have significant valid concerns about the policy choice your government is making.

With that said, my first question is for the Minister of Justice. Minister, in the case of two state jurisdictions — Colorado and Washington — the coming into force of retail sales of marijuana occurred up to 18 to 24 months after the legislation had passed. It now appears that the government is suggesting that although others took up to 24 months to do so, ensuring public safety can be done in a month or two. As the Minister of Health said, the feedback she has received is that it takes 8 to 12 weeks after passage of the bill before sales can take place.

Minister, have you carefully studied these two examples, and if so, can you tell us what is different here, given that this is a national initiative involving 13 other provincial and territorial governments, countless municipalities and indigenous communities?

Ms. Wilson-Raybould: Thank you, honourable senator, for the question. I know you have three more. I would invite my colleagues to chime in on the answer.

To be very clear, we have, as a government, been working on and working toward the legalization of cannabis for over two years now. We have benefited greatly from the report of the task force, as I mentioned. The task force travelled to these jurisdictions to learn from their experiences as they proceeded with legalization. We have learned lessons from those jurisdictions. We have benefited from letters that those jurisdictions, including the Governor of Colorado, have sent to us.

We are confident that we are on track. We have been very diligent in the work we have done and continue to do in working with the provinces and territories, which have significant responsibilities under this proposed cannabis act. We're going to continue to do that and will continue to work with indigenous governments.

I'm confident we will be in a good place for the legalization of cannabis in July 2018 and that a responsible process for implementation of the act will continue thereafter.

Ms. Petitpas Taylor: We have to recognize that, here in Canada, we are building on a medical cannabis regime that was already in place and that was introduced in 2013. We have to recognize that the medical regime that has been in place is extremely sophisticated, very well regulated and highly professional. The fortunate part, if I may, with respect to the non-medical regime that we are proposing is that we can certainly build upon what's already in place. That is certainly going to help us expedite the coming into force of this legislation.

Senator Smith: Thank you. My next set of questions is for you, Minister of Health. We have to deal with public education, which is a good caveat from the first question. We've heard over and over from concerned stakeholders that there has simply not been enough time allowed for public education on this legislation in order to adequately protect our youth.

Minister, you've said protecting youth is a central pillar of this legislation. Lessons learned from Colorado and Washington State indicate that we simply need more time in Canada to educate our youth before this huge societal shift. Taking into consideration the points you brought up about the prestudy and the work that's been done to this point, we can accept there has been work done to this point.

But as minister responsible for safeguarding the health and well-being of our youth, will you allow for more time to publicly educate our youth on the enormous risks to their health of using marijuana? If not, what is the rush?

I only say that based on the fact that a lot of study has been done. In the States, they had a full-fledged program to educate the youth for a period of time before the actual sales took place. The issue is this: If we haven't put a program in place in terms of execution, then are we not putting ourselves at some form of risk of having some problems in our implementation?

Ms. Petitpas Taylor: Thank you very much for the question. The health and safety of our children is actually at the heart of why we're moving forward with the cannabis legislation. When we look at youth between the ages of 15 and 24, we recognize in Canada that they are among the highest users of cannabis, not only in Canada but also in all developed countries. So we recognize that a problem exists already.

We also recognize that we can learn a lot from our friends in Colorado and Washington with their implementation plan. We learned clearly from our friends in Colorado when they appeared before the task force that if they had to do it again, they would certainly put in place a public education approach before the matter became law, and that's exactly the approach we're using. I'm proud that our government is investing \$46 million in the area of public education and awareness to make sure we can dispel the myths and provide Canadians with the proper information regarding the health and safety issues around cannabis. By legalizing cannabis, in no way are we saying that it goes without risks, and we want Canadians to be aware of that information.

I'm also very pleased that in November 2017, my friend and colleague's department, through the Department of Public Safety, started a public education campaign regarding the harms associated with impaired driving. That campaign has been very successful, and we've received very positive feedback.

I'm also pleased to report that we've been able to partner with groups that are already providing public education tools to Canadians. You may be familiar with one of those examples, the Drug Free Kids program. We were able to partner with them, and they developed a wonderful program to equip parents, front-line workers and also perhaps just people children would go see if they wanted to have this conversation about cannabis. We were able to partner with them, and as a result, almost 180,000 of these kits were given out across Canada.

I was very fortunate last year, in December, I believe it was, to be in Montreal and have a round table with youth. We had those difficult conversations. I asked the question that if they wanted to ask their parents or someone about the issue of cannabis, who would they turn to? There were parents in the room that day, and to the shock of the parents — the parents all thought their children were going to say their mom or dad — it was actually coaches, mentors and teachers.

With respect to the tools we're preparing, it's really important that we ensure that those front-line service providers and the mentors of our children receive some information in the event that they choose to have that conversation.

Moving forward, we are certainly going to make the investments. We're developing tools right now through my department, Health Canada, and there's going to be a national launch of a program come March.

Again, we have also heard from our indigenous communities that they also want to ensure that the programs we'll be launching are going to be culturally sensitive and also meet their linguistic needs.

We are moving ahead and following the advice of Colorado that if they had to do it again, they would certainly make the investments up front to make sure youth received the proper information they need regarding the risks associated to cannabis.

• (1600)

Senator Smith: I have a quick question. Have you implemented the \$46 million program, yes or no? The work you've done up to this point is about drugs. It could include cannabis.

Specifically, the cannabis program you're talking about, the \$46 million, when is it starting? It affects the implementation process you want to go through. If you could give me a quick answer, I have one last question I would like to ask.

Ms. Petitpas Taylor: We have started making some investments. We are in the process of developing a program through Health Canada right now.

Senator Smith: Have you implemented the program?

Ms. Petitpas Taylor: We are in the process of developing the program, and the program will be implemented in March.

If I might add, with respect to Drug Free Kids, that information has been made available to Canadians since last fall. Again, we continue to partner with Canadians in the community to make sure we get the message out there.

Senator Smith: It's always different when you talk about something and when something actually comes into force.

This is my last question and it's for you again, minister. Unnamed officials told *The Globe and Mail* that you are here before us this afternoon to "reassure senators that the transition be done in a 'responsible and orderly fashion.'" Given the widespread concerns we have already heard loud and clear from a diverse range of concerned stakeholders, especially in the area of public education for our youth, wouldn't it be responsible and orderly for your government to provide more time to educate our youth? Our issue is the timing.

Ms. Petitpas Taylor: Timing with respect to public education? Is that the question?

Senator Smith: That's right.

Ms. Petitpas Taylor: With respect to the public education component, we have learned much information from our friends in Colorado. They told us that if they had to do this again, they would certainly move forward in making sure that public awareness was in place before the product became legal, and that's exactly what we're doing. Different departments are doing different campaigns. Governments are doing campaigns and also we're supporting agencies that are already providing the work to individuals.

[Translation]

Senator Saint-Germain: Thank you, ministers. First of all, on behalf of the Independent Senators Group, I want to assure you that we want to conduct the most rigorous, objective, and documented study of the issues posed by the legalization of cannabis. We are aware that there are many problems with the status quo, but we also want to ensure that the many health and safety issues and any other considerations are carefully analyzed in the public interest. You will ascertain from my colleagues' questions that we are determined to have the best possible analysis on which to base our decision.

My question is about legalization and, more specifically, clause 8 of Bill C-45, which will now allow every household to grow a maximum of four cannabis plants. I would like to know how exactly law enforcement agencies — whether it is the Royal Canadian Mounted Police, provincial police forces, especially in Quebec or Ontario, or municipal forces — will implement this provision. How will they enforce it? Will they need a search warrant to enter homes? Will they rely on a reporting system? In practice, how will this provision of the law be enforced by police forces?

[English]

Mr. Goodale: Thank you for the question, madam senator. We have been working closely with provincial and municipal authorities, as well as police forces, to make sure that they are amply informed and equipped to deal with the issues that they will need to deal with under this legislation.

The issue of enforcement falls to the police force of local jurisdiction so that whoever has the existing authority today to administer the Criminal Code in various jurisdictions across Canada will have that same jurisdiction with respect to cannabis.

We have taken particular steps, as you know, to make sure that police forces are equipped with the training and with the devices they will need to deal with drug-impaired driving. That's in a different piece of legislation, Bill C-46, so I won't wade into that in detail other than to say we have made a \$274 million investment, which is presently under very active discussion with our provincial counterparts in terms of the distribution and the flow of that money across the country to make sure that police forces have the training and tools they need to enforce the law once Parliament has given its approval.

I turn to the Minister of Justice to offer more information about the necessary procedures in terms of searches and search warrants.

Ms. Wilson-Raybould: Thank you, minister, and thank you, senator, for the question.

I will point out that we have provided, by way of the backgrounder with respect to Bill C-45, a Charter statement that speaks to where the Charter is engaged. To build on what my colleague has talked about in terms of enforcement, police officers will need to have judicial authorization before they can enter into a private residence.

Senator Eggleton: Ministers, parliamentary secretary and your officials, thank you for being here. My question concerns edibles. In October, Bill C-45 was amended to include edibles containing cannabis, but this amendment is not coming into force for one year after the act comes into place.

Edibles, of course, are a tricky issue in the debate over legalization. One concern is that ingesting cannabis is easier for the uninitiated than inhaling it. Edibles also take longer to have an effect, which can lead to unintended overconsumption. The biggest worry, of course, is that they can appeal to children and youth, especially if it comes in the form of candy or pastry. My concern is that by waiting a year to legalize and regulate edibles, we will allow the illicit and unregulated market to flourish in the meantime. You have said this is why you want to stop it, to protect our children and youth.

Now, I do appreciate the need for development of efficient regulation, but the task force on cannabis has already outlined what these regulations on edible products would look like, and they've borrowed from other jurisdictions that have gone through this experience. This includes packaging regulations, THC content, as well as standardized products that would not appeal to children. These initial regulations may prove not to be perfect if

they were put into effect right now, but allowing legal edibles from the outset would deter Canadians from continuing to purchase and produce such items illegally.

Instead of waiting, would it not be more prudent to legalize and regulate edibles when the act comes into force with a mandated review of these regulations sometime in the near future?

Ms. Petitpas Taylor: Thank you very much, senator, for the question. The task force was very clear that if we choose and want to displace the black market, which is absolutely part of the objective of this legislation, we recognize that we are going to have to incorporate edibles within the regime. At this point in time, however, once again having learned from our friends and colleagues in Colorado, they've indicated that complex regulations have to be put in place in order to effectively implement edibles within the regime.

In your question, sir, you indicated the issue of overconsumption and accidental ingestions. Those are specific areas why we want to take our time and put the proper regulations in place. We recognize those regulations can be complex. So what we've decided for the coming into force of Bill C-45, once it becomes legal, is that Canadians will have access to dry cannabis, fresh cannabis and oils. If Canadians do choose that they want to make some type of edible products within their homes, they'll absolutely be able to do so. Certainly moving forward, we have indicated that within one year after the coming into force, we will introduce edibles within the regime.

• (1610)

With that, we certainly also want to ensure that the proper regulations are in place and that the proper packaging will be available with the proper THC contents, and also, again, to make sure that public education and awareness is done so people are certainly aware of the issues of overconsumption and the rest of it.

Those are the types of reasons as to why we're taking our time with respect to that part of it, because we certainly want to make sure we get it right. But we understand if we want to displace the black market, there's a demand for those types of products, and we absolutely have to make sure they are going to be available to Canadians in due course.

Senator Eggleton: Allowing people to make these things in their homes leaves them unregulated, uncontrolled and at risk, particularly for children. As I pointed out, the illicit market continues during this period of time. So I would hope that you would get a handle on this just as quickly as you possibly can.

Another thing that needs to be dealt with is the question of marketing that could appeal to children and youth by the kinds of names that can be used for these substances. Strains being sold in other jurisdictions have names that could appeal to children. These include Fruity Pebbles, Candyland and Animal Cookies, to name just a few. These names would need to be clearly visible on the packaging for customers to differentiate between the products.

[Senator Eggleton]

Will the government regulate the names of the strains of cannabis that are to be sold so that they do not appeal to children and youth?

Ms. Petitpas Taylor: Thank you for the very good question.

Under Bill C-45, we are certainly proposing that we're going to have very strict and clear regulations and controls over what can be packaged, the labelling, the marketing and the advertising to children.

At the end of the day, we certainly want to make sure that any information that's going to be present on the package will absolutely in no way be appealing or entice children to want to use those types of products. Again, in the proposed regulations that we have just finished the consultation on, we discussed exactly that.

With respect to the packaging as well, it's very similar to plain packaging. Basically on the package, it will be very limited as to what information can be on there. Companies will not be able to use characters, animals or anything that would be appealing to children.

The information that needs to be on the package is the THC level or the CBD level so that Canadians can make informed decisions regarding the content of what they're purchasing.

Finally, we want to make sure there are health warnings on the package. Those will be rotational types of health warnings like we see on tobacco products now.

When it comes to marketing to children, packaging and labelling, we absolutely want to have strict requirements to ensure that in no way this will be appealing to our children.

[Translation]

Senator Carignan: My question is for all three ministers. On June 1, 2015, the Quebec Superior Court ordered three tobacco companies to pay \$15 billion in damages to 100,000 Quebec smokers. The ruling is currently being appealed and the court has reserved judgment. The Superior Court found the tobacco companies guilty of marketing products that are dangerous, harmful to consumers' health and addictive. Moreover, it faulted the companies for misleading smokers on the risks and dangers associated with these products. In its ruling, the court also found that the companies failed in not informing smokers of the risks and dangers of their products. They violated certain provisions of the Civil Code of Quebec, the Consumer Protection Act, and the Quebec Charter of Human Rights and Freedoms.

I would remind you that a number of provinces, including Quebec and British Columbia, are currently suing tobacco companies to recover health care costs related to treating smokers, while other Canadian consumers, including in the Knight case, are suing tobacco companies for damages and interest for the same reasons. What is more, the entire Canadian medical establishment sounded the alarm and informed the government of the health risks associated with using cannabis, especially to those under 25.

The Association des médecins psychiatres du Québec said the following:

. . . the use of cannabis increases the risk of developing psychotic disorders such as schizophrenia.

Studies show that the risk of developing psychosis increases by 40 per cent among those who have used cannabis at least once in their lives. That risk climbs to 390 per cent among heavy users.

Here is what the Canadian Cancer Society had to say:

Cannabis smoke contains many of the same carcinogens as tobacco smoke, and there is evidence showing that smoking cannabis may increase the risk of developing cancer.

The Canadian Paediatric Society, for its part, stated the following:

. . . one prospective, longitudinal study demonstrated that cannabis use during adolescence is associated with a sixfold increase in future ecstasy consumption.

The Fédération des médecins spécialistes du Québec had this to say:

. . . compared to the cannabis of 10 or 15 years ago, the cannabis being consumed now has a significantly higher tetrahydrocannabinol (THC) content, and that may lead to a higher level of addiction among some consumers.

The Chair: Senator Carignan, please ask your question.

Senator Carignan: I am getting to my question.

The Public Health Directors of Quebec stated the following:

When inhaled on a regular basis, cannabis causes users to cough more and causes increased mucus production. Although these symptoms are reversible, cannabis use does aggravate respiratory problems . . .

My question is as follows and is for all of the ministers. Did you obtain any legal opinions regarding the risk of class action lawsuits seeking billions of dollars in damages and compensation being filed against the Government of Canada, which is putting this system in place, against the businesses and provincial Crown corporations that will oversee distribution, and against the cannabis producers?

If the answer is yes, can we have copies of those legal opinions?

[English]

The Chair: Witnesses, you have six minutes between all of you.

Mr. Goodale: Maybe I'll begin, Madam Chair, and invite my colleagues to follow.

The situation that you have described, Senator Carignan, exists under the current laws of Canada. The current situation, the way the law has existed in this country for over 90 years, has resulted in exactly the type of situation that you have described. Obviously, the current law has failed. It has not protected our kids. It has not served public health. It has not kept \$9 billion or \$8 billion or \$7 billion in illegal profits out of the hands of organized crime. The current regime has not worked.

What we're trying to get away from is perpetuating the failure of the status quo. We have to change the regime to be more effective in protecting our kids, more effective at keeping marijuana out of the hands of young people, more effective in stopping the flow of illegal cash to organized crime and more effective in creating safer driving conditions on the road. The status quo will not do that.

Bill C-45 and Bill C-46 give us a greater opportunity and a greater prospect of success in public health and public safety.

[Translation]

Ms. Petitpas Taylor: I would like to reiterate my colleague's comments. A public health approach is really at the heart of Bill C-45, because we recognize the importance of regulating cannabis and restricting access for our young people.

We also recognize that in Canada, the youth rate of cannabis use, in an unregulated market, is higher than that in other industrialized countries, and that the current approach is not working.

Whenever I talk about this subject, I always say that we are in no way encouraging people to consume cannabis. On the contrary, we want to ensure that Canadians have the information they need, and that if they choose to consume cannabis, they have access to a regulated product. Furthermore, we plan to impose a minimum age, since we want to prevent children from getting their hands on cannabis. Thank you.

• (1620)

[English]

Ms. Wilson-Raybould: I would just like to thank the senator for the question and to backstop and support what my colleagues have indicated. We've learned a lot from the reality of tobacco. We are taking an approach right out front to ensure that we place, as the minister has said, prohibitions in terms of packaging and in terms of promotion and that we are very up front with what is required in order to comply with the act.

As for legal advice, we are being very open and up front with the requirements that are necessary in order to comply with the act, ensuring that there are warnings and appropriate packaging about the health risks, not to mention the robust public education and communications plan that the minister has detailed.

[Translation]

Senator Carignan: I take it that you did not obtain a legal opinion. Did you have discussions with or make commitments to companies that produce cannabis about providing financial compensation in the event that lawsuits are filed by consumers?

Ms. Petitpas Taylor: The answer is no.

[English]

Ms. Wilson-Raybould: I have to say no, as my colleague has indicated, but we're being very proactive with respect to the cannabis act that we're putting forward and the requirements that are necessary to have in place in order to become a licensed producer and to ensure there's compliance with the act. We have been very up front and are going to continue to do that in working with individuals and jurisdictions right across the country.

[Translation]

Senator Carignan: You mentioned earlier that you studied what was done in Colorado. Norway currently has the lowest rate of cannabis use among young people. Did you at least take the time to send officials to Norway to study the measures it implemented, which has resulted in the lowest youth rate of cannabis use in the developed world?

Ms. Petitpas Taylor: Our main objective is to deal with the situation that we have here in Canada. Once again, when we look at our statistics, we recognize that cannabis use is highest among young Canadians between the ages of 15 and 24. We must address this problem. Finally, we are taking a public health approach to dealing with this problem because we absolutely want to restrict access to cannabis and regulate the process. That is why we are committed to moving forward with Bill C-45. Ultimately, we recognize that the current system is not working.

[English]

Senator Griffin: Thank you. My question is to the Minister of Health. I'm chair of the Senate's Agriculture and Forestry Committee, so my questions relate to the legislation and regulations for the cultivation and production of marijuana cannabis and hemp cannabis. Hemp only contains trace amounts of THC, which does not result in any psychoactive effect when compared to marijuana, and it has many different uses. It's a great crop. Its uses range from building materials to cosmetic supplies.

The government has a deadline and has indicated that no proposed draft regulations will be available for consultation, only a summary of feedback. The industry is concerned. Because Bill C-45 will create a new regulatory regime without following the usual or normal regulatory process, how will industry know what the regulations are until they become law?

Ms. Petitpas Taylor: Thank you very much for the question. It's a very good question. Many Canadians are not aware, or some perhaps are and some are not, that hemp derives from the cannabis plant.

You're right, it's absolutely a growing industry in Canada, and many products are made as a result of it. Thus far, the hemp product has been controlled or streamlined under the Controlled Drugs and Substances Act, better known as the CDSA. What we are proposing going forward is that the hemp product would be brought under the cannabis legislation because we truly feel that, by proposing to streamline the regulation, it would certainly

match the risk level. We do know, as you've indicated, that the level of THC is very low. So we just feel it is really important to match the risk with respect to that.

We certainly want to be very flexible. As we know, the hemp industry is a developing industry in Canada, and we certainly want to promote that.

Senator Griffin: Okay, thank you.

In view of that, in the development of the regulations, do you intend to clearly delineate in the regulatory framework which parts would apply to marijuana cannabis and which parts would apply to hemp cannabis?

Ms. Petitpas Taylor: Thank you. We are going to publish very soon a report on what we heard with respect to the regulations. That should be coming very soon, and I'm sure the individuals involved in this industry will be very pleased and are looking forward to seeing what's going to be in that report.

Senator Griffin: I'm sure they will. My final question is related to outdoor cultivation. How does the government intend to easily distinguish between the outdoor production of hemp cannabis and marijuana cannabis? Should marijuana cannabis production be limited to indoor facilities?

Ms. Petitpas Taylor: Just to qualify your question, are you talking about cultivation in homes? Is that what you're asking about?

Senator Griffin: No. I'm talking about a larger amount of cultivation. Will you limit the marijuana cannabis production to only indoor facilities? If you do, obviously indoor cannabis is much easier to control for quality. Would cannabis that's used for recreational marijuana purposes be limited to indoor production facilities?

Ms. Petitpas Taylor: I'm going to ask my deputy, if he doesn't mind, to provide more detail with respect to that, if that's okay.

Senator Griffin: Sure, thank you.

Simon Kennedy, Deputy Minister, Health Canada: The issue of whether to have outdoor cultivation was part of the consultation that the government has just completed. There was a 60-day consultation period on what the detailed regulatory regime will look like. Ministers will have to take stock of the consultations and what was heard in that, and the plan will be, as the minister said, to publish a fairly detailed accounting of what was heard in the consultation and then where the government intends to go.

This issue of growing outdoors was part of the consultation — there were views on both sides, if you like — and then the government will be announcing where they intend to go with that.

Senator Griffin: Thank you.

Senator Seidman: My question is for the Minister of Health.

Minister, you agree that Canada's successful approach to tobacco regulation means our youth smoking rates are among the lowest in the world. Yet public health experts like the Canadian Cancer Society tell us that legalizing cannabis will undermine our success in reducing youth smoking by re-normalizing tobacco use and reducing their perceptions of risk. That's because the most common way to consume cannabis is by smoking a joint, often rolled with tobacco.

Minister, are you jeopardizing the health of our kids by creating a whole new generation of smokers?

Ms. Petipas Taylor: Thank you very much for the question. I guess to address that question, I think that first of all I have to start off by saying we are dealing with a problem that already exists within our country right now. We recognize that the youth rate of cannabis use within this country is among the highest. If we look at the age group between the ages of 15 and 24 among our youth and young adults, we recognize that they are consuming cannabis. With this proposed legislation that we're bringing forward, we're proposing an approach to deal with an existing problem.

With respect to how youth choose to consume cannabis, they consume it in different ways, as you've indicated. With respect to the legislation that we're bringing forward, we certainly want to have, and are having, a public health approach to effectively deal with the implementation.

First and foremost, we have to look at the legalization regime. We absolutely want to restrict young people's access to cannabis, and the minimum federal age we've set is 18 years. If provinces and territories want to choose to increase that age, they certainly can. It's completely at their discretion.

Finally, we want to ensure that if Canadians choose that they want to purchase cannabis, we also want to make sure it's going to be done in a regulated establishment.

• (1630)

With respect to the issue of other ways of consuming cannabis, as I've indicated earlier today, the issue of edibles and other products will certainly be brought forward in the legislation. But we've indicated that will come into force one year after the coming into force of this phase of the legislation. So we certainly want to address both issues.

Finally, people who are the age of consent and who choose to purchase cannabis as well, will have the opportunity, at the coming into force, to either buy fresh cannabis, dried cannabis or oils, and many individuals may choose also to want to make products at their home in an edible form or to put it in capsules in their tea or however they choose to consume it. Those are the types of options that will be available to Canadians once the regime becomes legal.

Senator Seidman: Minister, you've talked a lot about harm reduction but you've told us nothing about how the government is going to encourage Canadians to stop smoking joints in favour of safer alternatives.

Health Canada has already acknowledged that noncombustible vaping products are a potentially less harmful alternative to tobacco. The same is true for cannabis. So, minister, if the true intent of this legislation is to make it less dangerous to use cannabis, why does it do nothing to get Canadians to stop burning and smoking it?

Ms. Petipas Taylor: Once again, a big part of the component of this legislation is going to be the public education and awareness as well. Information needs to be provided to Canadians actually on the packaging regarding the health risks related to smoking cannabis or ingesting cannabis.

Moving forward, we have indicated that we want to have strict regulations and controls regarding the packaging, the marketing and all that goes with it to ensure we can provide Canadians with exactly that — the proper information regarding the harms associated with cannabis consumption in whatever form that they choose.

Senator Seidman: Minister, you say you're taking the same regulatory approach to tobacco but that's simply not the case. Tobacco regulation prohibits all forms of marketing. Tobacco smoking is banned in all indoor public places and soon cigarettes will be sold in identical plain packages. Compare that with the loopholes of the proposed cannabis regulations, which leave the door open to child-friendly advertising, don't specify how marketing restrictions will be enforced, and allow smoking indoors. Even the plain packaging called for by the government's own cannabis task force is missing in action.

Minister, my question is simple: Will you commit today to the same plain packaging restrictions for cannabis and cigarettes, just yes or no?

Ms. Petipas Taylor: Clearly, Bill C-45 proposes very strict and clear controls when it comes to packaging, labelling, marketing and advertising to children. I really have to say it's almost identical. The difference with respect to packaging when it comes to cannabis use, however, we really have to make sure that when it comes to cannabis that information will be available on the package with respect to the THC content and the CBD content. Those are the types of additional information that will be allowed on the package, because we want to ensure that Canadians are going to know exactly what they will be purchasing if they attend a retail outlet for purchase.

When it comes to the issue of marketing to children, we've made it clear. We really want to make sure that in no way are any of these products going to be enticing children to use them. Those are the types of regulations we will be putting in place to ensure we protect our children because we certainly don't want them to feel this is a product that's appealing to them.

Senator Seidman: Well, it's disappointing not to hear the commitment that you will commit to the same plain packaging restrictions for cannabis and cigarettes, but I'd like to move on.

Minister, the government is very fond of talking about evidence but, speaking for myself, as a health researcher, it really doesn't add up. In fact, research from around the world suggests that cannabis legalization will lead to more use, especially among our kids.

A comprehensive study from the RAND Corporation found that cannabis sales in the United States are related to increases in overall cannabis use and greater dependence among youth. These findings are supported by the largest study ever conducted to understand the effects of cannabis legalization on adolescents. The study of 38 countries found that cannabis liberalization is associated with higher levels of regular cannabis use among teenagers.

Minister, have you reviewed these studies? How do you square the evidence that kids will use more cannabis with your responsibility to protect their health and safety?

Ms. Petitpas Taylor: I have not reviewed that particular study, but I certainly have reviewed some studies that have said just the opposite. If we look at the issue of Colorado, they've actually indicated there has been a decrease in the consumption of youth consuming cannabis. Of course, they've been doing their research since this became legal within their country.

The challenge we're having right now, however, with respect to research in Canada is that because cannabis is an illegal product right now, it's very difficult to conduct research in the area. By moving forward with respect to the area of research, we certainly want to make investments in that area as well to be able to learn the long-term and short-term effects related to cannabis.

The other thing that we also have to recognize, as indicated, we have to remember that we are addressing a current situation or current problem that is already existing within our country, and we can't forget that. In moving forward, we certainly want to restrict access to cannabis by young Canadians. That is why we're moving forward because the current system is certainly not working.

Senator Seidman: Minister, you've talked a lot about Colorado. It's a single case with very limited data collected over a very short period of time and it has produced mountains of conflicting evidence. In fact, many early studies that found no increase in teen pot use following legalization are flawed. They failed to control for factors like whether a jurisdiction allows sales, cultivation or only possession. That means the studies really don't give us the full picture. More comprehensive research suggests what common sense has already told us —

The Chair: You have two minutes left for your question and answer.

Senator Seidman: Legalizing marijuana makes teenagers more likely to use and to use more often. Why is the government telling Canadians the opposite?

Ms. Petitpas Taylor: Moving forward, as we've indicated, by legalizing, restricting access and regulating cannabis use within our country we certainly want to make sure Canadian youth will not have access to cannabis and that is why we're moving forward with this legislation.

At the present time it is easier for teenagers to go behind the school and purchase cannabis than it is for them to go and buy tobacco or liquor. We certainly recognize that the approach we

have right now is not working. Moving forward, we want to make sure we can restrict access to cannabis and that is why we're moving forward with this legislation.

With respect to the harm effects related to cannabis, as I've indicated earlier, I am in no way indicating that there is no risk associated to cannabis use — on the contrary. And that is why it will be extremely important for us as a government to invest in public education and awareness to ensure that we're educating our children regarding the risks and myths associated to cannabis and also to demystify what they sometimes think is a reality and really isn't. So it's going to be a public health approach. We have to have a collaborative approach and ensure that Canadians are provided with the right information and the right tools in order to make informed decisions.

Senator Black: Ministers, officials, welcome. It's good to have you in the Senate. I also would like to commend you all for the tremendous amount of work that you've obviously done to prepare for today but, more importantly, to manage this file. It's obvious in the level of your responses. That is appreciated.

Before asking my question, I also want to acknowledge my friend and fellow Albertan, Anne McLellan, for the tremendous work and leadership that she has provided to Canada on this file.

An Hon. Senator: Question.

Senator Black: As the federal government pursues cannabis legislation through Bill C-45, it is clear that all three orders of government — federal, provincial and municipal — will have a role to play in ensuring that legislation is implemented safely and effectively. A recent estimate by the Federation of Canadian Municipalities suggests that it will cost local governments across the country anywhere from \$210 million to \$335 million per year to administer the issues around cannabis in their communities. For a city of 500,000 people in Alberta, it would represent a budget increase of up to \$4.75 million per year.

Late last year the federal government came to an agreement — an encouraging agreement — with the provinces to split the excise tax revenues 25-75 between themselves and the provinces. In addition, the federal government announced limited funding for the training of police and purchasing of equipment needed to enforce the legislation. Given that excise tax revenues are going directly to the provinces with no strings attached, some provinces may choose not to transfer additional funding to municipalities.

• (1640)

What measures are you proposing to put in place to ensure that municipalities have the tools to deliver on their obligations and meet the commitments that you want met?

Ms. Petitpas Taylor: Thank you very much for the question. I have to agree with you. The Honourable Anne McLellan did tremendous working in helping us move this ambitious work forward.

With respect to the issue of taxation, I was extremely pleased that the finance minister met with his provincial and territorial colleagues this December. They were finally able to come up with a tax regime whereby provinces would keep 75 per cent of

the excise tax, and the federal government would keep 25 per cent of the excise tax. However, we would cap the federal amount to \$100 million. After that, if there's any more that needs to be collected, it will be going back to the provinces and territories. We recognize that provinces, territories and municipalities, as you've indicated, have to do the bulk of the work that is needed within those jurisdictions.

I'm going to ask my friend and colleague, Parliamentary Secretary Bill Blair, to elaborate on more of the conversations that took place, because he was present during most of those meetings with the finance minister last December.

Bill Blair, M.P., Parliamentary Secretary to the Minister of Justice and the Attorney General of Canada and the Minister of Health: Thank you very much, minister. I'll try to be brief.

Senator, as we travelled across the country and engaged in consultations, we always made a point of going to see the local police chief, the mayor, the fire chief, the public health officials and the people responsible for bylaw enforcement. It was clear the important roles the municipalities would play in making sure that we keep this away from our kids, create a healthier environment for all of our citizens, get the profits away from criminals and protect the health of all of our citizens. It was clear that municipalities had a very significant responsibility and role to play and that they would need resources to address that.

That became a very important part of the conversation our finance minister was having with his counterparts. It was an important part of the conversation the Prime Minister had at his first ministers' meeting: the important role and support required in resources from municipalities. When we went to the final meeting in December with respect to how to allocate the excise tax, the requirements of municipalities were on the table and was foremost in everyone's thinking. It's why the federal government, our government, said we would give half of the proposed revenue back to the provinces to make sure that money went to municipalities.

I want to assure you that in our discussions with the provinces and territories, they strongly recognize the important roles that cities would have to play. We're committed to ensuring they have the resources necessary to make this work. It's why we came to this agreement. Frankly, we've continued to meet with the Federation of Canadian Municipalities, with provincial and municipalities associations and with individual mayors across the country. We're working collaboratively with them to make sure they have what they need.

Senator Black: That commitment is clearly appreciated. But in my conversations with various mayors throughout the province of Alberta, despite the commitments and the recognition that the heavy lifting is going to be done at, for example, the level of the police in Grande Prairie, there's a real concern that the money won't flow.

More than just encouraging and understanding the issue, have you put any strings on the money going to provincial capitals?

Mr. Blair: With regard to the pot of money, the Minister of Public Safety already referenced the nearly \$274 million that was brought forward to make sure law enforcement had the

technology, training and resources they required to do what we've asked them to do. Of that \$274 million, \$81 million is specifically allocated for distribution to municipalities and to indigenous police services. Constitutionally, that must go through the provinces, but that clearly is money earmarked and allocated for municipal and indigenous police services that will be directly distributed to them to ensure they have the resources they have said they needed.

The President of the Canadian Association of Chiefs of Police came before the Justice Committee on September 10. He expressed his support for the legislation we were bringing forward, saying he believed it would make a positive difference and that it was exactly what they had been requesting for many years. With respect to the allocation of funds that we made commitments to, his final statement was that it's clear the government has been listening.

I will tell you that I've been part of those conversations with law enforcement for the last two years. We were listening and we've done our very best to respond to the concerns they raised.

Senator Black: So you're confident that the resources the municipalities will need will flow to them?

Mr. Blair: I am, sir.

Senator Black: Thanks very much.

Mr. Goodale: I would like to add some further information. My officials at Public Safety Canada are in an ongoing dialogue with their counterparts at the provincial level and with law enforcement. In addition to this initial federal pot of \$274 million for detection, deterrence, training, acquisition of equipment and so forth, we have been encouraging the provinces in all of our conversations to recognize and appreciate the level of responsibility that municipalities will need to enforce through their bylaw system and through their law enforcement responsibilities. What's reported to me is that the discussions with the provinces about those matters have been very positively received.

We will continue to emphasize the importance of making sure that municipalities properly share in the revenue.

Senator Black: On the ground in the various communities, if there is a sense that it isn't flowing as we all hope it will, can people feel free to reach out to you?

Mr. Goodale: We will be prepared to receive all expressions of concern as this very transformative implementation process goes forward. This is an enterprise that has not been attempted in this country ever before, so obviously we will learn as we go, and we'll try to be as responsive as we can to any wrinkles or issues that arise.

Senator Joyal: Ministers, welcome. My first and foremost interest in relation to Bill C-45 is its impact on the Aboriginal population of Canada, taking into account the plight of Aboriginal youth, especially the high level of suicide rates on reserves and so on, and the plight of the health condition of Aboriginal people, Aboriginal women especially. But I see my colleague Senator Sinclair and other Aboriginal senators who I

hope are on the list to address those issues with you, so I will stick to my second preoccupation, one that seems to have motivated the government to move forward with Bill C-45, which is to deprive criminals and organized crime from the benefit or the profit of the sale of cannabis.

It seems to me that there's still a big loophole in the initiative taken by the government to block organized crime from the production and sale of cannabis. Mr. Minister, I want to quote the Acting Commissioner of the RCMP, Mr. Kevin Brosseau, whom you know quite well. He testified last Thursday before the Standing Senate Committee on Legal and Constitutional Affairs. Here is what Acting Commissioner Brosseau has stated:

Given the involvement of organized crime in the illicit cannabis market, we do not expect that the legislation will eliminate organized crime's presence in the cannabis market. . . .

. . . organized crime is constantly evolving and, frankly, one step ahead, seemingly, at times

In other words, we know that they read the paper like you and me. They have read it since the last election. They knew it was coming, and I think they have moved in a different way to maintain their presence in the market.

This affirmation that I made comes from a report that was published two weeks ago, following research by two journalists in relation to who stands behind the ownership of the 86 companies that have been authorized by Health Canada to produce and sell cannabis. Among the 86 companies, 35 are financed through "fiscal paradise." I can give you statistics that are mind-boggling: ABCann Global, \$12 million from Cayman Islands; Aurora Cannabis, \$32 million from Cayman Islands; CannTrust, \$2 million; Supreme Cannabis Company, \$10 million; Cannabis Wheaton, \$20 million; Hydropothecary, \$15 million; DelShen Therapeutics \$3 million; Emblem Cannabis, Cayman Islands, \$8 million; Gold Leaf, \$5 million; Invictus MD, Cayman Islands, \$14 million; and Maricann, \$9 million. I could go on. That's only for the Cayman Islands.

• (1650)

My preoccupation is that the way that Health Canada is granting the permit and the way that they screen where the money comes from is not sufficient to guarantee Canadian taxpayers that in fact we're not doing through the back door what we were trying to eliminate from the front door. It seems to me that they come back from the back door through the fiscal paradise.

After I read that report, I consulted the form that regulates the information that Health Canada requests from the companies. Of course, the information that they request is pretty simple to bypass. You don't have Maurice (Mom) Boucher, the leader of organized crime in Montreal, incorporating under "Boucher cannabis corporation" and sending you his fingerprint to get a permit. He will do that through all the law firms and accounting firms that I don't need to name, whose names have been published extensively, who will organize for you a way to bypass the front line of the screening. Send your money back to the fiscal paradise in the Bahamas, Cayman Islands, Virgin Islands,

Switzerland, Luxembourg, Hong Kong or Singapore. It's mind-boggling to see who is financing the companies that have a permit.

If we want to address organized crime, we have to strengthen the criteria and identify the money that comes from paradise somewhere to support those companies that tomorrow will sell the cannabis that you will buy from the provincial store.

My question is easy: Are you ready to review the criteria to make sure that we know where that money that hides behind the smokescreen of identity comes from, so that Canadians know that in fact we have not made it easier for organized crime to get the permit to sell it to the kids and to everyone we want to prevent from accessing it?

Some Hon. Senators: Hear, hear!

The Chair: Ministers, you have three minutes to answer.

Mr. Goodale: I certainly appreciate the senator's passion on this topic. The government absolutely shares his ambition.

The fact of the matter is that today the cannabis market in Canada is 100 per cent controlled by organized crime. We've got to do better than that. These things are difficult to measure, as the question would imply. The experience of some states in the U.S., after four or five years of a different regime, is that the engagement of organized crime has been reduced by approximately 75 per cent. That is the kind of statistic that Deputy Commissioner Brosseau would have had in mind when he answered the question in the Senate the other day.

The RCMP will obviously be very active and proactive in tracking down the tentacles of organized crime wherever they exist in Canada, whether in the cannabis industry or anywhere else.

The present regime provides for background and security checks. Following the ample discussion that was referred to earlier, the federal, provincial and territorial finance ministers have also arrived at a common agreement that they want the true and real ownership of cannabis firms identified, and they have arrived at agreements regarding the tracking of cash to make sure we are able to do that.

Madam Chair, in conclusion, we take the senator's admonition with a great deal of seriousness. What he has described as an objective to eliminate the tentacles of organized crime is an objective that every member of our government shares.

The Chair: You have five seconds.

Senator Joyal: Are you willing to amend the regulations of Health Canada to make sure that we know the identity of who hides behind the money coming from the fiscal paradise involved in the production and sale of cannabis in Canada, yes or no?

Mr. Goodale: We are prepared to look at every element of our implementation approach, including this one, to make sure it's effective.

The Chair: Thank you, minister.

[Translation]

Senator Boisvenu: I'd like to pick up on the comments made by Senator Joyal. We heard the same type of thing from witnesses who appeared before the Legal and Constitutional Affairs Committee. As Senator Joyal was saying, as things stand right now, 40 per cent of the funding for legal cannabis in Quebec could come from tax havens.

I understand that Prime Minister Trudeau's main goal in legalizing marijuana was to eliminate organized crime. However, instead, we are seeing another kind of crime taking the place of organized crime. What is even more worrisome is that we have learned that former Liberal insiders are involved in the cannabis business. People who, until just recently, were fighting organized crime are now involved in the production of cannabis, the money for which is coming from illegal sources. Global News recently announced that Derek Ogden, former head of the drug enforcement and organized crime branch of the RCMP, is now leading a company that works to promote and market cannabis.

Does the Liberal government really intend to take control of this industry by using money from tax havens and the help of individuals who, as we recently learned, are associated with the Liberal Party and now work in the cannabis industry? Minister of Justice, are Canadians not concerned about this somewhat questionable approach to legalization? Will it not undermine people's confidence in their government?

Ms. Petitpas Taylor: Perhaps your question was for Mr. Goodale, but if you don't mind I would like to give you some additional information. A number of licences have been issued to producers who wanted to enter this market. It is true that some of those licences were issued to people associated with the Liberal Party. However, they were issued by the Conservative government and Ms. Ambrose, who was the health minister at the time, so there is no partisanship involved here. There is a very strict process in place for licensing, and all applicants are treated fairly and equitably in order to ensure that licences are issued in accordance with the law.

Senator Boisvenu: I would like to ask the same question as Senator Joyal. Marwah Rizqy, a distinguished lawyer and tax law professor at the Université de Sherbrooke, indicated in an article that the only way to ensure transparency when it comes to legalizing marijuana in Canada is to publish the names of each and every shareholder who would benefit from either the production or distribution of marijuana.

Ministers, in the interest of transparency, are you willing to commit to ensuring that the names of people who invest in the marijuana market in Canada are made public?

• (1700)

[English]

Mr. Goodale: Senator, as I said, the Ministers of Finance have had some discussion on that very point to make sure that ownership is publicly known. I would be more than happy to have a further discussion with all of the federal officials, including those who deal with corporate regulatory matters, to make sure that the maximum degree of transparency has been

accomplished here. I really do need to make the point that this issue is not a partisan issue and that there are, as the honourable senator would know, some very well-known, distinguished members of the former Government of Canada that used to sit across the way in the other place, including cabinet ministers in that former government, who are shareholders and investors. So your aspersion to the contrary is not appropriate.

[Translation]

Senator Boisvenu: Last year, Radio-Canada reported that organized crime groups such as Hells Angels had already infiltrated part of the medical marijuana industry. My question for you, ministers, is this: Will you also commit to releasing the names of owners and distributors in the pharmaceutical industry to the public?

[English]

Mr. Goodale: Madam Chair, on the point of disclosure and transparency, I would want to take advice from the law officers of the Crown in terms of how far we can go, but, in terms of the objective, the objective about transparency is one that I absolutely share. Whether a particular investor at any particular level in any company in this industry or any other had a prior political affiliation is, quite frankly, pretty well irrelevant. Whether they were members of the Hells Angels is very relevant, and that's the kind of information that we need to know and disclose so that Canadians can be assured, to the maximum extent possible, that we're accomplishing the objective of getting rid of the influence of organized crime.

[Translation]

Senator Boisvenu: Ministers, your government is about to legalize a drug. Canadians expect the utmost transparency because they want to know that you are accomplishing your objective of keeping organized crime out of the market and not letting it in through the back door. The only way to be sure of that is to publicly disclose the names of all individuals involved in the industry, and that includes producers, vendors and distributors. Do you agree with that statement?

[English]

Mr. Blair: Senator, if I may, our government is absolutely committed to maintaining the integrity of the new regulatory system that we're putting in place. Just to be clear, we are lifting the prohibition to allow us to regulate its production and distribution, which, currently, is 100 per cent controlled by criminals. It's only by lifting that prohibition and implementing a comprehensive and effective system of strict regulatory control of its production and distribution, in every place in this country, that we have any hope of displacing organized crime's pernicious control of this. I, frankly, am not prepared to leave the health and safety of our children in the hands of criminals. So we are absolutely committed to removing the criminal element from this business.

All of the participants who make application to Health Canada for a licence for its production are subject to rigorous background checks, and all of the senior officials and the senior investors in those companies are subject to a rigorous background check by

the RCMP. We recognize — we're working with our provincial and territorial partners and with law enforcement — that all of the tools that currently exist for the police to deal with the illegal production, the illegal distribution of cannabis, its illegal importation and exportation, remain in place and remain in the act. All of the authorities that law enforcement currently has to investigate that illegal production and trafficking activity and money laundering remain in place under this act.

In addition, through the strict regulatory infrastructure frameworks that we're putting in place, we've put in significant additional tools and opportunities to intervene effectively and to prevent organized crime's involvement. We remain committed to maintaining the integrity of that regulatory system that we're putting in place, and we are prepared to work very collaboratively with all of our provincial and territorial partners, our international law enforcement partners and with police services across this country to maintain its integrity and to keep organized crime out of this business. It remains a very significant priority for this government, and we are working hard to achieve that aim.

[Translation]

Senator Boisvenu: Mr. Blair, don't forget that 30 per cent of the market will be controlled by the criminal element.

[English]

Senator Wallin: A question for Minister Goodale and the Minister of Health or whoever else would choose to answer. It's pretty straightforward.

I go back to a media report from last October, which stated that the Department of Health, in a public notice entitled, Blood Drug Concentration Regulations, acknowledged that it had no guidance for drivers on how to comply with Bill C-46. The staff wrote in the regulatory notice that understanding or explaining legal limits will be "challenging." The staff also said that a single joint consumed within two hours of driving might put a person over the legal limit, but, as we know, THC levels vary dramatically, as does the individual tolerance level and the size, weight and physical nature of the smoker. How long do they wait before they get behind the wheel? The science so far is unable to provide guidance. So what does the government tell users, law enforcement or others on the road?

Minister Goodale, I noticed that you commented at the beginning that enforcement falls to the local jurisdiction, and that is precisely my concern. We already have extreme pressures on local law enforcement in the province that you and I come from. They say they have neither the training nor the equipment and that the new legislation will no doubt lead to an increase in the number of impaired drivers. Can you tell me whether that notice stands on the part of the Health Department, whether the science remains static, and what your best advice is at this point, Minister Goodale?

Mr. Goodale: The best advice to that direct question, Senator Wallin, is don't drive high, period. If you've consumed cannabis or any other impairing drug, don't get behind the wheel of a vehicle, period. That's the best advice one can give.

[Mr. Blair]

Senator Wallin: For how long? I think that's the issue. A day? An hour?

Mr. Goodale: The problem is that the science with respect to drug impairment is not as advanced as the science with respect to alcohol impairment. The process is different. The statistics, though, in terms of the consequences are very compelling. For drivers who die in a car crash and are tested afterward for alcohol consumption, there's about a 33 per cent record of those who have consumed alcohol. For drugs, it's 40 per cent already, under the existing law. So, obviously, we've got a problem right now, and we have to bring those numbers down to save lives.

The way that we are doing it is maintaining the existing law with respect to drug impaired driving, which has been on the books since 1925. But, in addition to that, we're adding two new features. First, the ability of police officers to take roadside oral fluid tests, which will assist the officers in establishing reasonable grounds to believe that the driver has drugs in their system, thereby authorizing the officer to take a blood sample, which would provide the more definitive evidence.

The second feature that we're changing in the law is the creation of three new offences that are not drug-impaired driving *per se* but having a certain specified drug content in your blood. That, in itself, will be an offence to have that level in the blood. The details are laid out in the statute and will be confirmed in regulations.

• (1710)

The point is this: The police will have a simpler roadside test, a more reliable roadside test, to apply. They will also have simpler, more objective offences to lay charges under rather than the more complex provisions that exist under the Criminal Code today. That will help in the enforcement of safer driving standards on the road.

Senator Wallin: As you know, the issue of driving and why the question of advice and timing is so important is because it applies to the workplace and it applies in the military. There are huge areas where these questions are important, whether you can give people some idea of timing rather than levels. I realize that's hard.

I would like a comment too on whether the other issue stands, that regulation stands as it was reported last October, the words in it.

Ms. Petitpas Taylor: Could you qualify? I'm sorry.

Senator Wallin: This was a public notice from the Department of Health entitled "Blood Drug Concentration Regulations." It had no advice in that regulation on how drivers — and this isn't just for stopping people on the road; as I say, it's in the workplace as well. The explanation offered was that explaining legal limits or understanding the legal limits would be "challenging," and the staff also said that a single joint consumed within two hours of driving might put a person over the legal limit, but then they went on to say the levels varied dramatically.

It's trying to narrow down that range of something between two hours and two days or even in some cases two weeks, as we're told, that THC could be detected in blood. To have some frame within which to see it is becoming important.

Ms. Petitpas Taylor: Thank you very much. I have to be very honest, Senator Wallin. I'm not aware of that memo.

However, I would like to add a bit further to the comments from my learned colleague. He gave a good overview of the proposed Criminal Code amendments or new acts that are going to be put in place there, the laws. I think we also have to focus on the issues of public education and awareness. When we talk about the information and the investments that have been made forward this past winter, we can see it's really important to demystify the issue of impaired driving when it comes not just to youth but also to Canadians. It surprises me to think that somehow people still think they can drive better when they're intoxicated than they can when they are sober. That type of information and those conversations are key moving forward.

You also mentioned the issue of workplace impairment. I wanted to comment a bit on that. I think we have to recognize that it's a reality that we have to deal with right now, whether it's impairment through medication, through fatigue, through alcohol. I recognize that we have some tests to measure the level of alcohol, but an awful lot of other impairments occur out there as well that are very difficult. We don't have the tools to possibly measure those. It's really important to make sure this conversation continues. I'm very pleased that my friend and colleague Minister Hajdu is having this conversation with her provincial and territorial colleagues, specifically about workplace issues. Those are things we have to work towards effectively dealing with.

Ms. Wilson-Raybould: To build on what my colleagues have said, I think this is a really important discussion that we're having, and I'd like to reiterate what Minister Goodale has said. It is the basis of the approach that we took in Bill C-46, which is the impaired driving bill.

We're taking a precautionary approach that there is no safe level of THC to be in your bloodstream, in your body, when you get behind the wheel of a car. As Minister Goodale said, we've taken the best scientific evidence and research that we have. We take great heed to the Drugs and Driving Committee of the Canadian Society of Forensic Science, which has been providing us advice for decades on how to proceed. We have provided in Bill C-46 new tools for law enforcement officers to be able to detect, with the oral fluid screening devices, whether an individual has gotten behind the wheel of a car impaired by drugs.

Bill C-46 represents one of the most strict regimes in the world, and we are incredibly pleased to put this forward. We will continue to take the advice of the Drugs and Driving Committee.

Senator Batters: My question is to the justice minister. Minister, we have a criminal court delay crisis in Canada where people charged with first degree murder are shockingly having their cases dismissed. As our Senate report found last year, a major reason for this court delay crisis is the huge glut of impaired driving cases. In a media article today, we see your own

department authored memos last year which show that your government's decision to legalize marijuana could flood our courts with thousands of new impaired driving cases.

Minister, your government made a choice to legalize marijuana rather than just decriminalize it. Your own officials have raised concerns about the massive impact marijuana legalization will have on the number of impaired driving cases. I'm not looking for you to tell me about other measures to decrease impaired driving rates. That's what you gave me last week at the Legal Committee. Specifically, I want to know why you, Canada's justice minister, believe legalization of marijuana, instead of decriminalization, will decrease impaired driving rates, despite evidence to the contrary.

Ms. Wilson-Raybould: Thank you, senator, for the question. It is reflective of a question that you asked me last week when I was honoured to appear before the committee.

Senator Batters: I'm looking for an answer.

Ms. Wilson-Raybould: First of all, broadly speaking, in terms of delays in the criminal justice system, I take delays in the criminal justice system incredibly seriously. We are doing everything we can to ensure that we're moving forward cooperatively and collaboratively with the provinces and territories to address these issues, and we will be bringing forward measures in this regard in the near future.

We have certainly benefited from reports that have been provided by the committee that you reference, and we have read those recommendations very closely.

With respect to impaired driving and Bill C-46, as I said at the committee last week, Bill C-46 contains significant measures. As you know, senator, impaired driving represents a significant portion of the cases that are in our criminal courts. One, the impaired driving bill that we've put forward, whether around alcohol-impaired driving or drug-impaired driving, is one of the toughest or could be one of the toughest in the world. In our view and based on evidence, with respect to impaired driving by alcohol, the mandatory alcohol screeners are going to act as a significant deterrent for individuals who get behind the wheel of their car when they have consumed alcohol.

We've also, within Part 2 of Bill C-46, rewritten the Criminal Code with respect to impaired driving to put in place measures that will also alleviate delays in terms of what can be brought forward, what can be asked for by way of disclosure, and further to that, looking at the blood alcohol concentration and how that can be proved, and not necessarily having to every time deem an expert drug recognition evaluation officer as being an expert in the drug evaluation and the alcohol evaluation.

Senator Batters: I note that yet again your answer does not address your government's choice to legalize marijuana. I assume you acknowledge that legalization will increase impaired driving rates. I'll move on.

My next question is for the health minister. Minister, like many Canadians, I have significant concerns about the serious impact that marijuana legalization will have on the mental health of our youth. Because of these mental health concerns, the Canadian Psychiatric Association has recommended the minimum age of 25, and the Canadian Medical Association has recommended a minimum age of 21, yet your government has set the age of 18 as the legal age. Your legislation allows every household in Canada to have four huge marijuana plants. With this minimum age and this unprecedented accessibility, it cannot be said that your government is protecting kids.

A Statistics Canada study released in December shows a major decline in the past decade in the percentage of young people who use marijuana. This major decline has occurred while marijuana remains illegal. Minister, why isn't your government following the advice of such significant medical organizations to protect the mental health of Canada's youth?

• (1720)

Ms. Petitpas Taylor: Thank you very much for the question, senator.

Protecting the health and safety of Canadians, and specifically youth, is absolutely a priority for this government. We recognize that Canadian youth are among the highest consumers of cannabis within our country. When we look at youth between the ages of 15 and 24, they are amongst the highest users in this country and also amongst the highest users in developed countries.

Moving forward, why we're proposing Bill C-45 is to strictly regulate and restrict access to cannabis by ensuring there is a minimum age that's allowed and also making sure that the products are going to be regulated.

We focused on the task force recommendations when it came to setting the minimum age of 18. Why did we do so? We've heard loud and clear that Canadian youth are consuming cannabis at a high rate. If we don't strike a balance with an appropriate age we are certainly not going to displace the market and we will see our youth getting access to the product that is going to be illegal and in an unregulated way. Therefore, moving forward, we've indicated that the federal minimum age will be set at 18.

With that being said, however, for many other provinces and jurisdictions, it's completely up to them to choose if they want to augment that age.

I can speak for my home province of New Brunswick. They have chosen to put the minimum age at 19 to be very consistent with the alcohol age.

Therefore, different provinces and territories can certainly set a higher age if they so choose. Once again, we certainly want to take and are taking a public health approach. It's really at the heart of our legislation because we certainly want to ensure that we restrict access to this product and also to ensure that the regulated product will be available moving forward. That is based on the task force recommendations and we were very attentive to the work that they've done.

Senator Batters: Minister, how do you reconcile your stated desire to strictly regulate when you're allowing every household in Canada to have four plants? As well, your entire answer you just gave me said absolutely nothing about mental health. Will you please acknowledge the significant impact that marijuana has on the developing brains of our youth?

Ms. Petitpas Taylor: Well, for the second part of your question with respect to mental health and health effects regarding cannabis and youth, in no way are we indicating that legalized cannabis means there are no risks to it. That is why I am extremely pleased —

Senator Batters: Why are you legalizing it?

Ms. Petitpas Taylor: — that our government is investing money in the area of public education and awareness.

Why are we legalizing the product? Because at this point in time we recognize that Canadian youth are amongst the highest consumers of cannabis in this country. The current approach is not working. Therefore, moving forward —

Senator Batters: It's gone down markedly over the last decade.

Ms. Petitpas Taylor: — we certainly want to make sure we provide them with access to the proper information to make sure they can make informed decisions.

To the second part of your question with respect to home cultivation, once again, after careful consideration of the task force recommendation, we feel that Canadians will be able to grow safely and responsibly up to a maximum of four plants within their household.

With that being said, provinces and other jurisdictions can impose specific requirements, if they so choose. Once again, I'll use my home province of New Brunswick. They've ensured that if there's going to be home cultivation, it has to be done in a secure area. The Government of Alberta has indicated that if there's going to be home cultivation, it has to be indoors as opposed to outdoors.

So there are certain restrictions and requirements that can be put in place, but once again, we feel that as Canadians, they can choose to grow a small number of plants in a way that's going to be responsible and they can do it safely.

Senator Batters: Why didn't your government take a federal approach to require those types of strict regulations that you just referenced in certain provinces but not in all provinces?

Ms. Petitpas Taylor: I'm sorry. I don't understand your question.

Senator Batters: Things like requiring them to be grown in a certain fashion or held securely. Why didn't your federal government take your requirement to strictly regulate seriously and require those sorts of things with a federal law rather than handing it off to the provinces?

Ms. Petitpas Taylor: Once again, we've taken the advice from the task force and we certainly want to ensure that provinces and territories can certainly streamline the provincial legislation that they've put in place. We have heard differing points of view from provinces and territories regarding the issue of home cultivation and they are meeting the needs that are required in their area. As a result, we've seen differing positions from different provinces and territories.

Moving forward, we feel that, once again, Canadians will be able to grow responsibly this product in their home and do so in a safe way as well.

[Translation]

Senator Pratte: I am personally in favour of legalizing cannabis, but I do have some concerns and would like to ask you some questions about certain aspects of Bill C-45.

I am curious about the fact that there is a 30-gram possession limit for adults that applies in public places only, but no limit on dried cannabis in private places. There is a limit on how many plants can be grown in a residence, but not on the quantity of dried cannabis, like the dried product ready for use. An individual could therefore have in their possession, at home or even in another prescribed place, an unlimited quantity of cannabis.

I want to understand the logic behind that provision. Some U.S. states impose a higher limit in private places, while other states impose the same limit in both public and private places. I am puzzled by it all because it means that police could enter a private place with a warrant and find an astronomical amount of cannabis, but could not arrest the people involved without proving that they intend to traffic in cannabis. I find that a bit odd.

[English]

Ms. Wilson-Raybould: Thank you, senator, for the question in terms of possession rates.

I'll underscore both of my comments by stating that we took great heed of the advice that was articulated in the report of the task force. The task force did consider the public possession rates. We put it at 30 grams. Other jurisdictions in the United States were looked at by the task force as well as us. In the United States it was 28 grams. With the metric conversion we put it at 30.

In terms of private possession limits, as you've stated, we did put four plants in place in terms of a private dwelling. That was also something that was considered by the task force. The task force didn't entertain or was not specific with respect to the amount of private possession.

I will say, however, that other jurisdictions in the United States, as you reference, have put a limit on the number of plants as well that can be held in a private dwelling. Many of them refer to six plants that can be held in a private dwelling.

It's difficult, I will say, to determine the volume that will come from those plants, but again, we deem the four plants in a private dwelling as the appropriate way to move forward.

Certainly with respect to law enforcement officers, they will proceed during the course of their work and if there is reasonable cause to enter into a private dwelling they will seek the necessary judicial authorization in order to enter that dwelling.

Senator Pratte: Very briefly, to be clear on that, wouldn't there be a way — I understand that we don't know how much usable cannabis a plant would produce, so it's hard, but I wonder if there wouldn't be a way to get to a possession quantity of what in Massachusetts they call "usable cannabis" so that the police officer who enters a residence wouldn't find him or herself in a situation where you would have a huge quantity of cannabis — not 300 grams, but maybe 1 kilogram or 5 kilograms of cannabis — where obviously there is something wrong going on but couldn't act because there is no limit at all on the possession of cannabis inside a private residence.

Mr. Blair: Senator, if I may respond? I have actually gone into many of those houses and encountered that.

Let me tell you the volume alone is not *prima facie* evidence of an intent to traffic. The police would require additional evidence.

Our intent in this legislation is to prevent illegal trafficking. That's why we've placed what we believe is a prudent limit on personal possession when a person is out in public, and it's why the police will still have the opportunity and the laws are in place for those who have cannabis for the purpose of trafficking. That remains a serious criminal offence, and all the police authorities to deal with that, which currently exist, are retained in this bill.

• (1730)

But quite frankly, the volume alone is not sufficient evidence to establish a *prima facie* case of an intent to traffic. However, in the presence of other evidence — packaging materials, debt lists, that type of thing — that police may encounter or other evidence they may gather through their investigations — volume would be a significant factor when coupled with those other factors. But volume alone, in our current laws, is not sufficient to warrant a charge for possession for the purposes.

Senator Pratte: My point is, isn't that a weakness of the law? Wouldn't it be a good thing to have a criminal offence for possessing a very large volume of cannabis inside the home? That's my point.

Mr. Blair: A large volume is evidence, but it's not sufficient evidence to result in a charge of possession for the purpose of trafficking. The police are required to produce additional evidence in order to obtain a condition for that offence.

Senator Munson: I was thinking of adding a bit of levity to our debate this afternoon. I was wondering what Hunter S. Thompson would be thinking, fear and loathing in the Senate. Some people may not get that, but that's the way it is.

On a serious note, Pierre Claude Nolin, some 16 years ago, called for the legalization of marijuana. At that time, he talked about scientific evidence overwhelmingly indicating that cannabis is substantially less harmful than alcohol and should be treated not as a criminal issue but as a social and public health issue. That was 16 years ago, and now we're having this debate. I think the Senate was ahead of the curve and was history in the making.

This is long overdue from my personal perspective, but I'm concerned about those who, since that time, have had criminal convictions for small amounts of marijuana. Over the last 15 years, they walk each and every day with the stain of a criminal record, and yet the government will not issue pardons before this legislation becomes law. Why not?

Mr. Goodale: Senator Munson, as we've said before in the house to date, changing this law and changing the entire regime with respect to cannabis is a very large undertaking. It is transformative.

The senators and the studies that you have referred to a long time ago in the Senate indicate that some people were thinking in this direction in a very early way, and others have not changed their view up until and including today and no doubt well into the future. But we have made the public policy decision that the law should change, for the very good reasons that we've described here. Undertaking to do so is a very big enterprise.

I think the questioning today has indicated how complex and intricate this work is. We have goals and objectives for getting it done in the appropriate way later this year. But until the law changes, the existing law remains in place. That's a very important principle in Canadian jurisprudence and you don't rush to a conclusion until you get the job done. When you get the job done, the change has to unfold in an orderly fashion.

Senator Munson: But, minister, does it make sense for prosecutors to be laying charges today and getting convictions for simple possession?

Mr. Goodale: I could have a debate with prosecutors or police forces, but it's the last thing a politician should do. Let the police authorities and those who are in the offices of the directors of public prosecutions and provincial attorneys general make the appropriate decisions about the enforcement of the law.

We will bring in, at the federal level, a new regime that we sincerely believe will be better, but we would not argue during this transition period that members of a government or an opposition or any other political organization should presume to tell prosecutors and police officers how to do their jobs.

Senator Munson: In closing, you said sometime this year, later this year.

Mr. Goodale: We've made it very clear that our goal is this summer.

Senator Munson: This summer. That's eight to twelve weeks after July 1?

Mr. Goodale: Our goal is this summer, in an orderly fashion, with all of the pieces sequenced in the right order so that they are effective.

Senator Munson: Thank you.

The Chair: Honourable senators, the committee has been sitting for two hours. In conformity with the order of the Senate of December 14, I am obliged to interrupt proceedings so that the committee can report to the Senate.

I know that you will join me in thanking the witnesses.

Hon. Senators: Hear, hear!

The Chair: Honourable senators, is it agreed that I report to the Senate that the witnesses have been heard?

Hon. Senators: Agreed.

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

REPORT OF THE COMMITTEE OF THE WHOLE

Hon. Nicole Eaton: Honourable senators, the Committee of the Whole, authorized by the Senate to consider the subject matter of Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts, reports that it has heard from the witnesses.

The Hon. the Speaker: Honourable senators, we now resume debate on Bill C-58, Senator Ringuette, for the balance of your time.

[Translation]

ACCESS TO INFORMATION ACT PRIVACY ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

On the Order:

Resuming debate on the motion of the Honourable Senator Ringuette, seconded by the Honourable Senator Cools, for the second reading of Bill C-58, An Act to amend the Access to Information Act and the Privacy Act and to make consequential amendments to other Acts.

Hon. Pierrette Ringuette: I hope my speech will be as interesting and as popular as the debates in Committee of the Whole.

[English]

Honourable senators, over the three decades since that act, we have advanced admirably in access to information. Look at the numbers. Almost 850,000 requests have been processed since 1983. That translates to 96 requests for every working day, and that number is increasing every year.

• (1740)

In 2016-17, there were almost 92,000 requests, a 22 per cent increase from the previous year. That's 350 requests every working day for last year.

Forty-two per cent of these requests self-identify as coming from business; 34 per cent from the public; 10 per cent from the media; 5 per cent from organizations; and 4 per cent from academia. Almost two thirds of requests were completed within 30 days, and 81 per cent were completed within the provided extension period.

Last year, more than 16 million pages were processed, and over 81 per cent of government records were disclosed either in full or in part.

Honourable senators, it's been 35 years since the act was first introduced in 1983. Do you know what else happened 35 years ago? My daughter was born. *Star Wars: Return of the Jedi* and *Superman 3*, both of these series have been rebooted sooner than this act. We've had five different actors playing Superman and no significant changes to the Access to Information Act.

Let's put it into context.

[Translation]

It's time to bring the Access to Information Act into the 21st century. Thirty-five years ago, fax machines were cutting-edge and information was stored in huge filing rooms. Today, we have smart phones and social media, big data and high-speed Internet. Canadians seek out information through digital channels, and government can now interact with the public through the web and social media.

[English]

Thirty-five years ago, government records were predominantly paper-based. Today, the vast majority are digital, and Canadians increasingly expect to be able to find this information online. It's time to bring the Access to Information Act into the 21st century.

Honourable senators, Bill C-58 will enact a number of reforms that have been called for on numerous occasions.

In 1987, the first parliamentary committee review of the act identified inconsistencies in its administration across government and recommended clearer Treasury Board policy direction. There were two noteworthy recommendations: extending the act to ministers' offices, administrative institutions supporting Parliament, the courts and Crown corporations; and that the Information Commissioner be granted order-making powers for

the disclosure of records. These recommendations were not implemented 30 years ago but will be in the bill we have before us today.

In 1990, the Information Commissioner, academics and parliamentarians requested additional improvements, once again asking to extend the act to all government bodies and granting order-making power to the commissioner.

These were not implemented, but over the next decade, the government did make several targeted amendments to the act. For example, in 1992, it enabled requesters with sensory disabilities to obtain records in alternate formats. In 1999, the act was amended to make it a criminal offence to intentionally deny a right of access under the act by destroying, altering, hiding or falsifying a record, or directing someone else to do so. And in 2001, after 9/11, it added more national security protections.

[Translation]

Around that time, the Access to Information Review Task Force commissioned numerous research papers and consulted individuals, civil society groups and experts from across Canada. The task force's 2002 report, "Access to Information: Making it Work for Canadians," made 140 recommendations for improving access to information at the federal level. These included extending the act to the House of Commons, Parliament and the Senate; establishing broader access to government records, including those in ministers' offices and those produced for government by contractors; permitting institutions to not process "frivolous and vexatious" requests; granting the Information Commissioner order-making powers; providing more training and resources to federal institutions; and strengthening performance reporting.

While these proposals were not acted upon at that time, honourable senators, the bill before us today addresses many of these important recommendations. I will highlight a few in just a moment.

[English]

Many governments have talked about updating the act, but, honestly, little has been done.

In 2006, the Federal Accountability Act made small changes. It expanded coverage to officers of Parliament, Crown corporations and foundations created under federal statutes, and established a "duty to assist." This is an obligation for institutions to make every reasonable effort to assist requesters and to provide a timely and complete response to the request.

Finally, honourable senators, in 2009, the House of Commons Standing Committee on Access to Information, Privacy and Ethics undertook a review of the act. The committee consulted with civil society, media and legal organizations, as well as provincial information and privacy commissioners.

Its report made a number of suggestions, including granting the Information Commissioner the power to order institutions to search, retrieve and reproduce records. I can understand that the same recommendations have been coming every time that the issue has been studied repeatedly year after year. The report recommended granting the Information Commissioner a public education mandate; requiring a review of the act every five years; and extending the act to cover the general administration of Parliament and the courts.

However, these recommendations were not implemented at that time. The bill before us today takes on the challenge of addressing issues that governments have been avoiding for 30 years.

I would now like to turn to the major features of the revitalized act, beginning with one that the Information Commissioner has herself requested: strengthened oversight of the right to access.

Currently, the Information Commissioner has no power to order a government institution to release records that have been requested under the act. A requester can submit a complaint to the commissioner, who will investigate and make a recommendation to release. Only a recommendation; nothing is mandatory.

• (1750)

If the institution does not accept that recommendation, the commissioner currently has no option to challenge the institution's decision, except in court, with the agreement of the requester.

Under Bill C-58, the requester would continue to have the right to complain. This right would be clearly communicated to the requester as required by the act.

But when it comes to the conclusion of the commissioner's investigation of such complaints, the commissioner would now have the power to make an order to resolve the complaint. For example, she could order the release of a record if she concludes it was improperly withheld.

The government institution would be required to release the record in accordance with an order from the Information Commissioner, or go to court if it disagreed with the commissioner's order.

Bill C-58 proposes to give the head of the institution 30 business days to ask the court to review the matter. The institution would then need to demonstrate to the court that its interpretation is correct. This would require time and resources, something that will make departments think hard before challenging an order from the commissioner.

[Translation]

Honourable senators, this is unprecedented at the federal level. Never before has the Information Commissioner had the authority to order a government to release documents. The new reform of the Access to Information Act would give the Information Commissioner order-making power. This would transform the Commissioner's role from an ombudsman to an authority with legislative power to compel federal institutions to

release information. These new powers include the authority to make orders about such things as fees, access in the official language requested, extensions, and the format of release for accessibility reasons.

To make it possible for the Information Commissioner to exercise this new authority, the government indicated that it would be providing the Commissioner with additional resources. Honourable senators, this is a radical change in the way in which access to information works in the federal government, and it will truly make the process more efficient and enhance the Commissioner's oversight of the right to access to information.

[English]

Let me turn to another major part of this bill — proactive publication.

Bill C-58 would entrench in law, for current and future governments, an obligation to proactively publish a broad range of government information on a predictable schedule, and without the need to make a request.

Now, it should be noted that most information not proactively published would still be requestable under the current system. The bill is clear that this is a means to make the system more efficient and a complement to the access system, not a replacement.

In many cases, this information has been proven to be of high value for the public.

Before they started being proactively disclosed, contracts over \$10,000 were among the most requested documents through the access to information system.

Those who have their expenses and contracts open to the public are inevitably going to take better care of the public dime. It will apply not just to ministers' offices, not just to the Prime Minister's Office, but across the government.

Honourable senators, this legislation is a significant step forward for freedom of information in this country. Through this legislated system of mandatory proactive disclosure, the Access to Information Act will, for the first time, extend to ministers' offices and the Prime Minister's Office. In doing this, the bill codifies some of what has been done in practice by government but is actually not part of the current access to information regime.

At the same time, proactive publication will now cover more types of information. If passed, the bill would require the proactive publication of mandate letters and revised mandate letters, briefing packages for new ministers and deputy ministers, titles and tracking numbers of briefing notes for ministers and deputy ministers, notes prepared for the Prime Minister and ministers for Question Period, and binders for parliamentary committee appearances. These new requirements are in addition to what the Prime Minister's Office, ministers' offices and government institutions currently publish, including travel and hospitality expenses for ministers and their staff, as well as senior officials across government; contracts over \$10,000; and grants and contributions over \$25,000.

And following an amendment from the House of Commons Standing Committee on Access to Information, Privacy and Ethics, further rigour has been brought to these requirements by providing that, in the future, mandate letters must be published within 30 days of being issued.

As well, Bill C-58 would legally require that institutions that support Parliament, senators and members of the House of Commons, to publish proactively travel and hospitality expenses, and the contracts they award over \$10,000.

While some of that information is already proactively published by a number of these institutions and parliamentarians, Bill C-58 will enshrine these requirements in law.

Now, some senators are going to object to this bill, saying it infringes on the Senate's rights, that we are the masters of our own house. Let me quickly put that to rest.

First, we already proactively disclose in almost the exact manner that the bill requires.

Second, and more important, this does not challenge what we do or how we do it. The act provides a uniform standard of proactive disclosure for all, enabling citizens to easily understand and analyze that information.

• (1800)

The bill differs slightly from what we currently disclose, but where it goes further I think we can agree that it is a good thing, and where it doesn't, it wouldn't stop us from additional disclosures that we see fit as an institution. For instance, senators disclose information on all contracts, not just those over \$10,000.

An additional issue that may be pointed out is that the bill puts the authority under the Speaker. As per proposed section 71.02, the Speaker shall cause to be published the above expenses. However, it doesn't prohibit the Speaker from designating that responsibility to another entity, such as the Committee on Internal Economy.

I agree with this proposed section because it provides for our Speaker, who has the authority to rule on parliamentary privilege, to not cause to publish items of parliamentary privilege.

Administrative institutions that support the courts would be required to publish travel and hospitality expenses of senior officials, contracts over \$10,000, and expenses reimbursed as part of travel, conferences, incidentals and representational allowances of judges of the Superior Courts.

Honourable senators, the bill codifies proactive publication and applies it to institutions across government, including federal ports and Crown corporations.

Currently, there is no legislative requirement for any of this to be made public; existing requirements are still set out in policy only.

So Bill C-58 will replace the current patchwork with a more consistent set of rules. This information will be published on a predictable schedule. Making such information automatically available will make for a more open and transparent democracy.

The government would regularly assess the types of information most frequently requested by Canadians under the act to look for opportunities to expand the kinds of government information that could be made available proactively in the future.

As the government continues to modernize the digital tools it uses to process information, it will be easier and easier to share more of its information online, automatically.

Given the growing pressure on the request-based system — there was a 22 per cent increase in demand just last year — anything the government can do to make information available proactively will help get information in those requesters' hands more quickly.

[Translation]

Honourable senators, Canadians enjoy an efficient access to information system. This brings me to the third issue I want to talk about today.

The Information Commissioner and the Standing Committee on Access to Information, Privacy and Ethics have recognized that requests made in bad faith can sometimes have a negative impact on an institution's ability to follow up on other requests and to carry out other work. We understand that most people who use the system and some strong media voices have a hard time imagining a vexatious request that does not warrant a full response.

The departments consider the problem requesters to be people who, for various reasons, use the system for purposes that are clearly not in line with the spirit of the act. I'll give some examples. An employee who is subject to disciplinary action as a result of misconduct at work may decide to request access to all the emails of the 20 employees in his human resources group from the two previous years, knowing full well that for just \$5, he will swamp them with months of work.

[English]

Let me give you another example. Ex-partners may ATIP each other's work schedules and emails, all in the hope of obtaining ammunition for a divorce.

Though the number of these types of vexatious requests is estimated to be quite small, the resulting work can be substantial and strain the system. Such requests defeat the underlying purpose of the act, which is to give Canadians access to the information they need to participate in public policy decision making and to ensure government is accountable. By tying up government resources, they interfere with an institution's ability to do other important work and to respond to other requests.

Bill C-58 provides government institutions with the ability to decline to act on these types of requests. In fact, eight provinces and three territories already have such measures in their own legislation.

However, during the committee's study of the bill, there were valid concerns expressed by Canadians about this part of the legislation. In response, Bill C-58 has been amended to provide greater assurance to Canadians that legitimate requests will not be declined. This discretion will be exercised with great care. In addition to the duty to assist, the legislation now proposes an additional safeguard; that is, requiring the Information Commissioner's prior approval before an institution declines to act on a vexatious request.

As well, amendments were made to clarify the circumstances in which the authority to decline could be used. Institutions would not be able to decline to act on a request solely on the basis that it didn't provide a specific subject matter, type of record and period or date for the records sought.

These amendments clarify the intent of the provisions in Bill C-58 and provide additional safeguards to ensure they are fairly applied.

A frequent criticism of the ATIP system is delay and inconsistency. The government is investing in improving the system by developing a new plain-language guide that will provide requesters with clear explanations for exemptions and exclusions.

The government will invest in tools to make processing information requests more efficient and allow federal institutions that have the same minister to share their request processing services for greater efficiencies.

This last measure, for example, would make it easier for federal institutions within the same ministerial portfolio — such as Health Canada and the Public Health Agency of Canada — to work together, therefore enabling efficiencies to better serve requesters.

[Translation]

Honourable senators, the reforms before us today are the first legislative phase of what would be an ongoing review and modernization of the act.

• (1810)

Under this bill, Parliament would undertake a review of the act every five years, the first of which would start no later than one year following Royal Assent of this bill. These five-year legislative reviews, conducted by both chambers of Parliament, would provide a prime opportunity for Canadians to have their say on access rights and help the government ensure that the system continues to meet their needs. These reviews would help us assess what works and what needs to be improved to ensure that the act never becomes so outdated again.

[Senator Ringuette]

[English]

This bill, like most, is not without criticism, some of which has already been addressed during the collaborative efforts in the other place. The Information Commissioner says that Bill C-58 falls short of her expectations. Also, indigenous groups that work on land claims had issues. These issues were heard and have been addressed in amendment.

On land claims issues, there was concern that the detailed information required for initiating a request would undermine efforts to obtain needed records. The bill was amended to no longer allow institutions to decline requests on this basis. The commissioner would be required to give prior approval of any denied request.

The bill also requires institutions to work with requesters to further focus their requests.

Judicial groups said that Bill C-58 infringes upon judicial independence, but the bill proposes that the registrar of the Supreme Court, the Chief Administrator of Courts Administration Service and the Commissioner for Federal Judicial Affairs would have, as you do, Your Honour, authority to determine which information is excluded from proactive disclosure when it may interfere with judicial independence, as in the Senate case or the MP case, parliamentary privilege.

The Privacy Commissioner highlighted the importance of balancing access to information with the fundamental right of privacy to which every citizen is entitled. The government agreed with these preoccupations.

I would like to take a minute to address concerns brought up by the Canadian Bar Association regarding solicitor-client privilege and the possibility of a court challenge.

Bill C-58 continues to enable the Privacy Commissioner and the Information Commissioner oversight roles in the context of an investigation, and clauses 15 and 50 maintain the status quo. The language adopted reflects the need for a clear, explicit and specific reference to solicitor-client privilege to allow the commissioners to continue to fulfil their oversight role.

The adoption of the new subsection 36(2.2) of the Access to Information Act and subsection 34(2.2) of the Privacy Act is designed to ensure that providing privileged records to the commissioners will not result in a waiver of that privilege.

And rest assured that the Attorney General will challenge any recommendations by the Information Commissioner to disclose privileged records when it is needed.

To be clear, the act fulfils its objective to expand the openness and transparency of government institutions while maintaining protections for privileged information.

I want to take a minute to reflect on some of the Information Commissioner's concerns. She had a number of them. Some were addressed in amendments while others were not, for reasons I will briefly explain.

Recommendations 1 to 5: The Information Commissioner's concerns regarding right of access were generally addressed in amendments to section 6 in committee. The commissioner had concerns that the specific information required to initiate a request would hinder access. The requirement was removed from the list of reasons to decline. In addition, institutions would be required to work with the requester to focus the request.

The amendments also clarified that institutions required prior approval from the Information Commissioner before declining a request.

Regarding her recommendations 6 to 16, the Information Commissioner recommended that ATIP be applied to the PMO with Bill C-58. While the PMO and the minister's office will not be subject to ATIP, they will be subject to legislatively mandated proactive disclosure. Some amendments were made to clarify that originals of documents can be requested for verification, and the commissioner would have oversight of these requests. Institutions that support Parliament are also covered by proactive disclosure requirements.

In her recommendation 17, the commissioner recommended that all fees be eliminated. The bill eliminates all fees except for the initial \$5 filing fee, and the bill retains the authority to set fees by regulation, allowing for future flexibility. The government has publicly stated that they have no intention of requiring fees other than the \$5 filing fee.

Recommendations 18 to 23: While the commissioner was seeking further powers, the bill offers a much stronger oversight than is currently in place. For instance, the commissioner's orders would be binding unless a party challenges that order in court. The bill was also amended to provide for the publication of the commissioner's orders.

Recommendation 25: The commissioner sought that all former complaints not completed would be subject to the new model. In other words, she was requesting retroactive powers. This was not granted.

The one-year coming-into-force provision in the bill will allow for time adjustments and for fairness. Requests should be reviewed under the model at the time they were received.

As I have noted, a number of important amendments were made during a collaborative effort in the other place. As I mentioned earlier, one significant change to the bill is the requirement that the Information Commissioner must give their approval before a government institution can decline to act on a vexatious or bad faith request.

In the original bill introduced in June, a requester could complain to the Information Commissioner after an institution declined the request. This was a major improvement in the bill. The Information Commissioner could then investigate and, if warranted, make an order for the institution to process the request in whole or in part.

Now, thanks to this amendment, the commissioner must give her approval before an institution can decline to respond to a request.

• (1820)

The Hon. the Speaker: I'm sorry, honourable senator, but your time has expired. Are you asking for five more minutes?

Senator Ringuette: Five minutes, and I will be very quick.

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

Hon. Senators: Agreed.

Senator Ringuette: Another important amendment is that a government institution may not decline to act on a request on the sole basis that it does not provide a specific subject matter, type of record, and period or date for the records it is seeking.

Both of these amendments will give Canadians greater assurance that legitimate requests for information will not be declined.

As well, in response to the Information Commissioner's recommendations on Bill C-58, the bill has also been amended to provide a clear authority for the Information Commissioner to publish her reports, including any orders made.

Publishing these reports would provide a body of precedents for institutions and help institutions understand the Information Commissioner's position on their obligations under the act.

This will help avoid the same issues having to be reinvestigated and, from my perspective, will generate more openness.

The last two changes I would like to highlight relate to the section on proactive publication.

Amendments were made to clarify that Canadians will continue to be able to make a request for the original documents that are proactively published should they wish to validate the information that has been published.

The Information Commissioner would continue to have oversight over the documents released in response to the request. This change was made in response to concerns that the Information Commissioner would not retain oversight over documents that are required to be proactively published. The change would also allow her to review the application of exemptions to these records.

[Translation]

Bill C-58 did not originally set out a timeline for the proactive publication of ministers' mandate letters and revised mandate letters. Now, under the amendment, such letters must be published within 30 days of being issued. This amendment, which requires these documents to be published within a given timeframe, makes it possible to bring this bill in line with other proactive disclosure requirements.

[English]

In conclusion, honourable senators, I believe that Bill C-58 strikes the right balance between openness and transparency and other obligations such as national security and privacy.

This bill reaches us after a strong multi-party effort that resulted in a stronger bill addressing a multitude of concerns.

For those who may think that this bill does not go far enough, I will remind them that this is just the first phase of an ongoing process that would be legislated in Bill C-58. I think we can all agree that it is time to bring the act into the 21st century, only 17 years after that century has begun.

[Translation]

I am proud to sponsor this bill, and I urge all of my colleagues to support these legislative measures.

Thank you.

Some Hon. Senators: Hear, hear!

[English]

Hon. Ratna Omidvar: Will the honourable senator take a question?

Senator Ringuette: Yes.

Senator Omidvar: Thank you, Senator Ringuette. I attended the technical briefing. I've heard you use the word "vexatious" quite often. We heard that in the briefing as well. Do you have a definition or criteria? Because it might be vexing to someone to open their papers and accede to a request, but it might be really serious for the person. What kind of lens will be applied to this?

Senator Ringuette: I thank you for your question. I understand your concern. There's no implicit definition of "vexatious" or "in bad faith" in the act. However, what I like about the issue is that defining a request as vexatious does not rely on the government institution. Before the government institution can decline a request based on being in bad faith or vexatious —

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

Senator Ringuette: Yes.

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

Some Hon. Senators: Agreed.

Senator Plett: No.

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

Some Hon. Senators: Yes.

Senator Plett: No.

[Senator Ringuette]

The Hon. the Speaker: I hear a "no." Your time has expired.

(On motion of Senator Martin, debate adjourned.)

COMPETITION ACT

BILL TO AMEND—SECOND READING—
DEBATE POSTPONED

On Other Business, Senate Public Bills, Second Reading, Order No. 6, by the Honourable Tobias C. Enverga, Jr.:

Second reading of Bill S-242, An Act to amend the Competition Act (misrepresentations to public).

Hon. Yonah Martin (Deputy Leader of the Opposition): I'm sorry, Your Honour, regarding Bill S-242, I would ask for leave that I be able to be the new sponsor of this bill.

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

Hon. Senators: Agreed.

(Debate postponed until the next sitting of the Senate.)

FEDERAL FRAMEWORK ON POST-TRAUMATIC STRESS DISORDER BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator White, seconded by the Honourable Senator Enverga, for the second reading of Bill C-211, An Act respecting a federal framework on post-traumatic stress disorder.

Hon. Leo Housakos: Honourable senators, since I am now the sponsor of this bill, and since the previous sponsor did not use his allocated time, I ask for leave to extend my speaking time to the normal 45 minutes allotted to the sponsor. I assure colleagues I do not plan to use the full 45 minutes.

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

Hon. Senators: Yes.

Senator Housakos: Colleagues, I rise today to speak to Bill C-211, which calls for a federal framework on post-traumatic stress disorder.

First, I want to acknowledge a notable absence here in the chamber today, and that is the absence of the bill's author, MP Todd Doherty. If Todd could be here, I assure you he would. He has poured his heart and soul into this legislation.

Unfortunately, Todd took ill over the Christmas break. I won't go into the details, but what started out as a somewhat routine visit to the hospital ended with the doctors telling his wife and children that they should prepare for the worst.

The good news is that Todd is a fighter, and I'm happy to tell you that he has turned the corner. He is now on the road to recovery. It will likely be a long road, so I ask for your thoughts and prayers for our colleague and his family.

Something else happened over Christmas that's of particular significance to this bill. Veterans Affairs Minister Seamus O'Regan announced that the federal government will work with the Province of Nova Scotia on an inquiry into the tragic triple murder-suicide of Afghan war veteran Lionel Desmond and his family one year ago.

While the announcement is welcome news, it comes after Minister O'Regan initially acknowledged that the federal government couldn't conduct its own inquiry because they didn't have the jurisdiction to access Corporal Desmond's medical records.

This is precisely why Bill C-211 is so important. PTSD amongst first responders is a crisis in this country, and we need governments at all levels working together to address it, preferably before it ends in more tragedies like the one that befell the Desmond family.

• (1830)

Some of you may already know the story. Others may have read about it for the first time last week. For those of you not familiar with it, allow me.

Lionel Desmond served two tours in Afghanistan. He came home to Nova Scotia and, like so many who have served, he struggled. He struggled not just with post-traumatic stress disorder itself but also with trying to find treatment and support. The struggle wasn't his alone. His whole family suffered right along with him. They were all victims of PTSD.

The suffering ended for four of them one grey day in January of last year, when Corporal Desmond took not only his own life but also the lives of his wife, his mother and his 10-year-old daughter Aaliyah. There's a picture of Aaliyah and her dad that I sent around last week to all of you. She is younger in that picture. Her daddy is kneeling behind her, encircling her in his arms. Aaliyah is doing what so many kids that age do. She is looking into the camera, wide, big eyes, but reaching back with her little hand to make sure daddy is right there. She's making sure the person she trusts to keep her safe is right there.

I can't begin to fathom the hell this man and his family must have been suffering, had suffered for so long, that drove him to take the life of his wife or his mother, but it must have been an absolutely agonizing, tortuous hell on earth that brought this man to take the life of his own precious child before also taking his own.

It is stories like Corporal Desmond's that prompted MP Doherty to draft this legislation calling for a national framework for dealing with PTSD amongst military and first responders in this country.

When I met with Todd several months ago to discuss this bill, he told me he was tired of turning on the news and seeing stories of police officers and military veterans struck down by post-traumatic stress disorder, an injury that isn't visible to the eye and often goes undiagnosed or untreated.

That's part of the problem. There is no nationally accepted definition of what PTSD is. That is to say, we have no means by which we can empirically define the symptoms, and in fact more research is needed in this field.

Generally accepted definitions say that it involves being exposed first-hand or actually threatened by death or serious injury. But again, this too can vary depending on the circumstances and the individual.

We can all agree that experiencing repeated trauma or being exposed to extreme life and death circumstances can lead to PTSD, but symptoms are not always evident immediately following those events.

I want you to imagine for a moment a calm lake, no wind, no movement, just a glass surface. Out of nowhere a large rock comes sailing through the air and, bam, it hits the water. Immediately there's a tremendous splash, sending waves high into the air as the force of the impact generates a mass of concentric ripples.

From overhead, the once calm lake, now shattered, looks like a bull's eye. The concentrated rings are small but powerful at dead centre. As they extend out, they become larger and larger, but seemingly less powerful until they crest and reach the shore.

Eventually the surface of the lake returns to its glass-like state. But below the surface where the massive rock has impacted, the riverbed has forever changed. Its once smooth floor has been left decimated with a hole that cannot be refilled.

Over time, a great deal of time, with the gentle currents, a dusting of silt may cover the stone. But there it remains.

That is how post-traumatic stress disorder has been described to me, a cataclysmic event shattering the surface of life, the impact visible to all who witness the initial strike. But for those at the epicentre, the immediate waves have a larger impact. They suffer the first-hand force that those on the banks of the lake can only imagine.

And long after the evident destruction has disappeared and it appears that life has returned to a new normal, below the surface the damage, like the stone, remains. The pain, the fear, the silent suffering continues unabated, away from prying eyes. And only those closest to the injured may sense something has changed, that something isn't quite right. But all too often even those closest miss those signs.

It can be minutes, months or years before someone can be stricken by this disorder, colleagues.

Take what happened with Ottawa City Councillor Jody Mitic, who I think is with us in the gallery today. Just before Christmas, Mr. Mitic publicly shared his struggle on local radio here in Ottawa. It was, in a word, honest and raw. Mitic is known for being tough, physically and mentally. He is a war veteran who lost both his legs below the knees in 2007 when he stepped on a land mine in Afghanistan.

He said he thought he had escaped depression after being told he had been cleared for PTSD and occupational stress injuries not long after that explosion. Mr. Mitic went on with his life, authoring a book about his life-altering experience in a war zone and becoming an Ottawa City Councillor in 2014. He got involved with bodybuilding and, by all accounts, was in good shape mentally and physically.

But that changed sometime in the past year when Mr. Mitic was in pain from infection that prevented him from wearing his prosthetics. The physical setback led to a mental setback. Being wheelchair-bound was more than he could bear. After 10 years, the ghosts of what happened in Afghanistan seemed to have caught up. He says he turned to what he calls “an old friend,” whisky. Those closest to him knew something was off.

“I am frankly not doing well mentally, I’m not doing well physically,” Mr. Mitic said in that candid radio interview just before Christmas. “I’m not as strong as I thought. I’m a stubborn old soldier and it takes something breaking before you want to admit something is wrong.”

Mr. Mitic says it was a tactical error on his part not to have called in reinforcements sooner.

The mind is a powerful tool. We have a seemingly endless capacity to mask our pain, hide our fear, drown our sorrows and put on a face of happiness so those around us don’t see our suffering. It’s as though any sign of weakness diminishes our capacity for normal, and the last thing anyone wants is to be less than normal.

There is no black or white when it comes to PTSD, only varying shades of grey crossing the full spectrum. Everyone handles stress differently. Oftentimes it is those who are closest to that rock hitting the water, who are there at the scene, experiencing first-hand the powerful images and the trauma associated with the event, who appear to have a stronger capacity to handle stress. But do they? They are trained to be in stressful situations. They aren’t supposed to succumb. Unfortunately, that is part of the reason PTSD amongst military and first responders often goes unreported and untreated.

When I sat down with MP Doherty a couple of months ago, he told me that we lose a first responder every second day. “That’s roughly 183 people a year,” I said, having difficulty wrapping my mind around that number as I do to this day. “Yes,” Todd said, “and those are the ones we know of,” and I could see the sadness overtaking his face.

Rates of PTSD among Canadian first responders are staggering when you consider that not everyone comes forward and there is no nationally coordinated standard for reporting the condition. A recent study released by Veterans Affairs found that men serving

in uniform have a 36 per cent higher risk of suicide than those in civilian life. The number is even higher for women in uniform. It is stunning.

Again, I cannot stress enough the need for a national structure to determine accurate statistics when it comes to this debilitating disorder to help us recognize the symptoms and begin the process of finding solutions. Without this, we’re simply denying the help we’re obligated to provide. We’re talking about those men and women among us who leave their own loved ones behind every single day to go out there and help the most vulnerable and to help our loved ones. Yet when they themselves are vulnerable, where do they turn?

Just before we rose for Christmas I had the opportunity to meet with Stephen and Mary Rix. I believe they are here with us today. I want to read for you, colleagues, from a letter I received from the Rix’s at that same time, written as they were preparing for their first Christmas without their son.

Senator Leo Housakos:

I want to share my story with you about PTSD.

My son suffered from PTSD. He was a Paramedic. He was a wonderful, caring, loving son. He was our first born. He was a husband, father, brother, uncle, cousin and nephew. He was an organizer, a team player and a supporter.

His life ended in June of 2017. Our lives changed dramatically. PTSD — Post-traumatic stress disorder. What is it? For a paramedic it’s all the lives they have saved and could not have saved. They ask themselves — What could I have done better? What did I do wrong? The beginning starts but it is actually the ending.

From one call to the next. A car accident victim, a fire victim, heart attacks/strokes, murders. Take your pick, however who is there to help them? They are humans just like YOU and us. They feel things, they are not made of stone. They do not have to “suck it up.” If your son or daughter chose to be a paramedic or firefighter or even a police officer would you be proud of them? We know we are very PROUD of our son. They chose that career to help us, to help you. If we did not have them where would those victims be today?

How quickly do you want them there if it was your accident or fire? Very quickly we assure you. BUT when the call comes in, they get this adrenal rush to get there as quickly as possible to save the lives OR maybe another ambulance or fire truck will get there before me. Maybe I don’t have to see this again. Maybe I can hide this one out. If not, here they go again.

• (1840)

The letter goes on to conclude:

As we are sending this to you, our heart is breaking and tears are running down our faces. We want to hold our son. We want to see him and we want to talk to him but that is

now gone. That has been taken away from us because of PTSD. His daughter will never see him again. His wife is now the sole supporter. Is this fair?

If this Bill was passed earlier instead of sitting on a desk would our son still be here today? Don't let this happen to anyone else, please pass Bill C211. Please convince the Senate to pass it so that our first responders get the counselling and help that they deserve. So that YOU and Us can depend on our First Responders. Let's get this going. This needs to be voted on unanimously. We know you can do this.

Yours sincerely

Stephen & Mary Rix

As you see, post-traumatic stress disorder affects not only our military personnel but also police, fire and medical first responders. To be sure, PTSD is a mental health issue facing Canadians of all walks of life. This legislation isn't seeking to diminish the suffering of anyone. It isn't seeking to establish a class system amongst sufferers. Quite the contrary.

Those of us who were here on October 22, 2014, colleagues, you remember all too well, along with our staff, hiding in various offices and rooms around Parliament Hill and trying to reach family members to let them know we were okay and trying to get information ourselves.

Many of us could hear the shots being fired. We may not have known exactly what was happening, but we knew that the men and women we see every day, who say good morning to us on the way in and bid us a good evening on the way out, we knew they were out there, putting themselves in harm's way in order to protect us.

While we all suffered some degree of trauma that day, sadly, some of our RCMP and PPS officers suffered the gravest injury of all because of the unspeakable horror they saw unfold before their very eyes.

Again, this legislation isn't seeking to pit one person's pain and suffering against that of others. This legislation seeks to be a starting point. It was developed as a rallying call to bring together experts and government officials and those suffering from this disease to examine the overwhelming issue of post-traumatic stress disorder.

Currently, there is no coordinated federal-provincial strategy that would expand the scope of support to ensure long-term solutions for those suffering from PTSD. We need to start somewhere. That's what Bill C-211 does — it provides for that all-important starting point. The heavy lifting on this very important issue will be done once this legislation passes.

Bill C-211 will ensure that a national framework will set in place a long-term set of best practices, statistical data and consistent terminology and education when dealing with PTSD and occupational stress injuries. It will help to ensure we get consistent care and diagnosis of PTSD for our veterans and military personnel and first responders from coast to coast to coast.

Honourable senators, this is what Bill C-211 is all about, saving lives. Saving lives of those who save us and our loved ones. Time is of the essence. Remember, one every other day, colleagues. It's staggering to think of that.

Our colleagues on the other side unanimously passed this legislation in a non-partisan show of solidarity with our military and first responders. Now we have an opportunity to come together in one voice to do what is right. We have the opportunity to pull back the shame associated with mental illness and through the creation of a national framework have a positive effect on the lives of our first responders and military who suffer needlessly, without hope and without support. We have an opportunity, colleagues, to pass legislation that will forever change the way we deal with PTSD.

Colleagues, we owe it to Jody Mitic. We owe it to Stephen and Mary Rix, and we owe it to Aaliyah. Thank you, colleagues.

Hon. Wanda Elaine Thomas Bernard: Honourable senators, I rise today as the critic of Bill C-211. Thank you, Senator Housakos, for sponsoring the legislation that will bring valuable change for Canadians, and I thank you for your impassioned speech today. I thank our colleagues in the House of Commons for introducing this bill to develop a national framework for post-traumatic stress disorder, PTSD.

I will begin by stating that I support the principle of the bill and that my concerns lie with the level of inclusivity in this proposed framework.

I would also like to acknowledge the dedication first responders have for our communities. I agree with the need to name PTSD as a prevalent issue that impacts many Canadians. The current system leaves too many people suffering alone and in crisis. This bill highlights the efforts being made to fight stigma associated with mental illness.

Honourable colleagues, I wish to add more to the story of the late Corporal Lionel Desmond to communicate a few concerns around Bill C-211.

Lionel Desmond was a young African Canadian man living in rural Nova Scotia who served in Afghanistan for two tours in 2007. The late Corporal Desmond suffered from PTSD and received care initially when he returned from Afghanistan. He continued to struggle after this initial treatment. In crisis, dealing with what he called the "monster" inside him, he sought out health services in a small hospital in Antigonish, Nova Scotia.

He was not admitted to the hospital. He returned home. Then, on January 3, 2017, he completed suicide after he shot and killed his wife, Shanna, their 10-year-old daughter, Aaliyah, and his mother, Brenda. This family's story is an extremely tragic one, and it aptly illustrates the dangers of neglecting to address mental health issues.

I attended a community gathering in St. Andrews, Nova Scotia, last fall in memory of Corporal Desmond. I heard Cassandra Desmond speak about her brother and the issues that he faced. She called for an inquiry to prevent future tragedies involving PTSD. This young woman lost four members of her family on one day.

I attended the event as an observer to support the family and to hear what the community was saying. The community was asking for action. I met other families and community members who continue to struggle with this significant loss. At this event, there were also many retired veterans and their families in attendance who are impacted by PTSD. This community stands with the Desmond family in the call for an inquiry. They want action. They need answers. After hearing the community's plea, I decided to advocate for intersectionality and inclusion of marginalized voices to be reflected in Bill C-211.

I wish to highlight an element of this tragedy which has not been a focal point. As I stated previously, Lionel Desmond was an African Canadian. We know that he suffered PTSD after serving the two tours in Afghanistan. Yet it is seldom acknowledged how his experience as an African Canadian impacted his mental health. There are reports from other veterans within the Canadian Armed Forces of racism they experienced in the forces.

So what I'm asking you to consider, colleagues, is how racism impacted his well-being pre-deployment, how racism within the military shaped his experience, and how it hindered the accessibility of services made available to him when he returned home.

This man suffered from the compounding trauma of racism and war-related PTSD. This man was living with the burden of multiple oppressions which led him to end his life.

• (1850)

Just last week when I was home in Nova Scotia, I met a retired African-Canadian RCMP officer. I will call him Mr. Jones, a pseudonym. He shared with me that he was placed in a foster home before the age of five. He was placed in a rural community, in a White family, where he was the only Black person in the community.

He did not see another Black person in his life until he was 18 years old and entered college. He completed his college diploma and could not find work in his field in Nova Scotia. He joined the RCMP. He experienced racism as a Black person in the RCMP.

If you read the book by Sergeant Craig Smith, *You Had Better Be White by Six A.M.*, you will hear many stories of Black RCMP officers telling of their experiences of racism in the RCMP. Everyday racism is a form of trauma. Micro-aggressions are a form of trauma. Many people suffer in silence.

These two stories bring to light many issues I wish to address today; issues of mental health, issues of race and racism, issues of access to services. Corporal Desmond could not access the care he needed to be well due to the multiple barriers he faced — his mental health status, his rural location.

Like these two men, many Canadians live at the intersection of multiple oppressions. Intersectionality is important to consider in the development of this national framework, as the voices of those most impacted by multiple and intersecting oppressions will not be heard. In addition to living with a mental illness, many Canadians may be racialized, living in rural communities, isolated, aging, may be members of LGBTQ2+ communities, indigenous, may be women, low-income persons, may be living with other forms of disabilities. All or any of these factors may mean increased risk of suffering from PTSD and facing barriers in accessing services.

We must be cognizant of the reality that the experience of all veterans and first responders is not uniform.

According to a study entitled *The black mask of humanity: racial/ethnic discrimination and post-traumatic stress disorder*, prolonged exposure to racism creates an experience of stress on individuals which materializes as PTSD. Some researchers suggest that the chronic stress of racial discrimination may lead to symptomatology of PTSD.

Another example of discrimination leading to PTSD is the link between gendered violence and trauma. According to Statistics Canada in a survey taken in 2016, women are four times more likely to be sexually assaulted than men in the Canadian military; 31 per cent of women in the military were subjected to sexualized or discriminatory behaviour.

Honourable senators, the faces of PTSD are not just the first responders who attend the scene of an emergency. I believe Bill C-211 should be more inclusive of other Canadians who struggle with PTSD. PTSD is a condition that results from exposure to a wide range of traumas, including but not limited to violence, sexual assault or rape, harassment, witnessing a death, experiencing a natural disaster, a car crash, a bombing or any other emergency.

First responders and other professionals listed as persons of concern in Bill C-211 are exposed to trauma regularly and certainly do require a specific consideration within this framework. I absolutely agree with that. But the list is incomplete, as there are other first responders who often experience vicarious trauma in their work, such as nurses, social workers, doctors, 911 dispatch and other professionals to who work in these fields every single day.

In addition, the bill is silent on the many Canadians who fall through the cracks and already struggle to access care.

Last Wednesday was Bell Let's Talk Day. Many of us tweeted about the importance of talking about mental health, encouraging people to seek help if needed. I personally tweeted about seeking help from a counsellor, a social worker or helpline if you're in need of support.

We are in the midst of making significant changes by diminishing structural stigma around mental health and mental illness. That being said, we are missing an important reality — the lack of services, long waiting lists and the lack of culturally appropriate services.

People like Lionel Desmond ask for help and are unable to get it. Marginalized people are still falling through the cracks. We must acknowledge those voices who have not yet been heard, and we must include how marginalization itself also creates trauma and barriers.

At a different event last week, I was sharing that I am the critic on this bill and I would be speaking to it. A young woman came up to me during discussion and said, “I hope that you’re also talking about people like me.” I said, “What do you mean?” She said, “I grew up in a home where violence was an everyday occurrence, and I suffer from PTSD because of it. People like me need help as well.” This was an adult woman looking back on her childhood, who was raised in a very violent home.

So the impact of the trauma of oppression, the impact of the trauma of violence, including the violence of racism, can lead to PTSD for many people.

The faces of PTSD also include the families of the responders and the actual survivors of trauma. Some other voices we have not heard are those of survivors of trauma. For survivors, every time they retell their story, they relive the trauma. For survivors of trauma, every time they are triggered, they relive the trauma.

We hear from first responders and veterans who are advocating for themselves, for more availability of services, and I support and encourage their advocacy. But today, I urge you to also consider the people living with PTSD who do not have the resources to or the capacity to advocate for themselves and yet still require the availability of services and support.

Honourable senators, the framework within Bill C-211 being proposed currently focuses primarily on ensuring readily accessible services for first responders, firefighters, military personnel, corrections officers and members of the RCMP. As I’ve said, that is important. I don’t want to take away from that in any way. However, by default, this framework will exclude other first responders and some lesser-heard voices of Canadians who have had traumatic experiences who are in desperate need of care to be well.

I support Bill C-211 in principle, and I am making the two following recommendations to have a more impactful influence on Canadians living with PTSD.

• (1900)

First, let us expand the scope of this proposed national framework to include more Canadians, especially individuals with intersecting oppressions for surviving with PTSD, despite the barriers to services.

Second, I recommend that we recognize the compounding trauma that marginalized professionals listed in Bill C-211 face and how that impacts their mental health.

With these two recommendations, I believe that many more survivors of PTSD will be impacted by this positive change, and fewer Canadians will be subjected to the unnecessary tragedies that result in unanswered calls for help.

Hon. Joseph A. Day (Leader of the Senate Liberals): I wonder if the honourable senator would accept one question.

The Hon. the Speaker *pro tempore*: Senator Bernard, a question?

Senator Bernard: Yes.

Senator Day: Thank you, senator, for your thoughtful presentation. Could you tell us whether you will be proposing the two recommendations you just made at committee or as amendments to the bill?

Senator Bernard: Yes, I would consider proposing those at committee.

Senator Day: I hope you do, and thank you for that.

(On motion of Senator Day, debate adjourned.)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

TWENTY-FIRST REPORT OF COMMITTEE— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Massicotte, seconded by the Honourable Senator Tannas, for the adoption of the twenty-first report (interim) of the Standing Committee on Internal Economy, Budgets and Administration, entitled *Audit and Oversight*, presented in the Senate on November 28, 2017.

Hon. André Pratte: Honourable senators, I do not have the extensive business or finance experience that Senators Moncion, Massicotte and Wells have and therefore my contribution to this debate will be far more modest than theirs.

I will simply answer two questions: What is the problem we are trying to solve? And how can we regain the trust of Canadians?

With all due respect to the members of the Standing Committee on Internal Economy, Budgets, and Administration, I get the impression that somewhere along the way they lost sight of the problem at hand. The Auditor General’s report did not call into question the Senate’s entire budget; it questioned the expenses of senators and their offices. The fact that these expenses constitute only 5 per cent of the Senate’s expenses changes nothing. What shocked Canadians is not the management of our \$100 million budget. What shocked them were the expenditures for which senators are directly responsible, that the rules were unclear, that a number of senators took advantage of this shortcoming, and that the control mechanism in place meant that senators were both judge and party.

The committee's focus should have been on this third point. However, in recommending that the new committee on audit be given oversight of the entire Senate budget, the report appears to be drawing attention away from the real issue. It also appears to be trying to justify the creation of a new standing committee. In fact, if the goal is solely the oversight of senators' expenses, it does seem excessive to create a completely new committee, given the expense involved. So CIBA has elected to give this new creature a bigger playing field.

In my opinion, it would be much wiser to adopt the approach proposed by Senators Moncion and Massicotte. There are differences between the approaches, but the idea is the same, that is, to use the services of an external firm to regularly audit senators' expenses and review the rules that are in place. The auditor would then report either to CIBA or its audit subcommittee — much simpler, less costly. But, as we say in French:

[Translation]

“Why do things the easy way when we can do them the hard way?”

[English]

In any case, the heart of the matter lies elsewhere. Whether a new committee is created or the ultimate control over senators' expenses goes to an existing committee, a more fundamental change is needed. The Internal Economy Committee has refused to recommend such a change for reasons which — and I say this with the utmost of respect for members of the committee — are not convincing.

The fifth report on the Subcommittee on Senate Estimates identified “independence” as one of the best practices in establishing an audit mechanism for the Senate. Unfortunately, its definition of the word “independence” ignores what is most fundamental in our context. The control of senators' expenses must be independent of the senators themselves. This seems obvious. One cannot be both judge and party. That is why the Auditor General recommended the establishment of an oversight body, “the majority of whose membership, including its chair, is independent of the Senate.”

The subcommittee rejected this recommendation in order to preserve the “rights and privileges of Parliament to regulate its affairs to ensure its independence.” I'm afraid Canadians who read this will view it in a different way. They will think that senators are really trying to preserve not Parliament's privileges but their privileges. And I don't blame them.

That being said, there's no denying that while they are misunderstood by most Canadians, the rights and privileges of Parliament are important and must be taken into account in the design of a controlled mechanism for senators' expenditures.

But rejecting the substance of the Auditor General's recommendation should not lead us to reject its spirit and adopt the opposite. Yet that is what the Internal Economy Committee is doing by proposing to preserve what needs to be remedied in the old model: senators would still have oversight over each other.

[Senator Pratte]

[Translation]

In its report, the subcommittee stated the following, and I quote:

It is the opinion of the subcommittee that transparency is the greatest tool. It is the most effective method to ensure accountability by having expenditures disclosed to all Canadians.

I applaud this principle. This led the subcommittee to propose that most of the new oversight committee meetings be open to the public. However, the principle of transparency needs to be entrenched even further.

For the past few years, transparency has been top of mind for all public institutions. Under Bill C-58, which Senator Ringuette talked about earlier, the current government wants to bring in a proactive disclosure requirement for the Prime Minister's Office, ministers' offices, parliamentarians and judges. The Senate has already implemented a similar mechanism, but, as pointed out by the Information Commissioner:

Proactive disclosure requirements, where the government chooses what is disclosed, are not the same as subjecting these entities to the right of access, where requesters can choose what is requested and are entitled to independent oversight of government's decisions . . .

In other words, transparency does not necessarily mean forthrightness or openness. It can also be synonymous with nothingness. That is the case when published documents are written or prepared in a way that is intentionally indecipherable, unusable or meaningless to most lay people. Conversely, transparency can also cause suffocation. The bureaucracy quickly learned that one good strategy is to provide citizens with so much information that they become overwhelmed by the sheer volume of documents.

Should the new audit committee be established, it would certainly be wonderful if its meetings were open to the public, but that would only be a first step. It will take a lot more for Canadians to have confidence in the Senate's new expenditure control mechanism.

• (1910)

If a new audit committee were created it should absolutely include external members. Those external members would be witnesses, the eyes of the public within the committee. As our friend Senator Tannas says, it is all well and good to say that there would be 35 million pairs of eyes tracking senators' expenses by way of the committee, but in reality that will not happen if those 35 million Canadians are not represented at the table by competent and knowledgeable people.

Like Senator McPhedran, I would be prepared to accept the Auditor General's recommendation to have the majority of the oversight body come from outside the Senate. However, I understand that many members of this chamber are lukewarm to the idea because in such a system decisions about a member of

this chamber would be taken, at committee stage anyway, by a majority of non-senators. That would go against the principle of parliamentary privilege.

I still maintain that it is absolutely essential to have external members in the committee and I agree that they should be in the minority.

[English]

I would like to remind you that at the House of Lords there is a committee called the Commission, whose mandate comprises the supervision of the arrangements relating to financial support for members and of which two out of 12 members are picked from outside the chamber. There also exists at the Lords an Audit Committee made up of seven members, two of which are external members. This committee, among other things, considers the internal and external audit reports on the finances of the house.

Therefore, in these two important committees for the management of the Lords' business, external members sit without the Lords finding any difficulty in regards to their independence or their parliamentary privilege.

In response to Senator McPhedran's statement, Senator Wells cited at length the testimony given before the subcommittee by Mr. Andrew Newman, who is a partner and leader of the Public Sector Audit Practice at KPMG and the Senate's external auditor. Mr. Newman shared his extensive experience of the audit committees of several public institutions and said, regarding the participation of external members:

I have seen that tried. Quite frankly, I haven't seen it work well. The fundamental issue is the external independent members coming to three, four, five or six meetings a year. They don't have the same level of information on what the entity is doing, so they really struggle . . . to keep up and understand what's going on . . .

Now, I certainly do not doubt Mr. Newman's expertise, but I don't think his examples apply here. Indeed, with regard to the standing audit committee, whose creation we are considering, the role of external members would not be to provide specific expertise — although that would be helpful — as in the case for boards of public institutions mentioned by Mr. Newman. Rather, as I suggested earlier, their role would be to bear witness to Canadians. Besides, if we want our approach to be credible, we would appoint people of recognized competence to these positions. Such individuals would have no problem, in my view, understanding the fairly simple business of the Senate.

Let me say one last thing about transparency. In his report, the Auditor General recommended that:

The auditors should present their internal and external audit plans and reports to the oversight body and those plans and reports should be made public on the Senate's website.

This recommendation is crucial. Unfortunately, the subcommittee's report is not explicit in this regard. Will the auditor's plans and reports, especially the report of the internal auditor, be systematically made public in their entirety as soon as they are submitted to the committee? There should be no

ambiguity in this regard, no possibility or impression that the reports could be subject to haggling or modification before being published.

Ultimately, what is the goal we want to achieve? Are we not trying to regain the trust of Canadians? If we are to achieve this goal, we cannot settle for half measures. Since the expenses crisis that shook the very soul of our institution, we have established clear rules and modern, proactive disclosure practices for ourselves.

That is good, but it is not enough. We must build on this and add credible control mechanisms.

The presence of an independent auditor from an external firm would be a first step in this direction. The assurance that this auditor's audit plans and reports would be made public immediately and in their entirety would be another. Finally, the presence of external members of the audit committee is essential to reassure the public of the independence and integrity of the process.

Honourable senators, Canadians' trust in our integrity has been so shaken that even these measures would not be enough. Each of us will have to behave in an exemplary manner for years to come. Moreover, we must ensure that if ever one of us breaks the rules, even inadvertently, the new system will catch it and impose proper sanctions.

At least, by announcing such measures, we will demonstrate to Canadians that we are sincere in our desire to implement rigorous and transparent controls. Unfortunately, the proposal before us today gives the impression that we're willing to be rigorous and transparent as long as we maintain control over the system — that is, as long as we continue to be judge and party.

Colleagues, if we go that route, Canadians will not be fooled. They will have understood that all too often parliamentary privileges still serve to preserve the privileges of parliamentarians. And, once again, we will have missed an opportunity to redeem ourselves in the eyes of Canadians.

(On motion of Senator Martin, debate adjourned.)

AGRICULTURE AND FORESTRY

BUDGET—STUDY ON THE POTENTIAL IMPACT OF THE EFFECTS OF CLIMATE CHANGE ON THE AGRICULTURE, AGRI-FOOD AND FORESTRY SECTORS—NINTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on Agriculture and Forestry (*Budget—the potential impact of the effects of climate change on the agriculture, agri-food and forestry sectors—power to hire staff and to travel*), presented in the Senate on February 1, 2018.

Hon. Diane F. Griffin moved the adoption of the report.

She said: The Agriculture and Forestry Committee has submitted a budget, and it has received approval to be presented here by the Internal Economy Committee. Today, I want to tell you about what we plan to do with this.

We are planning a fact-finding trip to Western Canada, and we're also going to hear from a number of invited groups. It will be not only a fact-finding trip but an information-gathering trip for public hearings.

You may wonder why we need so many staff, but as you know, when we're having public hearings, we need transcribers, translators and, of course, the committee staff. We have a very active Agriculture and Forestry Committee, so 10 senators are planning to participate.

We'll be covering the four westernmost provinces, operating first out of Vancouver and then out of Calgary.

Unless there are any questions, I move the adoption of the report.

Hon. Joseph A. Day (Leader of the Senate Liberals): I wonder if the honourable senator would accept a question.

Senator Griffin: Certainly.

Senator Day: Thank you. Unfortunately, all I have is the Order Paper and my scroll paper, and I don't have your budget, so I don't know how much you're asking for and you want us to vote on. How many people are travelling? Are you able to help us with that?

Senator Griffin: I can, Senator Day. Thank you for your question.

The total budget is \$159,874. Ten senators will be travelling and, I believe, eight staff. Eight employees, yes, and 10 senators. And that counts for two cities. We arrive in Vancouver on March 18 and we go through until Friday, March 23, when we will leave Alberta and everybody will head home.

• (1920)

The participants, in addition to the 10 senators, require the clerk of the committee, a communications officer, and we have a very active communications plan for this. We have an administrative assistant, one Library of Parliament analyst, three interpreters and one stenographer.

Senator Day: Thank you.

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

Senator Griffin: Yes, indeed.

Senator Plett: So we now know how much money, how many people are travelling and we know this is fact-finding. What are the facts you're planning on finding?

Senator Griffin: Well, prior to my time, the committee did a trip to Eastern Canada and, of course, they got great information in the Maritimes. We thought, after that, do we really need to go

anywhere else? But it was pointed out that the situation might be a little different in Western Canada and we should indeed go on a fact-finding journey to that part of our world.

In addition to the few remaining witnesses we have here in Ottawa, this will be to wrap up the study that we're doing on climate change as it affects agriculture and forestry. We will be hearing from people involved in those two industries, as well as people who are interested in the land and the preservation of agriculture and forests in general.

Senator Plett: Thank you.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

FISHERIES AND OCEANS

BUDGET—STUDY ON MARITIME SEARCH AND RESCUE ACTIVITIES—EIGHTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report of the Standing Senate Committee on Fisheries and Oceans (*Budget—study on Maritime Search and Rescue activities, including current challenges and opportunities—power to hire staff and to travel*), presented in the Senate on February 1, 2018.

Hon. Fabian Manning moved the adoption of the report.

He said: Honourable senators, I move the adoption of the report standing in my name.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

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.

Hon. Marc Gold: Honourable senators, I note that this order is approaching day 15 and unfortunately I’m not ready to speak at this time. With leave of the Senate and notwithstanding rule 4-15(3), I would like to propose that the clock be reset on this item.

(On motion of Senator Gold, debate adjourned.)

MOTION TO URGE THE GOVERNMENT TO TAKE INTO
CONSIDERATION THE FUNDING OF LITERACY
PROGRAMS IN ATLANTIC CANADA—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Griffin, seconded by the Honourable Senator Martin:

That the Senate affirm that literacy is a core component to active citizenship, a determinant for healthy outcomes, and, at its core, key to building an innovative economy with good, sustainable jobs;

That the Senate urge the Government to take into consideration the particular regional circumstances of Atlantic Canada based on smaller populations, many of which are in rural areas, when determining whether to implement programs using project-based funding compared to core funding;

That the Senate further urge the Minister of Employment, Workforce Development and Labour to make an exception to the present terms and conditions of the Office of Literacy and Essential Skills project-based funding programs in order to request an emergency submission to the Treasury Board for \$600,000 of core funding for the Atlantic Partnership for Literacy and Essential Skills based on their 2017 pre-budget consultation submission to Parliament; and

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

Hon. Elizabeth Marshall: Honourable senators, I rise today in response to Senator Griffin’s motion urging the federal government to take into consideration the funding of literacy programs in Atlantic Canada, pursuant to her notice of September 26, 2017.

This motion calls the attention of the Senate to urge the government to take into consideration the particular regional circumstances of Atlantic Canada based on smaller populations. The motion also urges the Minister of Employment, Workforce Development and Labour to make an exception to the present terms and conditions of the Office of Literacy and Essential Skills project-based funding programs in order to request an emergency submission to the Treasury Board for \$600,000 of core funding for the Atlantic Partnership for Literacy and Essential Skills based on their 2017 pre-budget consultation submission to Parliament.

Honourable senators, last year Senator Hubley called the attention of the Senate to literacy and literacy programs on Prince Edward Island, including the need for federal support of the PEI Literacy Alliance. She indicated that Atlantic Canada has some of the lowest literacy rates in the country.

I also spoke on Senator Hubley’s inquiry and spoke on the state of literacy in Canada and in my home province of Newfoundland and Labrador. I stated that Canada has earned a “C” on literacy skills in the latest international comparison study. According to the Organisation for Economic Co-operation and Development, 48 per cent of Canadian adults have low literacy rates. Comparatively, 45 per cent of adults in Prince Edward Island have poor literacy skills; 50 per cent in Nova Scotia; 53 per cent in New Brunswick; and 57 per cent in my home province of Newfoundland and Labrador. This point was emphasized when the Atlantic Partnership for Literacy made its 2017 budget submission.

Honourable senators, the federal government, in 2014, ceased funding to literacy groups across Canada, focusing instead on funding individual projects. Atlantic Canada has been especially affected. Literacy Newfoundland and Labrador permanently closed in July 2015 after falling victim to the cuts, unable to raise enough funds to operate.

Literacy Newfoundland and Labrador then applied for funding from the provincial government. Unfortunately, this request was rejected and only funding for one particular project was approved. Literacy Newfoundland and Labrador had no choice but to close and cease its programming.

Literacy organizations have argued that core funding pays for office staff and that without these essential staff members the programs that groups administer cannot be properly supported and therefore cannot be offered to our communities. Studies show that organizations that offer literacy intervention programs, which target individuals at the lowest literacy rates, help these individuals gain the tools and the skills they need to reach a job standard rate of literacy.

Notwithstanding the aforementioned, in 2016, the Premier of Newfoundland and Labrador commissioned a task force on improving educational outcomes, which commenced its work in November 2016. The role of the premier’s task force was to examine the kindergarten to Grade 12 education system and to make recommendations to improve student outcomes, including measurable objectives and indicators.

Some of the issues raised by the task force and addressed in their recommendations include the following.

OECD studies indicate that while students in all provinces performed above the international average in reading, students in Newfoundland and Labrador performed significantly below the Canadian average.

Assessments carried out by the Pan-Canadian Assessment Program also indicate that reading achievements in Newfoundland and Labrador were significantly below the Canadian average.

The premier's task force presented its final report last July, with 82 recommendations reflecting the provincial government's commitment to enhancing the performance of Newfoundland and Labrador's education system. The report of the task force will guide the development of an educational action plan that will support dialogue with key stakeholders.

The 82 recommendations focus on numerous areas of the education system, including mathematics and literacy. It is anticipated that these recommendations will be considered in the Budget 2018 decisions.

Within the area of mathematics, the task force made 11 recommendations, and within the area of reading the task force made another 11 recommendations. I would like to relate briefly some of the recommendations which are particularly related to literacy.

First, the department should adopt a proven, research-based early assessment tool to be administered at the start of Grade 1 to identify students who require additional support in learning to read.

The department should also provide a separate teaching allocation to be dedicated as school-based reading specialists who will work directly with students who are reading below grade level in Grades 1 and 2 as determined by early reading assessments, and students who continue to read below grade level in Grades 3 to 6 as determined by school assessments.

Another recommendation was that the department should explore options with Memorial University or another Canadian university for a graduate-level specialization program to prepare reading specialists to help students.

The Government of Newfoundland and Labrador is currently in the process of developing an educational action plan, which is expected to be ready around mid-July of 2018. The analysis and study of the 82 recommendations of the task force commenced in August of last year, and some of the recommendations will be completed while the action plan is being developed.

• (1930)

It is expected that improvements will begin to be put in place for the 2018 school year. The provincial government believes that most recommendations will be implemented by the year 2022 and this will require policy changes and changes in legislation.

Honourable senators, the financial situation of Newfoundland and Labrador is well known. Our own Parliamentary Budget Officer issued a report last October stating:

The current fiscal policy in Newfoundland and Labrador is not sustainable over the long term.

The Parliamentary Budget Officer at that time estimated that permanent tax increases or spending reductions in the vicinity of \$2 billion — and we have a population of half a million people, so that \$2 billion is quite significant to us — would be required to achieve fiscal sustainability.

The province's Auditor General also issued a report last year stating that the deficit in Newfoundland and Labrador as a percentage of GDP is the highest in Canada. It is substantially higher than most other provinces and deficits of this magnitude are not sustainable.

Many other individuals and groups within the province have also acknowledged the fiscal situation faced by the province.

Given the financial situation faced by Newfoundland and Labrador, as well as the fact that it has the worst literacy rates of all the provinces in Canada, core funding would make a significant contribution in addressing low literacy rates in my province.

Newfoundland and Labrador has much to contribute on a national and international scale. Supporting and improving literacy and numeracy rates is the key to improving employment opportunities for people of all ages. Increasing these opportunities will have positive effects in our economy, our quality of life and health of our vibrant communities.

Honourable senators, improving the educational outcomes of Newfoundland and Labrador will better prepare my province's youth for the future and prepare them to be global citizens of our changing world. We need to ensure that everyone has access to programs that can intervene and improve literacy rates for the social and economic well-being of our citizens, especially for those who live in Atlantic Canada.

While the Government of Newfoundland and Labrador is working toward improving literacy rates within the province, core funding, as identified in Senator Griffin's motion, would most certainly support and enhance the efforts to improve literacy within my province.

(On motion of Senator Mercer, debate adjourned.)

MOTION TO RESOLVE INTO COMMITTEE OF THE WHOLE TO
CONSIDER SUBJECT MATTER OF BILL C-45—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Patterson, seconded by the Honourable Senator Andreychuk:

That, without affecting the progress of any proceedings relating to Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts, at 3:30 p.m. on Wednesday, February 7, 2018, the Senate resolve itself into a Committee of the Whole to consider the subject matter of the bill;

That the committee receive the Honourable Carolyn Bennett, P.C., M.P., Minister of Crown-Indigenous Relations and Northern Affairs;

That the witness be accompanied by officials;

That the Committee of the Whole report to the Senate no later than two hours after it begins;

That television cameras and photographers be authorized in the Senate Chamber to broadcast and photograph the proceedings with the least possible disruption of the proceedings;

That the provisions of the order of February 4, 2016, respecting the time of adjournment, be suspended on Wednesday, February 7, 2018, until the Committee of the Whole has reported; and

That the provisions of rule 3-3(1) be suspended on Wednesday, February 7, 2018.

Hon. Yonah Martin (Deputy Leader of the Opposition): Question.

Honourable senators, I'd like to call the question simply to say that we did hear from the ministers and the parliamentary secretary today. I listened carefully to the questions, but there was really an absence of discussion around how the bill will impact the First Nations communities. So this motion that Senator Patterson has put forward is one that we think is quite important. I'd like to see if the chamber is ready for the question.

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I would like to move the adjournment of this debate under my name.

Senator Martin: Question.

Senator Bellemare: I took the adjournment of the debate.

The Hon. the Speaker *pro tempore*: It is moved by Senator Bellemare, seconded by Senator Eggleton, that this debate be adjourned to the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: All honourable senators in favour of the motion please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: All honourable senators opposed to the motion please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: In my opinion, the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker *pro tempore*: May I have advice from the whips as to the duration of the bells, please?

Senator Plett: Fifteen minutes.

The Hon. the Speaker *pro tempore*: Honourable senators, the vote will take place at 7:50 p.m.

Call in the senators.

• (1950)

Motion agreed to on the following division:

YEAS THE HONOURABLE SENATORS

Bellemare	Lankin
Black	Massicotte
Boniface	McCallum
Bovey	McCoy
Cordy	Mégie
Cormier	Mercer
Coyle	Mitchell
Day	Moncion
Downe	Munson
Duffy	Omidvar
Dupuis	Pate
Dyck	Petitclerc
Eggleton	Pratte
Forest	Saint-Germain
Gagné	Sinclair
Galvez	Verner
Gold	Wallin
Griffin	Woo—37
Hartling	

NAYS THE HONOURABLE SENATORS

Ataullahjan	McInnis
Batters	McIntyre
Beyak	Mockler
Boisvenu	Neufeld
Carignan	Ngo
Christmas	Oh
Cools	Patterson
Dagenais	Plett
Doyle	Raine
Eaton	Seidman
Housakos	Smith
MacDonald	Stewart Olsen

Maltais	Tannas
Manning	Tkachuk
Marshall	Unger—31
Martin	

ABSTENTIONS
THE HONOURABLE SENATORS

Greene	Richards—2
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• (2000)

The Hon. the Speaker: Honourable senators, we have now reached the time for the emergency debate. We will debate the emergency matter for up to four hours. Each senator has no more than 15 minutes to speak, and no motion except that a senator be now heard can be moved during the debate.

I will now call upon Senator Tkachuk for the unusual process of moving that the Senate do now adjourn.

TRANS MOUNTAIN PIPELINE

CONSIDERATION OF MATTER OF URGENT PUBLIC INTEREST
PURSUANT TO RULE 8

Hon. David Tkachuk moved:

That the Senate do now adjourn.

He said: Thank you, colleagues. While I introduced the motion for this debate, it was done with the support of the Conservative Senate caucus, and I'd also like to thank His Honour for his ruling and to thank the senators who supported the emergency motion.

Last week, the provincial government of British Columbia announced that it would halt the flow of diluted bitumen through the Trans Mountain pipeline pending the outcome of what amounts to an environmental review. This is in spite of the fact that the project was subject to a 29-month review from the National Energy Board, which concluded that it was in the public interest and recommended federal approval.

When federal approval was announced in November 2016, it came with 157 conditions, and the British Columbia Environmental Assessment Office has already issued an environmental assessment certificate for the project. And the approval of pipelines and the interprovincial transportation of resources, such as oil and bitumen, is within federal jurisdiction, not provincial.

This is a serious issue that has ramifications for the economy of Alberta and for Canada. The pipeline expansion itself is worth an estimated \$57.4 billion. Over the construction period and the next 20 years, it will add combined revenue of \$46 billion to the Canadian economy. It means 15,000 construction jobs and an estimated 37,000 direct and indirect jobs per year.

Overall, the project should generate more than 800,000 person years of employment during project development and operations.

This is the human side of the equation. British Columbia's share is 189,000 person years, including 36,000 during project development and 39,000 during operations. Alberta's share is 441,000 person years, including 15,000 during project development and 13,000 during project operations.

This is all being put at risk by a reckless and unnecessary decision by the British Columbia government, and it amounts to an end-around of the official processes that were put in place to study the environmental impact, processes that, in one instance, took nearly two and a half years to complete, processes that worked. Processes that resulted in approval of the pipeline expansion at the federal and provincial levels. This will do no one any good and will, in fact, do a lot of people a lot of harm, as well as the entire Canadian economy, already in fragile shape due to the ballooning deficit and the tax changes south of the border that make it a more attractive place for business to invest.

Not least affected will be the people of B.C. Let's just look at one statistic. A Conference Board of Canada report reveals that 348 additional Aframax-size tankers will visit Port Metro Vancouver each year as a result of the Trans Mountain expansion.

The Conference Board further estimates that each of these tankers will spend an average of \$366,000 in the Vancouver metro area. This equates to \$127 million per year, or \$2.5 billion over the first 20 years of operation. This is not chump change.

The Conference Board further estimates that the combined impact of the expansion would generate 678,000 person years of employment and \$18.5 billion in fiscal benefits over the first 20 years of operation.

The Trans Mountain expansion project was proposed in response to requests from oil companies to help them reach new markets by expanding the capacity of North America's only pipeline with access to the West Coast.

These shippers have made significant 15- and 20-year commitments that add up to roughly 80 per cent of the capacity in the expanded Trans Mountain pipeline. Kinder Morgan has jumped through all the regulatory hurdles that were placed in front of them. They, and the companies backing them, thought the race — a marathon, by the way, not a sprint — was over. Now they are finding that it is not over.

Is this how are we going to do business in this country? The Prime Minister reacted to the news coming out of British Columbia by saying, "Look, we are in a federation," and he was not inclined to interfere in "disagreements between provinces."

More recently, his natural resources minister, Jim Carr, said in an interview on Global News that if B.C. wants to launch further consultations, they can, though it needs to be done in a timely fashion. What neither statement inspired was confidence that the federal government was going to do anything to resolve the situation, which is hardly surprising, since they are largely responsible for it.

Alberta's premier put it best when she told the Prime Minister that this is not a debate between B.C. and Alberta; this is a debate between B.C. and Canada. Thousands of jobs hang in the balance as do billions in investment and customers lining up to use the pipeline.

Why, at this late stage, would B.C. be emboldened to move to effectively kill the expansion of the Trans Mountain pipeline and put the oil sands into jeopardy? Why is B.C. doing what they are doing? Because they can. And why is that? Because the federal government has been inconsistent in its environmental position and has sown confusion across the country. In confusion there is chaos.

Let's look at the record. The federal government caved in to the West Coast environmentalists by banning tanker traffic on the West Coast. No tankers. That means no pipeline there, either. Tankers could go south along the coast. That's not a problem, even though that's a largely populated area. The Northern Gateway was done. So where can the pipeline go? Through the heavily populated south, that's where, providing fodder to the Greens in B.C., who have no interest in pipelines and want to kill the oil sands.

Meanwhile, on the East Coast, which would be energy-starved without tankers, there's no such ban on tankers. Yet their coastline stands exposed to the same environmental hazards as the northwest coast of B.C. There was a solution, of course — the Energy East pipeline.

The Energy East pipeline made perfect sense in a country like Canada. We have plenty of oil, but we lack the ability to get the oil to all parts of the country. We get it to Ontario by shipping it to the United States, where it is refined first and then shipped back up to Ontario.

The Energy East pipeline would have decreased our dependence on oil from the Middle East from countries that lag behind the rest of the world on human rights and women's rights. Meanwhile, women are working in Fort McMurray, involved in all phases of the oil industry and in their community. They can drive and everything, even though they live in Alberta.

We cannot buy from them because people like the former mayor of Montreal and former Liberal MP, Denis Coderre, lobbied selfishly and effectively against Energy East and then danced on the grave when the pipeline was cancelled. The man who poured 8 billion litres of waste into the St. Lawrence River found a new environmental calling when it came to Energy East.

As progress on Energy East slowly ground to a halt, the Prime Minister stood by and did nothing. His inaction effectively killed the pipeline, as investors who euphemistically referred to changing business conditions abandoned it.

That inaction, that attitude, emboldened the opponents of Trans Mountain. It provided the B.C. government with the impetus and encouragement to say, "We can kill it because the federal government will stand by and do nothing." And stand by they have.

If the Prime Minister acts, how is he going to explain this to the premiers of the Maritime provinces who desperately wanted Energy East for development and energy self-sufficiency?

• (2010)

On the weekend, Jim Carr said outright on Global News that the issues the B.C. government would be studying were the very same issues the federal government in its consultation spent months studying. But that is their right, he said. The federal government would be happy to see this process run on and on.

How do I know this? In 2012, in an interview which you can find on YouTube, the man who is now the Prime Minister's principal secretary, Gerald Butts, was asked, "Why don't we propose a different route for the Northern Gateway pipeline?" I will quote his answer verbatim. You can check it out on YouTube. Just type in "Gerald Butts" and "pipeline." He replied:

Truth be told, we don't think there ought to be a carbon-based energy industry by the middle of this century. That's our policy in Canada and it's our policy all over the world.

He went on to say:

The real alternative to the Northern Gateway is not an alternative route; it's an alternative economy.

I don't think he has changed his thinking one bit. In my opinion, they're going about achieving their objective by using a strategy of a project delayed is a project denied. The B.C. decision fits right in with that strategy.

We have a hodgepodge of tanker regulations that breed division in our country and now a hodgepodge of regulatory rules that seed discontent. The idea seems to be to delay approval even when you have approval so that the investors finally get tired, fold up their tents and go home, like TransCanada did on Energy East.

This is a threat to our country as Premier Notley so ably identified. The energy industry in Canada is missing out on higher energy prices, and investors and customers look askance at our policies and our inaction. Energy stocks continue to deteriorate, and savers and pension plans are paying the price.

This is highly irresponsible at a time when the NAFTA negotiations are in such a state of flux. Two years ago, the Banking Committee, which I chaired at the time, conducted a study on internal trade. We estimated that the elimination of internal trade barriers would add somewhere between \$30 billion to \$150 billion to our economy. We have a long way to go to get there, but the state of the NAFTA negotiation throws the importance of internal trade into high relief. The West, with its New West Partnership Trade Agreement, is leading the way. But with Alberta and British Columbia on the brink of a trade war, even that agreement is imperiled, much less the progress that has been made on a Canada-wide process of eliminating trade barriers.

The government needs to do something to reassure investors. They need to make it very clear that they have jurisdiction in this area and that they will defend it in no uncertain terms, and that in regard to the B.C. study, getting it done in a "timely fashion"

means getting it done before the deadline for completing the expanded pipeline so it becomes operational, on time and on schedule.

Hon. Douglas Black: I'm not going to speak long, but I do want to follow up on my comment of this afternoon. I agree with much of what my colleague Senator Tkachuk has just said, because the agenda of the British Columbia government is clear. They want to create as many obstacles as they possibly can so, as Senator Tkachuk has said, Trans Mountain folds up its tent and goes home.

You can only imagine the conversations that must go on between Mr. Anderson, who leads the project for Trans Mountain, and Houston, where he calls on a weekly basis to give reports on how the project is going or not going. And you can imagine what Houston's response is, where they can put their billions of dollars any place in the world. That is the nub of the problem that we're facing.

I see Trans Mountain as the canary in the coal mine. If we don't send a message as a country that we are open to responsible investment, then we will lose our competitive position. This is something that the Banking Committee, which I now have the privilege of chairing, will be studying this spring, and we can start to focus on this now. The realities are what they are. Not only do we have the challenges that we're talking about here on Trans Mountain, that we have to be very cognizant of, we have the reality in the U.S. where personal income taxes are dramatically different than they are in Canada and corporate taxes have been reduced to certainly the level in Canada, if not lower.

We have the inequality in respect of the matter of carbon taxes. We have the fact that the U.S., last week, hit a target of 10 million barrels a day of production. If they choose, they no longer need to rely on Canadian oil. They will for strategic reasons, as long as it fits their strategic agenda, but the reality is they do not need our product.

Meanwhile, our response is not to approve the projects. So we've put ourselves in the position of the worst of all worlds, and we have the overlay of the NAFTA uncertainty.

We are developing, justifiably, a reputation as a country that just can't get it done, and that is a dangerous place to be. It's a place that this house cannot allow without blowing the whistle.

If we decide to abandon projects, we abandon investors, we abandon taxes and we abandon jobs. As Senator Tannas so eloquently said this afternoon, we run a real risk of igniting the national unity debate again. This, if not managed properly, will make the National Energy Program, which caused so much antipathy in the West, look like child's play. I'm not overreacting or being overly dramatic. These are the facts as I see them.

We're the people here that like to get stuff done, so what should we do and what should we not do?

In my view, the first thing is the Senate needs to take national leadership. Nobody else is. We have an opportunity to step up and make it known to Canadians that nation-building demands that the Trans Mountain project be proceeded with, because we

insist on the rule of law. What we are seeing now in the antics being advanced by the Government of British Columbia offends the rule of law. The Government of Canada has decided this project will proceed. That is the law, and this must be respected. So we need to indicate that we support that position.

Second, I believe the Government of Canada should instruct the National Energy Board in the same way that they dealt with the Burnaby issues, to either utilize the existing panel that they have set or set a new panel to deal with these schoolyard games. Let me be clear as to what I mean there.

As you'll recall, the community of Burnaby endeavoured by way of injunction and other tactics to prevent Trans Mountain to advance. That was the last chapter, just before Christmas. The response of the government was to instruct the National Energy Board to create a special panel with very restricted timelines to deal with these squabbles. That mandate should either be broadened or a new panel should be established for the National Energy Board to, for example, deal with this latest initiative of the Government of British Columbia. So the National Energy Board within a 14-day period can say, "Yes, that dog hunts," or "No, that dog doesn't hunt."

Finally, while not technically needed, because the Government of Canada has the authority necessary to advance with the project, there may be merit for this house or the House of Commons to pass an act declaring, without any doubt, that the Government of Canada has the ability that it professes to have here constitutionally, but, more importantly, to indicate that the movement of energy products or other products between provinces is in the national interest.

• (2020)

I think this is something constructively that we might be able to initiate here in this chamber: What not to do. And this very week we must be mindful to this.

Introduced in the house this week will be amendments to the National Energy Board Act and the Environmental Assessment Act to change the way the projects in Canada are to be assessed going forward. We must ensure that that piece of legislation is not retroactive and does not capture Trans Mountain. So we need to be very alert to that fact.

Finally, I suppose most of us in this chamber are old enough to remember that the Prime Minister's father at one point in his career, when confronted with a significant challenge to Canadian stability, stated, "Just watch me." I am now suggesting to the current Prime Minister that his "Just watch me" moment has arrived. He needs to explain to Canadians clearly, and he needs to explain to Premier Horgan specifically, that the Trans Mountain project will be built because it's in the interest of all Canadians. It's in the best interests of Canada. And, by the way, the coast of British Columbia is my coast too.

Some Hon. Senators: Hear, hear!

Hon. Richard Neufeld: Honourable senators, I rise today to take part in the emergency debate on Kinder Morgan's \$7.4 billion Trans Mountain pipeline expansion project. I want to thank our colleague Senator Tkachuk for initiating this timely

debate. As I said earlier, I think it falls upon us in this chamber to have a fulsome debate on this urgent matter of national significance. Our Canadian resources are being held hostage by the B.C. NDP government that will try to do whatever it can to stop the construction of the Trans Mountain pipeline.

As a senator from British Columbia, I was happy when the Trudeau government approved Kinder Morgan's expansion project in late 2016. Of course, for me, its approval was a no-brainer. Thankfully, the Prime Minister relied on science-based evidence and facts and upheld the National Energy Board's decision that this pipeline was in the interest of the nation. Minister of Natural Resources Jim Carr also reiterated this weekend that Canada's consultation was both broad and deep and led the Canadian government to conclude that this project was in Canada's interest.

As Senator Tkachuk said, B.C. Premier John Horgan and his NDP minority government announced last week that it was now seeking public feedback on "restrictions on the increase of diluted bitumen transportation until the behaviour of spilled bitumen can be better understood and there is certainty regarding the ability to adequately mitigate spills."

Despite what he may tell the press, Premier Horgan opted for yet another obstructive tactic in the ongoing and completely unnecessary saga over the construction of this pipeline.

While I can appreciate that the premier is against this project, I draw the line when a provincial government holds our Canadian oil — that's yours and mine — and our Canadian interests in limbo for their own political gain.

So the B.C. government now wants to set up an independent scientific advisory panel to make recommendations on "if and how heavy oils can be safely transported and cleaned up if spilled." Is that a joke? The government makes it seem like oil hasn't been shipped safely for decades and that no spill response plan even exists in case of an unlikely incident.

We all know that oil tanker spills are very rare. There have been no major tanker spills in Canada for some 35 years. Critics and naysayers are often too quick to refer to the *Exxon Valdez* spill of 1989 off the coast of Alaska to remind us all about the dangers of the marine transportation of oil.

In fact, as reported in one of our Senate committee reports in 2013, following the *Exxon Valdez* disaster, "the Canadian government established the Public Review Panel on Tanker Safety and Marine Spills Response Capability to undertake a major public review of tanker safety and marine spill response. That review, and the panel's report, resulted in a significantly revamped marine spill prevention, preparedness and response approach for Canada."

Further, governments past and present have been committed to protecting our coasts. Whoever would think otherwise is clearly misguided.

A number of initiatives have been launched in recent years, including a world-class tanker safety system in 2013 and the most recent \$1.5 billion Oceans Protection Plan announced in 2016 that improves marine safety and responsible shipping, and protects Canada's marine environment.

With respect to pipelines, I want to remind everyone that pipelines are considered the safest and most efficient method to move petroleum products. According to the Government of Canada, on average each year, 99.999 per cent of the oil transported on federally regulated pipelines moves safely.

So this is where we are at today. Despite the safety and success rate of both tankers and pipelines and the necessary approvals from the Trudeau government, the B.C. NDP wants to halt what has been deemed as a project that is in the national interest.

The *National Post* wrote a great piece on Friday. Allow me to quote directly from its article which, in my view, summarizes well the current impasse:

In the latest example of our continuing national self-sabotage, the minority British Columbia government has said it will consider whether to ban expanded exports of raw bitumen from the B.C. coast. The province's NDP government says the proposed ban is designed to forestall any increase in exports via the Trans Mountain pipeline until it is confident that its coasts are perfectly safe from a spill of Alberta oil, which the province uses in abundance, but which the NDP government and its Green party coalition allies consider to be vile.

The article continues, and this is the kicker:

This is such a transparent con that it should offend all intelligent people. The anti-oil ideologues that now control the provincial NDP and Green parties will never be satisfied that there are sufficient safeguards in place. The strategy is clearly obstructionist, intended to forestall, likely indefinitely, Kinder Morgan's plan to expand the capacity of its pipeline (including new construction of sections in some areas) to the B.C. coast. This is a slap in the face of all Canadians who support our energy sector, made worse by the insulting fiction that it's anything other than a permanent roadblock gussied up as a procedural delay.

Clearly, Premier Horgan is committed to keeping our rich natural resources hostage. These resources belong to Canadians. In fact, the premier may also be forgetting that the coast does not belong exclusively to British Columbia; it belongs to all Canadians.

Premier Horgan, I urge you to be a better neighbour, to respect the Constitution and to uphold the decision of the federal government to proceed with this pipeline expansion project and stop with your interventionist tactics.

In fact, I think Premier Horgan may have forgotten that interprovincial pipelines are a federal jurisdiction, hence the reason why the federal government was the sole authority capable of green-lighting this project.

I am happy that Prime Minister Trudeau has sided with Alberta's Notley government on this issue. You see, even I can agree with a Liberal and an NDP leader sometimes when, like them, I have the best interest of the nation at heart.

About a week ago in Edmonton, the Prime Minister is quoted as saying that the pipeline will get built. Well, let's get shovels in the ground. Let's start building the pipeline instead of just talking about it.

But as John Ivison wrote last Friday:

Real leadership requires him [the Prime Minister] to take the next step and head off a brewing national unity crisis by making it clear that new delaying tactics will not be tolerated.

This brings me to why I feel this emergency debate is needed. Senate rule 8-3(2) requires that the matter concerns the administrative responsibility of the government. The Prime Minister needs to show real leadership and stand up to Premier Horgan on behalf of all Canadians. Perhaps the Prime Minister may even want to consider sending the premier a copy of the Constitution?

• (2030)

As I said earlier, this is not about pitting those who support resource development and pipelines against those who don't. Whether or not you agree with the pipeline is beside the point. The point is we have a premier within the Canadian federation who wants to have the final say on how, where and when we can ship, load and/or export one of our most valuable commodities.

Kinder Morgan's Trans Mountain Pipeline is good for business, and it's good for Canada. It will create good-paying, family-supporting jobs during construction and operation, boost our economic activity and increase the value of Canadian oil on the world stage. In fact, 97 per cent of Canada's oil is sold to the United States at a discount price. Guess who wants to keep it that way? We seriously need to expand our client list and diversify so we can get a fair market price for our products.

Federal and provincial governments are expected to see \$46.7 billion in additional taxes and royalties from construction and 20 years of operation. Think of all the schools, hospitals, paved roads and bridges that these funds could be used for. Additionally, the Conference Board of Canada estimates that 15,000 construction jobs would be created and 37,000 direct, indirect and induced jobs per year of operation. Many sectors of our economy could benefit from this important infrastructure project, many of which have already been taking advantage of the business opportunity the oil sands have given them for decades. The economic impact of our natural resource development is undeniable.

Just as an aside, allow me to remind all senators that in fiscal year 2017-18, only four provinces will not be receiving equalization payments. They are Newfoundland and Labrador, Saskatchewan, Alberta and British Columbia. What's the common denominator here? These are all oil and gas producing

provinces. Yet another reason why the matter at hand is worthy of this emergency debate and is, without a doubt, a national crisis.

We need to stop dilly-dallying on this issue. The federal government must intervene because Canada's oil needs to reach new markets, because Canada can no longer afford for its oil to be essentially landlocked in North America at a discounted price, because Canada produces the most environmentally and socially responsible oil in the world, and because demand for oil will continue to grow and we can help meet global demand.

The fact of the matter remains that Canada's investment attractiveness is slowly deteriorating, as others have said, and these types of shenanigans create huge investor uncertainty.

As Premier Notley said:

If Canada wants to present itself to the world as a country that is capable of creating jobs and attracting investments, then it needs to be able to present itself as a country that, when a decision is made, people can count on it to be implemented.

The newly appointed Saskatchewan premier echoed her remarks:

The BC NDP are playing politics at the risk of thousands of Canadian jobs, future infrastructure projects as well as investor confidence in our energy industry. We will support the Government of Alberta in any actions against this political decision.

I'm not at all surprised that Alberta's premier is now threatening to suspend talks with B.C. on the possible purchase of hydroelectricity. She claims this could cost B.C. half a billion dollars a year. Premier Horgan claims to be surprised by the reaction from the Government of Alberta. He believes his decision is not unreasonable. Who is he kidding?

As the former minister responsible for BC Hydro, I certainly don't welcome Premier Notley's menacing words. However, I can certainly appreciate where she is coming from.

I remember about 15 years ago when B.C. and Alberta, under the leadership of Premier Campbell and Premier Klein, worked together constantly. I was part of that group that tried to reduce the barriers between our provinces. We actually accomplished it, reducing an awful lot of them. There are more barriers between Canadian provinces than there is trade around the world. Saskatchewan joined later on, after I left the government, but it was a great thing. And what do we have? A socialist government in British Columbia that is destroying that as we speak. That is terrible.

Honourable senators, let it be clear, this current political head-butting is not one between B.C. and Alberta. It is not simply a provincial matter, nor is it about Western politics. This is about B.C. and Canada.

It's up to the Prime Minister to step up to the plate and go to bat for all Canadians. The federal government needs to take all necessary measures at its disposal to ensure this project moves forward immediately. The livelihoods of so many Canadians are at stake.

I am seriously worried that this latest ploy by the B.C. NDP government may just be Kinder Morgan's last straw. I have to hand it to Ian Anderson. He has the patience of Job, and so do his bosses in Houston. I know the company is committed to getting this pipeline built. The federal government needs to ensure the road is clear for them to proceed without delay.

Hon. Frances Lankin: Honourable senators, I am pleased to have an opportunity to speak to this. I thank Senator Tkachuk for bringing the issue forward. I hope that we are able to determine a way to continue the discussion going forward. One evening is a very good start.

I'm particularly interested in Senator Black's suggestion around an act or something that gives clarity on jurisdiction. I'll come back to why I think we can all rhetorically say this is federal jurisdiction, but there have been some court decisions that challenge that a little bit. There is clarity to be sought.

In this case, in terms of the number of jobs that are impacted, in terms of the economic investment that may well be foregone, I think it's important to have clarity on that jurisdiction issue and to be able to put that to bed and ensure that we are asking the federal government to act in an area that is clear for them in terms of their constitutional jurisdiction.

I want to make a comment first on the issue of interprovincial trade. Like my colleague opposite, I spent hours and hours at the federal-provincial table in the early 1990s on the agreement on internal trade. I'm heartsick to see the possibility that we might have the cancelling of negotiations on the purchase of electricity from B.C. by Alberta.

Just today there was another shot across the bow that there might be a ban on the import of B.C. wines. I remember the discussion about the importance of wine to Ontario, B.C. and to Quebec, which imports a lot of wine and then bottles in Quebec, and the origins of that. It has been an issue that has been, for so many years in this country — not just wine but interprovincial trade and the movement of goods and people — one that we have struggled to get better and better at. We have international agreements that are more secure for the trading of goods and the movement of people than we have here. I think our most recent Senate study pointed out the problems there again.

It's not just a matter of a potential trade war between provinces. Others have spoken to the potential national unity crisis that we could be looking at if we don't find the right way to move forward through the differences of opinions and the resulting projects that will either be built or not built and what that means to our economy, and how they're built and what that means to our environment. There are a number of issues that are important here that can be brought together.

I want to talk briefly primarily about the issue of constitutional jurisdiction. If we think about the establishment of the Senate, the very first job of the Senate was to determine whether the laws

that were being made were in accordance with the Constitution. At that time, the Constitution was not about the Charter of Rights and Freedoms and the things we think of now. It was about the federal-provincial division of powers and the Senate's job not only to ensure that those jurisdictional divisions were respected but also to understand, in all manner of things, the impact on regions of our country. So this issue falls squarely, as Senator Black said, within the purview of the Senate's concern in terms of a major national situation that we are facing right now.

• (2040)

In the last few years there have been some court decisions that blur the lines a little bit, however, in terms of federal-provincial jurisdiction. In the Northern Gateway case there was a challenge, and I think it's referred to primarily as the *Coastal First Nations* case. In that case, as I understand it, at least, it went to the B.C. Supreme Court. And while the court agreed it was an interprovincial transfer of product, they ruled that in fact the impact in terms of the province's environment and their concerns was so substantial that it would be inappropriate to stop the province from having regulatory powers over the operation and/or the environmental issues that give rise to that.

I didn't have time in preparation for this, as it is an emergency debate we just found out about today, to actually pull that decision and read it. So I hope I'm giving you an appropriate précis of it, but it does beg the question — I know it was at the B.C. Supreme Court level — about how clear are we about the federal jurisdiction when we rely on saying it's an interprovincial transfer of product.

A second decision that most recently was rendered was with respect to a mine. The senator opposite would know about this than I. It involved Taseko Mines at Williams Lake, B.C. In that case there was a federal environmental assessment, which concluded that the adverse environmental impacts would be so great as to say that they don't warrant the project going forward. So that project was overturned. Taseko challenged the federal government's decision on constitutional grounds and in that case they argued that the federal environmental assessment violated the province's clear jurisdiction over what was an exclusively provincial undertaking in that case.

I'm taking this from some work that was done by Jason MacLean, who is an assistant professor at the University of Saskatchewan, the College of Law. Again, with the short nature of the time I couldn't pull that decision and look at it. But what it does say to me is that there is some confusion in the courts and there's a reference in a couple of the interviews that I've heard that there is a jurisprudence trend that is moving towards looking at shared federal-provincial impacts and cooperative federalism in these cases.

For my way of thinking, the Senate would be providing a great service to the country if we delved down and we looked at this particular issue, if we looked at the constitutional jurisdiction issue and we looked to give clarity in however that unfolds in our deliberations here. I think that would be a service to Canada and I think it is of an important nature given the impacts that we can see — potential impacts environmentally and economically. Both of those things need to be on the table as we go forward.

That will be all I say tonight except that I hope there is a continuation, either through an inquiry or a bill to be brought forward for us to look at this issue. Thank you very much.

Hon. Michael L. MacDonald: Honourable senators, I haven't prepared any formal remarks on this subject but I would like to say a few words with regard to it.

This pipeline that's being so controversial at the moment is primarily a doubling of an existing pipeline. About 73 per cent of the pipeline follows the route of an existing pipeline. Another 11 per cent follows existing infrastructure, like hydro lines or telecommunication lines, and only 11 per cent represents new pipeline. What's the situation in the country? We know what's going on. Hundreds of drilling rigs are leaving Alberta, going south, going to the States, taking all the investment with them, all the work and all the jobs. And what are the Americans doing? Well, the Americans are being smarter than we are. The Americans are taking our oil at a discounted price, sending it to their refineries in the southern U.S. and at the same time they're producing shale oil at a level that exceeds anything they've ever produced before and they're selling their oil to the world at world prices. And we're sitting here like saps and being taken. That's what's going on.

I take issue with this because I want to put it on the table with one of the points that Senator Lankin just made. There is no dispute over jurisdiction. There is no need to readdress that issue and there's no need for us to go over it. The courts have made it very clear that the transportation of petroleum across provincial lines, through pipelines, is completely within the authority of the federal government. This process was a 29-month process. Every province, every stakeholder, any individual in this country can go to the National Energy Board and put their case forward, as many did. But that was the process. The provincial government and stakeholders in British Columbia had more than ample time to make their presentations.

The National Energy Board ruled and it approved this pipeline. Why are we even discussing moving motions or trying to add new regulations or trying to have a discussion over it? Growing up in this country, I heard all the time about provincial jurisdiction. We were buried with this rhetoric: The provinces have jurisdiction and the federal government shouldn't be imposing itself into the jurisdiction of the provinces. All right, we get it. I get it, but it works both ways.

The federal government has jurisdiction too. This country has to be bigger than just the sum of its parts. We're a country. We're a nation. And all these little people are trying to knock this country backwards.

Let's look at the East Coast of Canada. We thought this way. We had about half a billion barrels of oil coming to our waters every day off Nova Scotia to refineries in New Brunswick, in the Bay of Fundy, and refineries up the St. Lawrence River in Quebec. Unlike the pipeline out West, we're not getting 17,000 direct jobs in Nova Scotia. We're not getting 35,000 indirect jobs. We're not getting billions of dollars of revenue. Directly, we're getting nothing, as Nova Scotians. All we get is risk. All we take is risk. But that's part of the deal about being a Canadian.

The East Coast of Nova Scotia is just not the coastline of Nova Scotia, and I grew up on it. The East Coast of Nova Scotia is the East Coast of my country. And the West Coast of my country is no different. We all have to pull together as Canadians and support each other.

Now, I don't always quote Andrew Coyne, I have to confess.

Senator Tkachuk: I had to.

Senator MacDonald: But I want to put on the record something he wrote this week. He said:

... we created a federal government, with powers in particular over "trade and commerce" between the provinces, and over inter-provincial infrastructure — even the power to declare any public work to be for the "general Advantage of Canada." Only with such oversight is a true economic union, with the tighter integration that distinguishes it from a mere free trade area, possible. The point of federating, in short — the point of Canada — was very much to create a federal government. If the federal government fails to uphold its proper constitutional responsibilities, it is as guilty as the province that offends them.

This is a direct challenge to the authority of the federal government. One of the problems is that the Government of Canada, when it comes to energy policy, sort of resembles the pushmi-pullyu in *Doctor Dolittle*, the two-headed llama.

• (2050)

It says it supports energy, but it really doesn't. It felt it had to approve one pipeline, so it approved this one. By approving the Energy East pipeline, it could have helped the East Coast of Canada take all of the imported heavy oil out of the water and brought it by pipeline. They could have taken all of that tanker pressure out of our waters. But since it went out of its way to kill that pipeline, I guess they thought they had to do something, so they approved this pipeline and now they're not prepared to stand behind it.

Well, as a Canadian and as a Nova Scotian, we want the federal government to stand behind this. I think it's atrocious that the Government of Alberta and the Government of B.C. has to find itself in this bun fight over blocking wine sales and blocking purchases of energy. This is not the Alberta government's fight. This has been approved by the federal government, the federal authority. It is up to the federal government to act on this. I think the federal government will act. I think Canadians will benefit in the long run from it.

If they don't act, this is not a good harbinger of things to come for this country. This is going to threaten national unity in this country. We've gone through a lot in this country in my lifetime. I think the country is finally to a spot where we can keep ourselves together. I don't want anybody kicking over this apple cart, particularly the federal government.

I urge the federal government to do its responsible constitutional duty and respect and enforce its own authority.

Hon. Grant Mitchell: Colleagues, I agree, it goes without saying, that there is great importance to the issue of building the Kinder Morgan Trans Mountain pipeline. This is undoubtedly an important debate. In some sense, as we look back on it and others look back on it, I think it may actually be seen to have a certain significant historical impact and context.

I feel, as I'm sure most of you do, and some of you are expressing, a certain level of anger. Perhaps at this point for some it's just deep anxiety. I feel that the sense of anger, anxiety, tension, call it what you will, that I sense, that we sense right here, right now in the middle of this debate is a microcosm of what is felt in parts of the country now and can be felt much more broadly. I'm quite shaken by it. I'm not dismissing it and I'm not criticizing it, but I am shaken by it, because I lived, as each of us did, I think, through the 1980s and the 1990s, the divisions, the tension, the animosity and the danger that fundamentally confronted this country. I'm having almost a flashback to that, and I am deeply and profoundly shaken and upset by it.

I am not being critical of anybody. I understand it and I feel there's been a great sense of responsibility in the way that people have presented, but you can see those other two decades from here.

So it's very true, as our colleague Senator Black said, that this is a special time for leadership by an institution like the Senate, because the Senate brings a special regional and national combined balanced perspective to public policy and to exactly this kind of debate and issue.

So I congratulate those who moved to have this emergency debate. I agree wholeheartedly with Senator Black and others who would agree that we have a special role and I think one day it might just be seen to be an historic role, that we can provide momentum for getting through this issue and getting that pipeline built.

I will, before I go further, just say one thing. While there is a great sense of urgency in the presentations that are being made, the fact of the matter is that we don't quite know yet at all whether B.C. in fact can delay this. I don't believe they can. We're not at a point where that decision has got traction or can be made.

The fact of the matter is that the National Energy Board did its analysis and specified 157 conditions that the company, Kinder Morgan, has to meet. My information is that Kinder Morgan is working diligently and responsibly through each of those, and until they get that one hundred fifty-seventh one checked off, we're not actually going to know whether B.C. has any impact whatsoever. I personally believe they won't. I think this pipeline will have shovels in the ground pretty much the moment that Kinder Morgan finishes that process.

Not to be provocative, but remember that that process was a revised environmental review and assessment process implemented by the previous government. All parts of this place were involved in that debate. In fact, there were those who felt that the environmental assessment was weakened.

The fact of the matter is that it has led to these 157 conditions and the company is working through them. Once they get there, that's when the rubber will meet the proverbial road and we will know.

I believe that with Alberta and the federal government and with Saskatchewan and with the kinds of perspectives that are being expressed from people across this country reflecting the intensity of their constituents, I believe that pipeline will be built.

In fact, I would say that in the context of economic reality and the impact of this decision, this pipeline, on the Albertan and Canadian economies and peoples, it is very unreasonable to prohibit the construction of this pipeline.

Clearly — I believe this deeply — we have a pressing problem of great magnitude in climate change. For me, at least, the science is clear and the challenge is clearer.

I understand that people in B.C. have concerns about this problem. I expect there are few Albertans who do not appreciate the magnitude of this problem as well. However, we simply cannot ask or expect Albertans and others whose livelihoods are based upon the oil and gas industry, in particular the oil sands, to bear alone the price of solving this problem. That would be a massive economic and human problem, not just in Alberta but across this country.

The people who are dependent on jobs and the spinoffs created by this industry have mortgages to pay, families to feed, children to educate and retirements to secure. Their reaction is deeply emotional and practical.

So in my estimation we have no choice but to build the pipeline, but we also have no choice but to reconcile these two intensely conflicting sets of interest, and not with animosity and not with anger, but with a collaboration that we have seen so often in so many successful ways that has made this country the great, remarkable, wonderful place that it is.

This is the kind of challenge that frequently faces sophisticated democratic political systems like ours, and here we are. First, we need to build this and other pipelines and other energy projects. This sustains our economy and people's livelihoods.

But while we do that, we need to continue to take steps to make our fossil fuel industry as efficient, low-emitting and safe as possible, and we need to, for many reasons, deal more broadly with greenhouse gas emissions and climate change policy. Getting our resources to market means doing it sustainably and responsibly, and I doubt there is anybody in this room who would disagree with that.

I want to specify this. Albertans have already made great contributions and sacrifices in this regard, supported by their Alberta government now, by their previous Alberta governments and by the current Government of Canada. The initiatives, undertakings and sacrifices by Albertans that I'm going to list speak directly to the kinds of concerns that B.C. has raised.

• (2100)

First of all, the former Progressive Conservative government of Alberta implemented, ahead of the curve, the first carbon tax in the country over a decade ago. The current Alberta government has implemented an aggressive Climate Leadership Plan, including a more ambitious carbon tax, phasing out of pollution from coal-generated electricity, tripling renewable energy by 2030 and capping oil sands emissions.

There has been extensive environmental review of this project. As I mentioned, the National Energy Board has required the company to meet 157 legally binding conditions. To reiterate, my understanding is the company is working through these and getting close to the point where they can put shovels in the ground.

In 2016, the federal government launched the Oceans Protection Plan, a \$1.5 billion plan that meets or exceeds Alaska and Norway's world-leading ocean protection practices. This includes the largest investment in the Canadian Coast Guard in years.

I point out and emphasize that if there is one single overriding, grave concern — and I think my colleague Senator Black said that B.C. is his coast too — of people from B.C., is it offshore oil spills. This government has just committed \$1.5 billion to deal with that issue.

The federal government has established a carbon tax policy to stimulate economy-wide reductions in emissions, and that contributes to the building of social licence for a project like this. Traditional energy companies, many of them in Alberta, if not the largest number of them, are investing more and more in alternative energy production. They are beginning to redefine, in fact, the modern concept of an energy company.

This will be perhaps somewhat more provocative, but I feel I must say this. At the same time, the world is changing, and we need to anticipate a different kind of economic future if we are to be responsible, one in which there may be less demand for fossil fuels. It's not impossible.

In my estimation, market forces are making this an imperative risk management strategy. If I were the CEO of a major oil or energy company in this country, I would feel a responsibility to consider these market forces because they are significant, they are consistent, and I believe they're on a trajectory. These forces are beginning to define the outlines of a different economic and energy future. I'll just give you a few examples.

General Motors has announced its plan to launch 20 new all-electric vehicles by 2023, and they have clearly stated that they believe in an all-electric future. This is not what some people would consider a radical environmental group attacking unreasonably. This is General Motors.

Volvo, Volkswagen, Mercedes, Audi, BMW, and I could go on, are all moving towards an all-electric automobile future.

Major investment funds are looking at how they would assess the business risk that climate change poses. Norway's \$1 trillion Sovereign Wealth Fund is planning to divest entirely from

petroleum stocks because of the risk that they perceive. They have \$700 billion invested in the stock market of that trillion, and they are not going to invest in petroleum stocks any longer.

The cost of alternative energy production is dropping dramatically, and it is becoming more and more competitive.

Some would say that all of this poses a significant challenge. I would say that this is a nation-building moment. It's not a time for acrimony; it is a time to embrace our strengths, work together, build on what we've got and turn challenge into opportunity.

Hon. Percy Mockler: I will start with a January 24, 2008, comment from one of the newspapers in New Brunswick and then a quote from Premier Frank McKenna.

The newspaper stated, "Canadian heavy-oil prices were traded this week at their widest discount to U.S. crude in four years . . ."

I agree with what Mr. McKenna said:

Now 99 per cent of all of our oil and gas to American markets, we did nothing to open up alternative markets, and during the course of that we ended up suffering deeply discounted prices.

He continued:

All-of-a-sudden we get into a new situation where the U.S. decides they want to renegotiate the terms of NAFTA, and we're left without that particular element of leverage.

Mr. McKenna concluded by saying:

The old expression of why buy the cow when you get the milk for free comes to mind.

[Translation]

This afternoon, I carefully considered what Senator Tkachuk was doing.

[English]

He's giving us an opportunity to debate it.

Thank you, Mr. Speaker, for your ruling.

[Translation]

I want to congratulate Senator David Tkachuk, who is from Saskatchewan, for his prowess and determination in initiating this evening's debate. As Senator Tannas, Senator Mitchell and Senator Black stated, it is a pan-Canadian project. Energy East will never be built if the government ignores projects that have a national impact.

[English]

It is also troubling and alarming when I hear Senator Black and Senator Tannas providing facts of what is happening in their region of Canada. This type of attitude will create uncertainty in our country. As a senator from Eastern Canada, New Brunswick, and as a senator of Canada, it is alarming.

Let Canada not be labelled as anti-business or anti-energy. If they do not stand up for Canada from coast to coast to coast, we will delay.

Prime Minister Trudeau said on February 2, 2018:

It is in the national interest to move forward with the Kinder Morgan pipeline, and we will be moving forward with the Kinder Morgan pipeline.

I want to raise some statistics and information about national projects.

As landlocked Canadian crude loses tens of thousands of dollars per barrel every day, pipelines are of a national interest to Canada. The price differential between Western Canada Select and West Texas Intermediate was approximately US\$11 per barrel in November of 2017. Recently, that differential has been closer to US\$30. What does that mean? It means that for every barrel of Canadian crude sold, Canadian producers lose 30-plus dollars per barrel compared to their international competitors that have greater access to world markets.

Pipeline access would support the competitive position of West Coast producers and East Coast refiners. The country as a whole would benefit and create jobs for Canadians.

Saint John, New Brunswick, is home to the Irving Oil refinery. I'm going to share some statistics on this. It is Canada's largest refiner, with a daily throughput capacity of approximately 320,000 barrels. Irving Oil was not only supportive of the Energy East project but had taken on an additional role as a 50-50 joint venture with TransCanada to build and operate the needed marine terminal.

• (2110)

Honourable senators, I want to share with you in this debate that Irving Oil has been operating in New Brunswick since 1924. Irving Oil, refining in New Brunswick since 1960. Irving Oil, energy supplier to Atlantic Canada, New England and also Quebec. Irving Oil, decades of environmentally safe marine expertise. Irving Oil employs more than 3,400 people throughout Canada, the United States and now Ireland.

As a matter of fact, TransCanada chose to work with Irving Oil based on the company's decades of marine and environmental safety and terminal expertise. That is Canadian expertise from coast to coast to coast.

Irving Oil wasn't just a marine terminal partner. Canada's largest refinery had also subscribed to 50,000 barrels per day of crude from the same pipeline.

Honourable senators, what does processing this volume in New Brunswick mean? It would allow for Canadian crude to be refined on Canada's East Coast and shipped to new markets or sold as crude on the open markets in the world. Refining and shipping finished Canadian petroleum products allows for more value to be added in Canada while maintaining a direct crude export option for other crude volume on the line.

Senators, today the Irving Oil refinery is the sole remaining refiner in the Maritimes and the New England states. In recent decades, refineries across Canada have locked their gates. Why? As margins tighten, only the most competitive businesses will remain, and refining is not an easy business. Most recently, Imperial Oil closed their Dartmouth, Nova Scotia, refinery and has since dismantled it. Those jobs will never return.

Like Kinder Morgan, the Energy East project offered thousands of jobs and billions of dollars of investment funded 100 per cent through private means. The Energy East project would have created approximately 2,300 well-paying direct jobs and indirect jobs in New Brunswick alone.

The benefits of Energy East extended far beyond New Brunswick. The project would have generated more than \$15 billion in private investment while delivering approximately 1.1 million barrels of Canadian crude per day to tidal water and world markets, and it was all being supplied by the West Coast or Alberta.

The Port of Saint John is home to some of the deepest ice-free tidal water in the world, and it can easily handle the world's largest tankers. The Bay of Fundy is a safe, well-regulated shipping route with plenty of room for the added capacity that the Energy East pipeline would have created.

The Trans Mountain pipeline, just like the Northern Gateway and Energy East before it, fits the bill of projects that are for the general advantage of Canada, nation-building projects from coast to coast to coast to better the lives and the quality of life of our Canadians.

What will this require? It will require that the federal government of the day establish a clear plan and a timeline for moving the Trans Mountain expansion forward. In the long term, I believe that it will also require that the federal government completely rethink and revisit its approach on both Northern Gateway and Energy East. Ultimately, I'm still confident these projects are necessary for Canada's global competitiveness. They are needed to reduce Atlantic Canada's dependency on foreign oil, over which, by the way, we can impose no environmental extraction standards as they are required to put in place a way to move oil products more safely than the current alternatives of moving that oil by road or rail.

Honourable senators, we require that we unite together to say to the government that we must change the course. If not, Canadians will suffer.

Hon. Pamela Wallin: So much has been said tonight, but I did want to put on the record — and Senator Mitchell will be happy about this — that the new premier of Saskatchewan tonight agrees that B.C. has no legal jurisdiction to delay or impede. He

also said that Saskatchewan will support Alberta but will not engage in trade retaliation. I am relieved by that because we need a moment of calm at this time.

The irony of this whole situation and debate might be amusing if it wasn't so incredibly serious: Alberta calling on Ottawa to assert its authority over the resources. Some of us remember the impact of the long-simmering consequences of the NEP, the National Energy Program, which led to turmoil and disquiet for decades, and here we are again today with constitutional questions and political consequences for Canada, not just for two provinces.

Can B.C. block oil from reaching the coast? Is it illegal? Is it unconstitutional, or is it both? The rule of law matters, as Senator Black has pointed out. The Constitution is key, as all have said. Trade and commerce is the federal government's job, to ensure and promote it, so that this country lives, breathes and expands.

This is a very serious moment, and many see it as an attack on the whole idea of Canada as this unlikely east-west idea that came together because of shared values. It's a reminder that it affects all of us, not just Alberta and B.C.

My province intervened in the NEB hearings in Burnaby saying that this project has been approved and neither municipalities nor provinces should interfere, recognizing that that was some very hard-fought ground, but that this is indeed Ottawa's jurisdiction.

The Prime Minister says getting our oil resources to new markets across the Pacific is absolutely essential. I agree. But the track record is mixed. Yes to Trans Mountain, no to Gateway, and now a statement that he doesn't really want to get in the middle of a fight.

Well, a leader is one who knows the way and goes the way and shows the way. I'm quoting Martin Luther King here:

A genuine leader is not a searcher for consensus but a molder of consensus.

I think it was Senator Tkachuk who referred to the situation when the other pipeline was cancelled: Denis Coderre, former Mayor of Montreal cheered for the end of Energy East. He said it was a good day for Canada.

The then premier of Saskatchewan, Brad Wall, said instead that it was a cheer for imported oil from Saudi Arabia and that he was disheartened to see a fellow Canadian cheering against thousands of jobs and good incomes, which in turn would generate more than \$17 billion in taxes for the federal government. You'll remember what he said, that \$17 billion equals 680 new schools, 1.8 million knee replacements, 4.25 million child care spaces.

Taxpayers in Alberta and Saskatchewan send \$2.5 billion in equalization payments to Central Canada, and this is despite lower energy prices, job losses and of course lower provincial revenues.

• (2120)

None of us really want to traffic in fear, but when it's real, we must recognize it. If you don't name it, you can't fix it.

Brad Wall issued a dire warning last October. He said for the West to continue in the federal system is like having Stockholm syndrome. None of us wants to go down that road again, where it is asked whether Western Canada is valued, whether our contribution to the national life and the national economy matters, and whether our contribution to improving the quality of life for all is respected.

Senator Tannas talked about this earlier, about the consequences of families fighting families or neighbours turning on neighbours.

Quebecers know this. During the separatist debates, they know what happened across the dinner tables.

Premiers boycotting each other's products, even shared interests, is not where we want to go. That is why national governments must act, while provincial governments must stand up and take responsibility, and why all of us in this chamber should indeed take this case on.

I commend to the Prime Minister, to Premier Horgan and to all of us in here the words of Colin Powell—you know how I love the four-star generals. He said:

Leadership is solving problems. The day soldiers stop bringing you their problems is the day you have stopped leading them. They have either lost confidence that you can help or concluded you do not care. Either case is a failure of leadership.

We cannot allow that to happen.

Hon. Scott Tannas: I'll be very brief. I had a chance to vent my spleen earlier today.

Let me say thank you to Senator Tkachuk for this idea and to you, Your Honour, for allowing this to take place.

I feel old today. I spent my life and career building something, and I remember old complaining men—I didn't pay them any attention. I just got on with doing things. And I was inspired by Canada's big dreams and by the big dreamers who built the country and made progress. We celebrate them here in the chamber, Canada's coming of age, when we did something for the world.

We used to celebrate that. We celebrated, we were inspired and we wanted to emulate people doing things. As I listen to the opportunities lost and things that don't make sense that have happened, it seems like we're celebrating people who stop people from doing things, and I don't understand it.

I think there are many countries that we are somehow trying to impress that are still busy doing things, that are seized with doing things—China, India and newly awakened America.

Senator MacDonald is right; this differential in the price of oil, where America and American refineries can buy it from us at a discount and then sell their excess to the world at a world price, has got to have business people laughing their heads off at us. We must be the dumbest-looking Boy Scouts on the planet that we allow this to happen. It's incredible to many of us in Alberta that the epicentre of environmental indignation and condescension pumps millions of gallons of raw sewage into the ocean every single day. I wish I could share Senator Mitchell's optimism.

Premier Notley told us that if we play ball, if we worked hard at doing the right thing, if we led the way on carbon tax, there would be sensible responses from those around us. That's not the case.

I want to say in closing that I support what Senator Black has suggested, that we do something. We pass a law. We do something. I liked your suggestion, Senator Black. In my family, when somebody suggests something, they get to do it. I look forward to supporting your bill.

[Translation]

Hon. Renée Dupuis: Honourable senators, I thank Senator Tkachuk for drawing our attention to what he described as the "already negative relationship between Canada's Western provinces, B.C. and Alberta". That is something that people on the other side of the country do not always understand very well. I am wondering about what you said in your motion, which by the way, is poorly translated in French.

[English]

It is incumbent on the Senate to engage with this issue now by making known to the federal government:

[Translation]

This is a pressing concern and urgent action is required. The concerns that you raised today and some of the very emotional speeches we heard have helped us to understand how extremely important this is.

[English]

As you say, there may be a need for quick action, not just words.

[Translation]

We want to walk the talk. You are calling on both senators and the government. I really liked the words of our colleague, Senator Black, when he said "we insist on the rule of law." I completely agree, and I think that our primary responsibility as senators is to clarify the issue. How does the rule of law apply in the context of determining whether to authorize this project, to continue to authorize it or to impose other requirements? We have work to do, and I am prepared to do it. You tabled this document this afternoon and we have had it for a few hours now. We need to think about the best approach to take in order to ensure that the rule of law in Canada is respected. When the

federal government makes decisions in areas under its jurisdiction, they must be respected and implemented. All of the necessary action must be taken to implement those decisions.

That is essentially what I wanted to say this evening. I invite you, if we get the chance, which I hope we do, to discuss this matter further and even meet with the federal ministers responsible for this file, as mentioned earlier today. Yes, this is a very important need, but I don't think saying it's an emergency situation justifies neglecting our responsibility to clearly define the matter before us today.

• (2130)

Hon. Pierre-Hugues Boisvenu: I will try to be brief. Earlier today, I was very enthusiastic in my support of Senator Tkachuk's motion for an emergency debate. You may wonder why a senator from Quebec would want to weigh in on a dispute between two Western provinces. I am doing it for two reasons. The first is that I was an active supporter of the Energy East pipeline for Quebec, which failed because of a lack of political leadership.

The second is that the members of the Senate Standing Committee on Transport and Communications did remarkable work on their pipeline safety study. I would like to read an excerpt from the report entitled *Pipelines for Oil: Protecting our Economy, Respecting our Environment*:

New pipelines would help improve existing markets and develop new ones for Canada's crude oil. According to a representative from the Quebec Employers Council, a lack of new pipelines costs the Canadian economy billions of dollars annually.

I should point out that, although Canada has the world's third-largest oil reserves, our energy transportation and management infrastructure is totally inadequate. As my colleagues pointed out, we are at the mercy of the Americans, who buy our oil at a discount and resell it for much higher prices on the international market.

Canada is a laughingstock on international oil markets. For that and other reasons, it is urgent that we debate the issue. Last spring, *La Presse* published a glowing article about the Canada East pipeline and its important economic benefits for Quebec, New Brunswick, and all of Canada. At the time, I had supported a motion tabled by Senator Mockler. Unfortunately, the failure of Energy East hurt Quebec, New Brunswick, and all of Canada. There are no winners given the loss of thousands of jobs, billions of dollars in investments, and above all, billions for Quebec's GDP, all of which went up in a puff of smoke.

Quebec failed to capitalize on the opportunity to be a major player in Canada's economic development. I will say it again. In my view, the lack of leadership on the part of the Quebec government and the federal government was one of the main causes of this failure. We missed the chance for collective prosperity and we failed to seize the unique opportunity to enhance the wealth of our country for our citizens. Name just one country in the world that would deny its citizens the opportunity to benefit from the fruits of such wealth.

What type of leadership must we show today? I have doubts about the leadership of the Prime Minister who, after not showing up in Quebec, confronted British Columbia. Why pick a fight today? Furthermore, why was there no such debate between the federal government and the Quebec government? It would seem that there's a double standard.

I believe that the Senate should be the one to show leadership, and by that I mean nation-building, Canadian, and financial leadership, not political leadership. Two provinces arguing with each other hurts Canada's image on the international stage when it comes to the management of its natural resources. It also hurts Canada's contribution to environmental protection and gives others a negative view of how we deal with domestic issues.

Natural resource development is Canada's primary source of equalization funding. Canada uses equalization to ensure that each province benefits by judiciously sharing wealth and resources. Equality among the provinces is at the very heart of our nationhood, and we rely on developing and selling our natural resources to maintain that equality. Most Canadian provinces receive equalization payments, and Quebec receives \$10 billion a year. Quebec had no right to stop the Energy East project, any more than it has the right to get involved in the fight between two Canadian provinces over whether to carry out a major oil transportation project.

Indeed, we need to show some leadership, since this is the Senate's opportunity to show Canadians that we play a real role in protecting their interests. We must applaud our leadership. Let us take on this role and leave partisanship aside.

Hon. Rosa Galvez: Honourable senators, as Senator Dupuis said, we have only been debating Senator Tkachuk's motion for a few hours. Although we did not have enough time to prepare a speech to shed some light on this topic, I'll do my best.

If you were to ask me the safest way to transport oil from point A to point B, I would say a pipeline. I think that the Trans Mountain project should move forward, because the project went through the process and because the company has stepped up and made 57 changes to it, in order to meet the environmental requirements.

[English]

However, I would like to take this opportunity to discuss something that maybe you're not aware of, and I think we should all be aware of that there are different types of petroleum. If you are surprised about what happened today, you have not been following what is happening in the world. Because it's no surprise, the world is changing. People are demanding other things.

What happened with this petroleum from Alberta — and I'm very happy we have this resource — I wish we could make an efficient and powerful economic lever. However, we are not Suncor or TransCanada, we are not lobbyists, we are senators, and we have to see the entire issue in a more holistic way.

• (2140)

This petroleum is like asphalt. It contains a lot of things that are very difficult to refine, so it's no surprise that there are more refineries in the United States than in Canada that can refine this petroleum. As everybody is saying, that's why we have to transport it and sell it at a very low price to the United States and then it comes back to us in a different form — in the form of petrochemical materials that we then use for other things. Why didn't these petroleum companies build more refineries? That's a big question we need to ask ourselves.

The other issue about the transport of petroleum is that pipelines are this size and every 25 metres there is welding and that is a potential risk. We cannot copy the norms from the Americans to our pipelines here. We say that we are using Chinese steel and Americans are using American steel, but the conditions in Canada are different. We have sulphur, chlorides and sand in the petroleum, so inside the pipeline there is higher corrosion than in the U.S. with the conventional petroleum.

When I go to environmental audits in public audiences, I am so surprised how people are becoming more and more aware of all of these things. Really, to tell you the truth, honourable senators, from the Conservative Party, since you seem to be very friendly with these companies, why are these companies not following this? They know, so they must already expect that there are going to be higher requests during the construction and environmental concerns.

I am from Quebec but I have followed the oil spills. It has been 25 years since *Exxon Valdez* happened and almost 30 years later there are still impacts. Let me tell you, at the time when *Exxon Valdez* happened it was conventional petroleum and it was a very small cargo. Today we have post-Panamax cargo. It's 10 times larger in volume. If one accident happens, it is going to be a very bad thing. So we have to assure the people that everybody is taking good care.

Now, when Trudeau was elected it was interesting because he was saying "I care for the climate, the Paris Agreement and Kyoto and all of this," so really people were expecting that no pipeline was going to be approved. But I reflected that that was impossible and is not good for our economy. It was good that he approved all the extensions and expansions in the EC gateway pipeline, which is the one in B.C. This is what he did because that's logical. That's economically efficient. However, in B.C. there are extra considerations. There are seismic conditions and people are really very aware of all of this.

Now we have two NDP governments fighting each other. Isn't it interesting what's going on? But the other question is why Alberta, as my colleague senator said, which has the largest reserve of oil, needs to import electricity from B.C. What is wrong with that picture? Yes, indeed, B.C. exports electricity to Alberta. Why, if Alberta has so much oil? Because they still need the clean energy to extract these tar sands because it's very difficult, it's very expensive, and that's why the United States says, "Okay, I'll get you your oil for less."

I think really, if we want to be efficient economically and politically, we should build our own refineries, become sufficient and use it for the right purposes and not for cars because it's silly to use gasoline in cars. It took millions of years for nature to create petroleum and we burn it in seconds. That's not logical.

I don't know what we can do as senators because these are private companies that are implicated and we are not lobbyists, as I said. I think that with the respect of the rule of law and the respect of the whole process, by itself it should just go ahead and be constructed. But in order to prevent this from happening again and to stop friction, we should think of a better way to deal with this. Alberta has its petroleum. It's in the middle of the country and it has to transport it somehow, and I know that going to the North is also in the plans, we'll see. However, I have confidence that these issues will be solved in a peaceful, respectful and logical way.

The last thing I want to mention is that in the last years petroleum companies in Canada have lost some of their reputations. If we have a message to send to them, they have to really work on their image. In general, all petroleum companies should work on their image because now we know so many things. For example, they knew about climate change before everybody else and they didn't say anything. They have to rebuild their reputations and regain the confidence of the people, and we will see some projects executed. Thank you very much.

Hon. Fabian Manning: I rise today to speak on this important discussion related to the Kinder Morgan Trans Mountain expansion. When we hear about the Kinder Morgan Trans Mountain Pipeline system in the news lately, I believe we have heard far too much about the risks of such projects and too little about the opportunities. The economic opportunities that are inherent in the proposed expansion of the Trans Mountain Pipeline and all pipelines, quite frankly, significantly outweigh the risks. Indeed, the risks associated with building these pipelines are far less than the risks we run in not building them, in my opinion.

Today we are running significant environmental and safety risks by continuing to rely on road and rail transport to move our oil. This was made very tragically apparent in Lac-Mégantic in 2013. A terrible event such as this one should give us all reason to pause. It requires us to pay much greater attention to the benefits of moving oil by pipeline construction as a preferred alternative. Every day member companies of the Canadian Energy Pipeline Association, CEPA, move enough crude oil and petroleum products through pipelines to fill 15,000 tanker truckloads and 4,200 rail cars. The existing Trans Mountain Pipeline system moves the equivalent of about 1,400 tanker truckloads or 441 tanker rail cars daily.

There is no question that expanding the Trans Mountain Pipeline would result in safer, more efficient and more economical shipment of oil between Alberta and B.C. In Atlantic Canada in particular, we are confronted with an additional consequence of the government's failure to support judicious pipeline construction. In the region of the country in which I live we continue to be heavily reliant on foreign oil imports. We have absolutely no control over how that oil is extracted or how it is transported.

• (2150)

We need to be much more appreciative of both the economic and environmental benefits which accrue from development of our domestic petroleum sector. Simultaneously, we need to give systematic attention to how we get that resource to the domestic and global marketplaces.

As an example, I live in a small fishing community, St. Bride's, in what we refer to in Newfoundland as Placentia Bay. It is a major traffic area for tankers due to the development of oil and gas in Newfoundland and Labrador in the past several decades.

In Placentia Bay, we have 365 islands, one for every day of the year. In 1990, there was a federal government-sponsored report called the *Brander-Smith* report, which reported that on average there are 200 days of fog per year in Placentia Bay. It's the most likely place in Canada for an oil spill. Depending on the fishing industry and the growing tourism industry, it's certainly a very important topic in our area.

But we can't stop the fact that we have an oil and gas industry that has to work side by side. Everyone seems to be working together to try to mitigate possible oil spills. We only have maybe one oil spill that could destroy other industries besides that. The bottom line is that we have to work together. The oil industry has to be developed, and we need to work side by side with other industries to make sure that happens.

Fortunately, in Newfoundland and Labrador, we have been blessed with a growing oil and gas industry, which is now the largest contributor to Newfoundland and Labrador's GDP. It has been estimated that the oil industry accounted for 16.7 per cent of the province's nominal GDP in 2015. Average annual employment in that industry in 2016 was approximately 7,000 people, representing 3 per cent of total provincial employment.

I was 17 years of age when I headed to the oil fields of Alberta for a couple of years. I was forced to find work back in Newfoundland afterward, but many of my people in Newfoundland and Labrador are still going back and forth to Fort McMurray and other places in Alberta to find employment opportunities.

I don't think for a minute anybody reasonably thinks that Alberta hasn't contributed greatly to the economic growth of this country.

Crude oil production in Newfoundland has been steadily increasing to 76.7 million barrels in 2016 from 62 million barrels in 2015. This is primarily the result of increased extraction from Hibernia. This is hardly surprising since the global demand for petroleum is projected to continue to grow in the years and decades ahead. This means that the oil industry will remain a cornerstone of the Newfoundland and Labrador economy.

Global trends also mean that Canada, as a whole, must be prepared to capitalize on these opportunities and use every means at our disposal to get our oil to tidewater. In this regard,

honourable senators, I reiterate that pipelines, in my view, are the safest and most efficient method to move petroleum products over great distances on land.

Based on our experiences in Newfoundland and Labrador, I fully understand and sympathize with the strong aspirations of Alberta and Albertans to see pipeline construction proceed in order to take advantage of the significant market opportunities in the Asia-Pacific region.

For the specific case of Trans Mountain, as countries in the Asia-Pacific begin to develop the same quality of life we enjoy here in Canada, they will need to secure access to new sources of energy. Canada is naturally positioned to provide these resources and become a major trading partner for these countries.

Given both the evident Canadian need and the recognized safety advantages that pipelines provide but are lacking in other means of transport, the position of the current government is, to put it mildly, puzzling. What is readily apparent is that the government is dragging its feet on the Trans Mountain pipeline expansion.

While the government and the Prime Minister have officially approved the Trans Mountain pipeline, there has been limited follow-up. I fear that the government continues to play both sides of the fence on this very important issue. That makes me concerned since it was exactly this approach which effectively sunk the Energy East pipeline project, a development which was a tremendous blow to Atlantic Canada.

Let's be clear: That cancellation of Energy East did not come about through any decision taken by TransCanada. Instead, it resulted from a government failure to champion the Canadian energy sector. The cancellation of that project was a truly disappointing day for not only the women and men who were relying on the Canadian energy sector for their livelihood, but also for Atlantic Canada as a whole.

Energy East was projected to create 15,000 high-paying jobs and inject \$55 billion into the Canadian economy. As a former premier of Newfoundland and Labrador, Joey Smallwood, used to say, "That's billion with a 'B'." I believe the Prime Minister and the government had a real opportunity with the Energy East pipeline. It could have been championed as a nation-building project and helped Atlantic Canadians and Quebecers to share in the prosperity of Canada's exceptional energy sector. Unfortunately, that significant opportunity was squandered.

I am concerned that the government is now following the same approach on the West Coast. It is an approach that is in urgent need of re-evaluation. If I would hope for anything to come from this discussion tonight, it is that it will give the government pause and cause to re-evaluate its approach.

If the government intends to continue to claim that it understands and supports the needs of Canada's middle class, they will have to recognize that this must be much more than a talking point. Support for the middle class means sustaining policies and projects that will grow Canada's economy and position the country for economic success in the years and decades ahead.

[Senator Manning]

A realistic and bold policy to ensure that we have the ability to export our energy products must be an integral part of that approach. I call on the government to listen to the debate here tonight, re-evaluate its approach and establish an energy policy which is truly focused on positioning Canada for success in the years ahead. A first step in that regard will be to finally and tacitly move forward on the Trans Mountain expansion project.

Hon. André Pratte: I'm in awe of the senators that had time to prepare a real speech. I just scribbled a few notes that I can't even read myself. Anyway, I ask for your indulgence.

This issue is extremely important, and I thank Senator Tkachuk for initiating this debate. It's important not only because Trans Mountain is an extremely important project, but this issue of major projects that are across provinces and are important not only for one region but for the whole country, that involve natural resources, these issues will come again and again. Canada, although we're a very modern economy, we still have a large part of our economy that is based on natural resources. With all the issues regarding the environment, local communities and indigenous communities, we will be faced with these issues time and again.

Of course, the easy answer to these issues is, well, the federal government will decide in the end because this is a national project. Well, I'm not sure the solution is that easy.

Many alluded to the Energy East project, and Senator Manning mentioned Energy East.

[Translation]

Senator Boisvenu also talked about it. It is a project that was very important to me, personally. I supported the Energy East project from the very beginning. To say that it died because the current government lacked leadership is quite simplistic. Yes, this government could have shown much stronger support for the project, but Energy East died long before the official announcement that it was done. It had already died three or four years ago.

One of the things that killed Energy East was the previous government's overzealous support for the oil and gas industry. As a result of that excessive zeal, the Government of Canada lost all credibility on matters relating to environmental protections, and the people of Quebec lost all trust in all federal organizations involved in environmental protection.

• (2200)

The Government of Canada is not the only party responsible for killing Energy East. The promoter, Trans Canada, also shares much of the blame, as do other people and groups, including the former mayor of Montreal. It is very sad for the Canadian economy and for the Province of Quebec, but holding the current federal government entirely responsible for killing the Energy East project would be an oversimplification.

[English]

I am struck by the fact that I've heard this evening the suggestion that the federal government affirming its jurisdiction over the Trans Mountain project would somehow solve the issue.

Now, I'm not a legal expert in any way. I understood it to be quite clear that interprovincial projects such as pipelines are in the federal jurisdiction, but it may be that Senator Lankin is right and that recent court decisions have made this issue more complicated.

I also thought that in the case of any doubt, the federal government could use its declaratory power and say, "Listen, this project is to the general advantage of Canada, and there's no doubt." I think the courts have interpreted that declaratory power quite clearly. The federal government can say, "Listen, this is to the general advantage of the country," and the provinces or municipalities then have no words to say.

The question is not whether this is in the federal jurisdiction or whether the government should state that it is so, but there are two ancillary questions: If the federal government does so, what happens then? If the federal government does so, is it a good thing? Does it solve anything? That is my concern.

Now, maybe it would be a good thing. I'm not saying that those who say that the federal government should be more energetic and state more clearly than it has already that it is in favour of this pipeline and that this pipeline really should be built and that the B.C. government should not stick its nose into this and that it's not its business at all, but I'm concerned that once it does that, what if the B.C. government says, "We don't care"?

I'm also a little bit concerned that we are approaching this issue as if it were only the NDP government of British Columbia. This government was elected, and behind this government there are people. It's a duly elected government.

Now, my colleague and dear friend Senator Black says this should be the "just watch me" moment of the Prime Minister. The "just watch me" former Prime Minister Pierre Elliott Trudeau was facing terrorists. We're not facing terrorists. We're facing a duly elected government of a province and facing people who may be a minority even in British Columbia who oppose this pipeline, including indigenous people who oppose this pipeline.

If the federal government says, "This is in our jurisdiction. We will build this pipeline, and we'll pass a law to say that we have the right to do so," what if the province says, "We don't care"? They will fight them in court. It will take years. What happens then? What does the federal government do then? If there's a political impasse, how do you resolve it? That's my concern. Do you take economic sanctions? That's what I'm missing.

I know that it would make a good fight. Legally, eventually, I suppose the Supreme Court would decide four or five years from now.

That's the missing part in this equation. I know we would all wish the federal government to take more of a leadership role. I'm just not certain that a leadership role for the federal government is to take a unilateral, strong-arm attitude in such a situation. Even though we might wish it so, I'm not sure that's what leadership really is in such a situation. That's my concern.

What is the Senate's role in this? The Senate is the voice of the regions of Canada. It is the voice of the regions in a national institution, so obviously we cannot be the voice of one particular region against the national interest, because we have the national interest at heart. But I'm not sure, on the opposite side, that we can be the voice of one region against another region or of some regions against one particular region. We have to be listening to all regions.

In this case we have two regions, provinces, that are in turmoil. I'm not sure that our role is to decide right now, in an emergency debate today, that one region is right and the other region, which we reduce to one NDP government supported by the Greens, is wrong. Our role should be to listen to both regions, and then maybe we could decide what we'll do. But our first role should be to listen to Canadians involved on both sides. Maybe there are more than the two sides in this equation. I think that's what our role would be.

Finally, I have heard the expression "nation building." Well, that's what it is, nation building. Not nation enforcing, but nation building.

I know there is the rule of law. I'm from a family of lawyers and judges from generation to generation. I respect the rule of law. But Canada was not built by the rule of law; it was built with the rule of law. The rule of law is extremely important, but Canada was built by negotiation and compromise.

I appreciate what Senator Wallin said when she talked about leadership by building consensus. That is strong leadership. Enforcement is not strong leadership.

Personally, what I expect from the federal government and the Senate of Canada is nation building, not nation enforcing.

Some Hon. Senators: Hear, hear!

Hon. Dennis Glen Patterson: I, too, would like to thank Senator Tkachuk for initiating this important emergency debate. I'd like to focus on the jobs and economic benefits which flow from the Kinder Morgan Trans Mountain pipeline project, particularly for Aboriginal people.

First let me address some concerns that have been raised about the safe transportation of hydrocarbons via pipelines by directing honourable senators' attention to the comprehensive and in-depth 2013 study by your Standing Senate Committee on Energy, Environment and Natural Resources on the transportation of petroleum products by sea, rail and road.

We knew about dilbit at the time we did that study, Senator Galvez.

It became crystal clear in that extensive study that the safest method of transporting petroleum products is by pipeline — as Senator Neufeld said, 99.99 per cent safely. We also found that ocean transportation is being done and can be done safely in Canadian waters.

Throughout our study, the committee visited Canadian and American sites where petroleum is currently being shipped by marine transportation. We went to Valdez, Alaska, and learned about the human error which led to the disastrous oil spill in 1989. We got to see firsthand how the lessons learned were applied to create the exemplary model that is currently in place in Valdez Harbor. For example, no tanker ship captain leaves Valdez Harbor, we learned, without undergoing drug and alcohol tests. There are tug escorts fore and aft through the harbour and beyond. Valdez has built impressive standby spill capabilities, clearly a culture of safety and the appropriate technology and support is now in place.

• (2210)

It's important to remember that oil tankers have delivered oil to the existing refinery in Burnaby, B.C. without any spills or problems for decades. As in Valdez, the tankers are escorted by tugs in Vancouver Harbour, through the Strait of Georgia and the western entrance to Juan de Fuca Strait. There are pilots required in other areas.

During a visit to Placentia Bay, Newfoundland, we learned that significant volumes of imported oil are being transported safely in Atlantic waters in Eastern Canada and has been done without incident for decades.

The committee learned of industry funded oil spill response capabilities on the east and west coast of Canada. I think we need to do more to protect Canada's northern coast from oil spills, but progress is under way through the Trudeau government's Ocean Protection Plan. The Valdez regime sets a high bar and is now a world-class example of how oil can be transported safely without risk.

On the subject of pipelines, we learned how the Alyeska Pipeline has safely delivered oil to tidewater from Alaskan oil fields for 39 years without incident, save for one. It even withstood a 7.9-magnitude earthquake. Since recognizing that Alaska sits on fault lines, the designers incorporated earthquake protection into the pipeline in order for it to flex but maintain its integrity throughout a major seismic event.

We learned that the only spill which occurred on that very durable structure resulted from human sabotage when a reckless person fired a bullet which pierced the pipeline steel.

Our committee's findings on the ability to safely transport oil and oil products via pipeline and sea were echoed in the Standing Senate Committee on Transport and Communications' December 2016 interim report, *Pipelines for Oil: Protecting our Economy, Respecting our Environment*. The Transport Committee said pipelines:

...will act as a lifeline to the Canadian economy, which has been hard hit in the oil and gas sector. Pipelines to the east and west coasts will ensure that Canadian oil producers get the full value of this resource on world markets, reduce refineries' dependence on oil imports and improve public safety.

Honourable senators, this is exactly why I feel this project is so important to Canada. I'd now like to focus on the jobs and economic benefits for Canadian workers in Alberta and B.C., in particular for communities in the vicinity of the pipeline, and for First Nations whose traditional lands are in the vicinity of the pipeline.

I won't talk about the construction jobs and the direct and indirect and induced jobs, but I do want to say that those new and well-paying jobs which have been outlined in this debate will be very welcome in both B.C. and Alberta, which, as Senator Black has noted, have suffered significant job losses with the decline of world oil prices in recent years.

But I'd like to focus on the potential benefits to First Nations along the proposed project corridor. As of December 2016, following federal approval for the project granted in late November 12, additional Aboriginal communities that affirmed their support for the proposed Trans Mountain Pipeline expansion, bringing the total to 51 Aboriginal communities in both British Columbia and Alberta that have signed mutual benefit agreements, called MBAs, with the project, valued at more than \$400 million. This includes all of the First Nations whose reserves the pipeline crosses, and about 80 per cent of communities within proximity to the pipeline right-of-way. The 51 agreements include 10 in Alberta and 41 in B.C.

Colleagues, I do recognize there are First Nations on either side of the debate, as Senator Pratte just mentioned. But I feel it's important to point out that indigenous people, as stewards of their land, are generally loath to support a project that would result in any kind of deleterious effects on the environment. I take the support of these First Nations as further evidence that sustainable development, the careful balance of economic opportunities with environmental protection, can include pipelines.

Referring to the letters of support from many B.C. First Nations, Kinder Morgan Canada president Ian Anderson said in a statement that the company has "worked very hard to establish a relationship built on respect, trust and openness." He went on to say:

To me, these MBAs represent not only an agreement to share opportunity and provide prosperity, but a symbol and recognition of a shared respect.

I think Kinder Morgan has done an exceptionally respectful job of seeking the support of First Nations. Not every oil company has such a record as that. But they have done well.

Along with financial benefits from land access agreements and property tax payments through the life of the pipeline, communities will also see financial contributions which could help fund anything from improvements to local emergency

management to enhancement of trails and parks, infrastructure improvements or support for local education and training programs.

While the details of the MBAs are confidential, the benefits go beyond cash payments. Employment and training programs and policies are in place to provide indigenous communities with opportunities to work on the project. Labour market studies and capacity assessments for interested communities have been under way since the start of Kinder Morgan's consultation efforts. Many procurement opportunities are available for indigenous businesses, which include but are not limited to survey services, clearing right-of-way, restoration and reclamation of right-of-way, landscape services in urban areas, greenhouse operators, seed tree supplies, preparation of sites for camps and so on.

Kinder Morgan says it has committed more than \$300 million to Aboriginal communities through capacity agreements, traditional use studies, marine use studies, cultural studies and relationship agreements.

The question, honourable senators, which I would leave with you today, in light of this, is: If the federal government does not exercise every power available to it to help push this project forward, what is it prepared to do to replace the opportunities lost for Canadians, including those 51 First Nations?

Huu-ay-aht First Nation did not sign an MBA with Kinder Morgan, but the community does support the project. When asked why, even in the face of opposition from other First Nations, hereditary Chief Derek Peters responded:

These decisions are never easy. Huu-ay-aht respects everyone's right to their own opinion. That said, it is the responsibility of governments to enable economic development while protecting the environment, in both the short and the long term.

Now, I'd like to address a question posed by Senator Pratte and others: What should Prime Minister Trudeau do, as the leader of Canada — a country which has a long and proud tradition of cooperative federalism? Senator Lankin mentioned that.

Here we have Kinder Morgan, which has scrupulously and in good faith and patiently followed the established process under the NEB and the B.C. Environmental Assessment Process. They've patiently respected the law and what is, in my opinion, the well-established constitutional authority of Canada to regulate interprovincial pipelines. I personally do not believe there is any doubt about that.

So now, after this long and thorough process, according to the rule of law, the Government of B.C. is proposing to act to prevent diluted bitumen from being transported from B.C. to Asia and elsewhere. So what to do? I think it is a constitutional and an economic crisis.

• (2220)

I think it is urgent that the Prime Minister step in and exercise his responsibility, in the spirit of cooperative federalism, to end this impasse and see to respect for the rule of law under the Constitution, not by unilateral strong-arming. This requires leadership.

I believe that in this debate, yes, the Senate has a role to represent regions, but the Senate also has a role to respect the Constitution and the rule of law.

I'd like to echo Senator Black's views that the Prime Minister should make every best effort and show leadership to resolve this crisis in the national interest. But if regional interests alone prevail, the Prime Minister can and should call on Parliament to declare the Trans Mountain pipeline and the products it carries to be a work for the general advantage of Canada, and suspend all municipal and regulatory or statutory hurdles put up by a province which simply does not like the result of the established legal process, a power Canada has under section 92 of the Constitution Act and a power that has been exercised over 400 times in our history, albeit not recently.

That's my advice and that's why I think this debate is important. I hope the Senate can provide some independent advice to avert what seems to be a worsening constitutional and economic crisis for our nation.

Some Hon. Senators: Hear, hear!

Hon. Elaine McCoy: Honourable senators, I don't wish to prolong this debate. There have been some very eloquent speeches and profound sentiments. But I want to say two or three things.

Number one, as an Albertan, I remember 1982 all too well, which was about the date when many Albertans of my generation wrote off the Senate as an appendix, which is an appendage of little or no use until it hurts. The reason we did that was because we felt that other regions of the country had abandoned Alberta.

I want to say that tonight I am truly grateful to senators from all across this country for supporting Alberta and other regions of this country and talking about building Canada, building a nation, and searching for a way to resolve this situation, and standing up, as senators can do, with some sober thinking and some expertise, which has been very much on display tonight.

I'm honoured to be a part of this Senate in is standing up for Canada, for all regions.

I want to come back to the very practical proposals that Senator Black brought to this debate at the beginning. He made two or three points. First, we have the rule of law, which is true. There's no question that the federal government has exclusive jurisdiction over interprovincial pipelines. There's also no question that the provinces and territories and the federal government have shared jurisdiction over the environment. So let's not waste our time debating those points. We don't need that debate. What we need is a debate — and we've had a very good debate — on what can be done in a practical manner here.

One of the items referred to frequently tonight is the differential between the selling price for heavy oil from Canada as compared to light oil. I have here a quote from Bloomberg dated February 2, last Friday. Heavy crude from Alberta is getting \$34.90 a barrel as of last Friday. Let's compare that to Arab heavy oil. Heavy oil from Arab countries, now being delivered to Asia, is receiving \$55.06.

Then we go to California. California has heavy oil selling into the Gulf and Houston, Texas, region for refining, just like ours. In fact, some work shows that California's oil is more deleterious to the climate than Alberta's. They're getting \$67.36.

If I'm reading this correctly, I'm thinking Maya oil is from southern regions. Is that correct, Senator Black? I think so. It's not West Texas, no. This is Maya oil. It's offshore oil. It's heavy oil. It's \$59.62.

The selling prices, by the way, for light crude are in the \$63 to \$65 range. We actually upgrade bitumen in Alberta. I think almost 50 per cent of our bitumen has been upgraded to what is called synthetic crude oil, which is equivalent to the best, lightest, sweetest crude you can buy in the world. We sell it at something in the order of \$63 a barrel.

So that's the economic record as of last Friday, which underlines the economic arguments that have been made here. We are truly being penalized way more than Arab oil being sold into Asia, way more than South American oil being sold into the southern States, and completely more than California oil.

Having said all that, I want to come back again to what Senator Black has recommended, which is very practical and it's an action. I don't think, as many of you have said, in this nation-building exercise that we want to leave any one region behind. British Columbia has expressed yet another concern on an environmental basis. Let's address it. Senator Black has suggested that the federal government instruct the NEB to take on their concern immediately, investigate it, have all the evidence brought before it and rule on it expeditiously.

I certainly endorse that. I don't know what it would take for that message to go from our ears to not God's ears but the government's ears. I would hope that we are prepared if we have a vote tonight on this, although I don't think it's structured as a vote, to at least encourage Senator Black to somehow put that into an actionable form so that we can support that expression of interest and ask the Prime Minister and the Government of Canada to take a simple action to resolve this matter in an efficacious way that does in fact respect British Columbia's concerns.

In the meantime, we do know the federal government has full jurisdiction. As Senator Patterson just said, if necessary, let us declare this project as an undertaking in the general advantage of Canada. Let's do it, because this is no longer tolerable.

• (2230)

Thank you, Senator Tkachuk and others who have spoken on this issue and for bringing this forward. Thank you, Senator Black, for giving us some practical steps forward. If this isn't resolved soon, let's return to the issue.

One last thing I want to put on the record is that I fully support the Premier of Alberta. I have nothing but admiration for what she is doing to extend and defend Alberta's interests, and I want to extend to her my congratulations and encouragement to hold the course. Thank you very much.

Hon. Betty Unger: Honourable senators, I too would like to thank Senator Tkachuk for bringing this issue to debate tonight, and I would like to thank the Speaker for allowing it. I would also like to thank all of my colleagues for speaking about this, although I don't agree with what everyone has said.

I won't go through all of the numbers that have been spoken tonight. I would just like to say that I too am extremely concerned. I have watched for several years as Alberta's window of opportunity kept shrinking. Energy East was effectively killed by the National Energy Board, and they're also doing this in Alberta with upstream and downstream emissions. I'm not exactly sure what their rules were with regard to Energy East, but it was the NEB that killed it, so I could not support any measure or suggestion that would see the NEB having anything to do with this.

Kinder Morgan has gone through everything that they were asked to do. If they've not completely satisfied all at this point, they're well on their way. They are certainly making great progress with the indigenous peoples in B.C.

But the issue here is that what the B.C. government is doing is trampling on Alberta's right to get our resources to market. Earlier my colleague Senator Manning talked about Newfoundland and their oil situation. As a landlocked Albertan, I've been envious of Newfoundland, the Rock, masters of their own fate. I can tell you that it is an awful feeling as an Albertan to know that other people don't see that we should get our resources to market. For many years, I would like to remind all of my colleagues here and some of the new senators, Alberta was the economic engine of Canada. Not one province ever said no to a transfer payment that they received. Indeed, now Alberta is still committed to transfer payments. I can remember saying to some of my colleagues from Atlantic Canada, "Now you guys are going to have to send us transfer payments." Well, we know what might freeze.

As to Senator Pratte's comments about why the Prime Minister should get involved in this little debate between two provinces, I have also watched, Senator Pratte, as billions and billions of dollars in future investments in the West were cancelled, withdrawn and pulled away. If our Prime Minister does nothing to try to mediate between these two provinces to come to some resolution — and after all, isn't that what a Prime Minister is supposed to do? But if he doesn't, what corporation in the world, and many are watching, would ever want to do business with Canada? We are this weird country, like a ribbon along the northern border of the forty-ninth parallel.

So yes, we have natural resources. The Arctic is also blessed with many natural resources. They would have a greater opportunity of getting their resources to market, but just on the principle of corporations investing in Canada, hoping to get a return on investment, planning to get a return on investment, why would they ever come to Canada? The United States, as was rightly stated, is completely energy self-sufficient, and they were talking about that within the last few days.

I've watched that date approach as well. They have shale gas, and we have shale gas as well, but I don't know who would want to buy it right now. Of course there is always China. Well, China would like to buy our natural resources too.

As everyone knows, I've spoken before about how badly Alberta needs these jobs. We've struggled over the last few years due to the economic downturn caused by a drop in oil prices, and make no mistake, the impact of this struggle has been very real. The toll on families, careers and communities has been significant in every area of the province. Edmonton, of course, has seen great losses because we're a blue-collar city. Drilling companies are leaving Alberta, and they will not be back. Just like the companies that have pulled their planned investment out of Alberta, they will not come back to Canada because this has become a country that can't be trusted.

The Trans Mountain expansion project, which isn't even creating but some 90-some kilometres of new pipeline, could have easily — could. I'm not very optimistic, to be honest. I wish I could be. But the Trans Mountain would have been an essential step in the right direction in providing jobs and meaningful income not only for Albertans but also for the people of British Columbia and, indeed, all of Canada. Again, my colleague said that at the tender age of 17 he came to Alberta to work.

I'm sorry, it's late and much of what I planned to say has been said. This standoff between Alberta and B.C. betrays a much deeper and distressing problem that is developing in our country under this junior Trudeau government, and that is a loss of an appreciation of the public good and the national interest. Canada has always had regional tensions, but under good federal leadership those tensions subsided. Under bad federal leadership, those tensions will flare up again, as has already been said.

That is what we're experiencing today. Under the leadership of this Trudeau government, divisions in Canada have been stoked into flame once again.

• (2240)

In the discussion about Energy East, the federal government refused to acknowledge that the project was in the national interest, so instead, Eastern Canada continues to import oil from places like Saudi Arabia and Venezuela, but that's okay. That's not really talked about a lot. But again, the government was silent about the public benefit of such a project to Canada as a whole.

This federal government pits our economic needs against our environmental stewardship, all the while claiming to do the opposite. It continuously shines a spotlight on our differences while doing nothing to bring us together.

When the Prime Minister was in Edmonton last week, I watched the debate, an hour-and-a-half of my life I won't get back. One man who was from Lac-Mégantic was the first very fierce person who had a question for the Prime Minister. The man said that the disaster in Lac-Mégantic never should have happened. That oil was being transported by rail from the United States, and that oil was an extremely flammable product. It was very inflammable, which is why you saw the explosions that happened. If it had been bitumen from Alberta, that would never have happened because our bitumen does not have that highly flammable effect.

The Prime Minister is presiding, I think, over the Balkanization of Canada. I don't remember a time when there has been less regard for the national interest than there is right now. Everyone is looking out for their own good, with no regard for the greater good. And it's the actions of this federal government that have encouraged them to do so.

On another note, I again was extremely disheartened when the Prime Minister had the little immigration processing office in Vegreville shut for supposedly great savings, but that wasn't the case. All of Alberta's senators tried to go to bat for Vegreville to no avail. It could not be done. The people of Vegreville are still not only looking for work; they're still waiting for the promises that were made to them by this government, and so far all they have is silence.

There was a glimmer of hope when the Prime Minister finally acknowledged recently that the Trans Mountain expansion pipeline was in the national interest. It was a step in the right direction, but words are not enough and talk is cheap. It's time for leadership and action. There are deep fault lines in our country's fabric that are the result of this government's agenda and failure to lead. I believe the standoff between Alberta and British Columbia is a symptom of this, and now is the time for the Prime Minister to put the phone away, stand up and lead.

I'm also heartened by what I've heard here in the Senate tonight from all of my colleagues, and I hope that we can take meaningful steps and action that will enable some good to come from this evening. I thank everybody.

But, Senator Black, I do not want to see the NEB have anything to do with restudying this issue. It will be three years from now and we'll still be talking about it.

Hon. Murray Sinclair: Honourable senators, like Senator Pratte, I admire all of the speakers who have had an opportunity to prepare notes, in consequence of the emergency motion, that appear to have logic and research behind them. I only have what I've been thinking about as others have been speaking and what I was quickly able to pull together since the motion was granted this afternoon.

Let me begin by saying that I was trying to determine how I might best be able to contribute to this debate and to comment upon what it is that I've been hearing, mainly because I don't have a very strong position with regard to the issue of what the Prime Minister should or shouldn't do. Quite frankly, I think the Prime Minister will do whatever it is prime ministers do in circumstances such as this.

The question that I was trying to come to terms with is what this is all about. I'm trying to find out the story behind all of this. And, quite frankly, Senator Galvez's comment really informed me about the corrosive effects of pipelines and the potential risks of cargo shipments and was the most helpful comment I've heard to this point in time about what the impacts are.

I have, with the help of a couple of other people, been able to look at some of the reports that give rise to the debate that we're having and the issue that's going on in Canada today.

I want to begin by claiming my ground. I'm not a cheerleader for the petroleum industry and never have been. I've always been concerned, as many people are and some in this chamber are, about what we are going to do as a country when the non-renewable resource runs out. Ultimately, we're going to have to come up with an alternative way of heating and fuelling this country, and we're not even in a debate yet or in a discussion in this country about what that should be like.

As a chamber of what we call sober second thought, I'm a little dismayed that we're not taking advantage of this opportunity to begin to talk about what we as a country should start to do and think about when the oil runs out.

We've heard lots of debate and points made about the employment impact of pipelines. Based upon some of the research I've done on other occasions with regard to statements by representatives of the petroleum industry, as well as other industries in this country, I've always been of the view that we should take a very close look at those claims of employment benefits and economic impact upon the country because they overstate it very clearly. That has been the history of that in this country.

Insofar as Trans Mountain is concerned, Simon Fraser University was reported in the *Huffington Post* as having done a study of some of the claims made by Trans Mountain as to what their potential impact would be. Simon Fraser University concluded that the 36,000 jobs that Trans Mountain claimed they were going to create was actually going to be more like 12,000, that the full-time employment opportunities were actually going to be about 60, and that the number of people who were ultimately going to benefit in the secondary industry was more like 2,000 as opposed to what was ultimately claimed. So the employment claims made by the company seemed to be far less than what was likely going to be the case.

Incidentally, I think that this whole question of the constitutional obligation and the constitutional rights of Canada versus the province is a red herring. This is kind of like the debate over immigration. There's no doubt that Canada, as a federal government, has jurisdiction over immigration, but once the immigrant lands in a province, the province then has jurisdiction. In this situation, interprovincial pipelines do in fact come under federal jurisdiction, but they are not totally controlled by the federal government as they cross the province. The province does have some say over what they can and can't do while in that territory.

• (2250)

I want to also point out that the fiscal benefit to British Columbia — and I think I understand why British Columbia and Alberta are in this fight, at least partially — according to the Simon Fraser study, was going to be less than 2 per cent of the fiscal benefits of the overall project. Alberta was going to receive about 32 per cent of the financial benefits of the pipeline, but Kinder Morgan was going to get about 65 per cent. So British Columbia was taking a lot of the risk but not getting much of the benefit.

The cost side of things is really what we need to think about. The cost side is really about the potential loss to British Columbia if a spill occurs. I thank Senator Galvez again for her point that if you're going to ship oil, you ship it by pipeline. I agree with that. I don't necessarily oppose pipelines because of the risks. I recognize that there are spills, but when it comes to the need for moving oil, I think pipelines are the answer.

However, in the case of this particular pipeline, it's not just pipelines that we're talking about; we're also talking about ships. It's those ships that come into the Vancouver Harbour where the great risk is likely to be. In fact, it's the primary reason why British Columbia has objected to this particular development. According to the Simon Fraser University study and the provincial government position, the Kinder Morgan analysis of the potential costs of a spill scenario in Vancouver Harbour is about \$100 million to \$300 million. But Simon Fraser University has estimated that the cost of a spill in the Vancouver Harbour area would likely be \$2 billion to \$5 billion, mainly because the Kinder Morgan analysis does not take into account the intense population presence in that area and it ignored the population density impact evidence.

Overall, British Columbia, in fact, has not indicated that they are going to stop this completely. What British Columbia has said publicly is that they will not approve it any further until there is better data and analysis provided with respect to the issue of spills. So British Columbia has not taken a hard stand totally against this project. They have said, "You have to come up with better analysis of what's going to happen and how you're going to deal with the issue of spills that are going to impact Vancouver and Vancouver Harbour," because of the huge increase of shipping that's going to occur in a very narrow strait of water that's going to have 35 ships per day, many of which will be 10 times the size of the *Exxon Valdez*. So there's a real issue here for British Columbia, and I just wanted to draw that to the Senate's attention because nobody has yet mentioned B.C.'s position.

The other thing that has not been mentioned here, other than a reference by Senator Patterson to the 51 benefit agreements that have been put in place with respect to the pipeline going across the country, is that there is currently a legal action in the Federal Court of Canada by eight First Nations against this pipeline. The argument is the legal action is because the National Energy Board has not consulted with First Nations in the Vancouver Harbour area about their concerns. That legal action stands possibly in the way of this entire project even getting off the ground. I think we need to keep that in mind.

In addition to that, of course, the National Energy Board has already imposed 157 conditions on Kinder Morgan. I appreciate Senator Mitchell's point that they're working on them and they'll get them done. But until they get that last one done, there will be nothing done on the ground. They have to get those conditions met and those conditions are not all easy.

The other thing is I'm thinking about my wife's position. She was encouraging our daughter in Vancouver to move home because she's convinced that, given the two recent earthquakes, British Columbia is going to fall into the ocean any day soon. Our daughter has moved home, but I think it's primarily because my wife has broken her ankle and she wants to be there to take care of her while I'm here. But those recent earthquakes should give us cause to pause about the potential risks for the pipelines running across the land and also for the cargo ships that will be on the oceans in a very narrow waterway, trying to deal with the potential of all of that.

I understand, of course, that there are different views about the benefits and the risks of this project. I appreciate Senator Black's point: We need to get that information in front of the Senate. We need to know what we're talking about here. I don't think we can come up with a decision or that we should. I know that many just want to pass a motion to criticize and direct the Prime Minister to do something. I couldn't support that. I want to know more information. I want to be able to test that Simon Fraser study. I want to hear from those witnesses. I want to hear from the people involved in the pipeline construction. I want to hear from the people in the Vancouver area about their concerns. I'd like to hear from those First Nations who have gone to court to say why they feel they have not been properly consulted. What is it that they feel concerned about if there is a spill that affects their particular territories? We don't have enough information, quite frankly, to be able to come up with a decision.

We do know that there's a dispute. We do know that the federal government has not moved to resolve a dispute. I think it's fair to say that even if the federal government did intervene to give direction to that dispute one way or the other, it will still be years before anything is done because of those 157 conditions that have to be complied with and because of that legal action, which undoubtedly is going to end up in the Supreme Court of Canada.

All of that speaks to the fact that while we are here, and I'm hearing words saying that we should direct that this project be allowed to move forward immediately, the reality is you can't do that. This project is not going to go forward immediately and shouldn't go forward immediately because there's still too much information we don't know.

Hon. Nancy Greene Raine: Thank you, Your Honour, for allowing us to have this emergency debate.

Honourable senators, as a British Columbian who lives close to the Trans Mountain pipeline, I wish to add my voice to those calling for our government to ensure that this pipeline expansion goes ahead.

I see the impact of the existing Kinder Morgan pipeline on a regular basis. Rather, I see its lack of impact. In many areas the pipeline is invisible, running beneath golf courses and greenbelts

as it goes through communities in the North Thompson Valley. The economic impact has been undeniable. In fact, when the pipeline was built in the 1950s, it brought a road into the area for the first time, and that road was upgraded and became Highway 5, a major north-south route through British Columbia, connecting Kamloops to Jasper, Alberta.

Every day I see long trains carrying more and more oil tanker cars going through the City of Kamloops on both railroads en route to the coast.

• (2300)

I live in fear that one of these days there will be a derailment as the trains wind their way down the Fraser Canyon where the tracks are perched on steep slopes above the mighty Fraser River. If oil cars wind up in the river, the impact on the salmon will be horrendous. And if a rail disaster is combined with oil feeding a wildfire in that dry grassy landscape, it's difficult to think of the inferno that would result.

I support the expansion of the Trans Mountain pipeline. It is the best way to transport oil products.

Honourable senators, there's so much at stake, including a beneficial impact on the economy all across Canada, as you have heard from my colleagues. There's no doubt in my mind that the environmental impacts of the proposed pipeline have been well studied and that the environmental impacts can be mitigated.

I do know that pipeline safety today is excellent. The insides of the pipes are continually monitored as are the welded joints between the pipes. A leak would be detected right away and the flow of oil would be stopped. Interestingly enough, when I listened to Senator Galvez talk about the corrosive nature of bitumen, I googled it and came up with the latest information, and it turns out that's a bit of a red herring.

I'm quoting from an article here:

Diluted bitumen is not more corrosive. In fact, when comparing four types of dilbit, as it's called, with seven other kinds of oil, the dilbit is among the least corrosive.

There's so much misinformation out there in the public that it's no wonder that people have become concerned, and I think the concern is unwarranted. Senator Sinclair just talked about the huge increase of shipping that will occur — 35 ships a day, 10 times as large as the Valdez ship. I don't believe that's true. I understand that we currently have one tanker ship a day going through the Port of Vancouver, and that will be increased sevenfold. That will be one each day for seven days; so no more congestion.

Anyway, I've digressed a little from my notes, but I wanted to make that point because I am concerned about how some of these unfacts get out there and then become food for fearmongering. I don't like to call it fake news.

I know there are people who believe that petroleum products coming from oil sands are somehow evil, and they are the cause of global warming — or should I say climate change? Because it may turn out that the climate is not warming.

We've been bombarded with messaging for years that man is causing climate change. The result is a debate that's become polarized and certainly is no longer a credible example of a scientific debate. True scientific debate is used to get to solutions, not to insult and denigrate those on opposite sides of the debate.

Colleagues, as you know, the climate has always changed in spite of the rhetoric that man is causing the change; the science is, by no means, finalized.

The problem with fearmongering around climate change by those who reject the value of resource revenue coming from oil sands is that in demonizing dirty oil, we allow activists to say that pipelines and oil tankers are bad for the environment. Think about it. What is better, shipping products by pipeline or by rail? Common sense says there's far less risk with a pipeline than there is by shipping oil any other way. As I said before, I live in fear about the derailment of a train with hundreds of oil tanker cars; it's unthinkable.

But perhaps there are people who believe that it's better for Canada to be purchasing our oil supplies from other countries. Why should people living in Eastern Canada have to buy oil that comes from the Middle East or other unstable areas of the world? Can we believe that the production of that oil is done in an environmentally friendly way? Why would we not use our own resources, and why would we not sell it at world prices and use the revenues generated to help pay for the many social services that we all want?

I've learned a lot about the operation of modern pipelines, how they're constantly being monitored and upgraded and controlled and leaks can be detected, as I said before. It is clear that the risks are controllable. The same goes for fearmongering among oil tankers. No one can guarantee that there will not be an accident, but I do not know of a major oil spill from a double-hulled tanker, and with modern navigation aids and pilot boats, the risks are acceptable.

Fearmongers in Vancouver say that tanker traffic will increase sevenfold, but they do not really understand what is happening. They are listening to the people who are promoting this fearmongering. The reason why they're listening is simple: It sounds bad and we accept it. Around the world, there are many shipping lanes where tankers move safely many times a day.

Honourable senators, Canada is a northern country with vast spaces. We need to use our oil and gas resources to heat our homes, to transport goods across our country and to drive our personal vehicles. It is simply unrealistic that we wouldn't accept living without heat and transportation. People who want to close access to our oil and gas resources for both national use and to trade with the world are unrealistic. Do they really want to freeze at home in the dark? Does anyone?

Please, colleagues, let's work together to get a common sense solution to get our oil and gas resources to the markets. It is for the good of all Canadians.

[Senator Raine]

Remember, the NDP government in British Columbia is a minority government. It was not supported by the majority of British Columbians. It is propped up by the Green Party, and I keep thinking how sad it would be if this unholy alliance cancels a project that would be so beneficial to all Canadians.

Some Hon. Senators: Hear, hear!

Hon. Dan Christmas: I appreciate the debate over the last three hours. I've learned a great deal about the situation. I agree it is a crisis.

The one question I keep coming back to over and over again is, as a chamber of sober second thought, what is the role of the Senate in this crisis? I certainly understand some of the senators' views that the federal government needs to be moved or influenced to take a stronger role. I hear the whole idea that maybe we need to pass legislation, and, of course, as always, the tool of doing a study and media releases. I'm wading through my mind some of the options that we, as a chamber of sober second thought, have.

But I want to propose an idea for consideration. I wonder if the Senate can play a neutral mediator role in this dispute. Do we have senators in our midst whom we can appoint as a team that could meet with all three leaders — meet with the federal government, the Alberta government and the B.C. government — and in a very short space of time begin to dig deep into the issues and differences? Can we become the calm voice of reason in this dispute and tone down this dispute and try to play a problem-solving role?

Now, I don't know if the Senate has ever done things like that. I know some of the other options will take time, but I wonder if this is something we can do immediately. I'm sure there are skilled senators in our midst who have these talents, abilities and knowledge and who could intervene in a very short space of time.

Again, out of respect, senators, I offer that as something to think about.

Hon. Yonah Martin (Deputy Leader of the Opposition): I thought I might be the last speaker, but I think I am the only senator who lives in Burnaby, B.C., where some of the very heated exchanges have happened, although other municipalities are also impacted.

• (2310)

I want to thank Senator Tkachuk for his passion and leadership in bringing this emergency debate to our attention and giving us all an opportunity to weigh in on this very important issue. To all the senators who did take part in this debate, I, too, learned a lot, felt a lot and had so many thoughts and ideas go through my mind. I have something prepared, but it's a mess, so I'd rather speak from a very personal place.

First of all, I live right near a train track where I see the tanker railcars go by quite regularly, and I'm awakened in the middle of the night multiple times. I'm getting used to the noise all around me. We have a beautiful view of Mount Baker and an open expanse of Burnaby, so it makes up for the noise that we sometimes have to live with.

As we talk about Lac-Mégantic and other possible accidents, I think, am I far enough from a potential disaster? These things go through my mind.

As a Burnaby resident, I know there are people like me, hard-working, tax-paying citizens who understand that we have a resource-based economy, and we have this valuable resource that needs to reach other markets, and it is landlocked.

When I heard Senator MacDonald talk about having grown up in Nova Scotia and that it's not just his coast, it's Canada's eastern coast, I think it's the first time that I thought this about the beautiful West Coast that I grew up on — I have lived in Vancouver for more than 40 years, and I have always been so proud of the West Coast — is Canada's West Coast, not just the Vancouverites' and the British Columbians'.

The fact is we have had this debate because we care so much about Canada. If I were to just think about my own little world in Burnaby and the coastline, perhaps I would have a different perspective. But what the Senate has shown me and allowed me to see is this view of our country from 50,000 feet. Those of us from the West Coast, we literally fly over a large expanse of our country to be here. It's that perspective that we gain.

And the fact that we're not an elected chamber. A member of Parliament has been reported in the news, and some of the things he said have really given me cause for concern because it's definitely not defusing the issue. It's adding so much fuel to the fire, talking about citizens against the Canadian military and what that might look like. Those are alarming words and possibilities.

If I were on the ground, perhaps thinking about my next electoral hopes, maybe I would think of this in a different way. But like all of you in this chamber and those who have spoken today, I see it from a more expansive perspective.

Tonight has accomplished one thing, which is to put on record our concerns, our desires, our ideas. It is in the archives of Canada. It will become the Hansard that anyone can look at, review and perhaps receive some inspiration the way I have over the course of this debate.

Certainly we hope that the Prime Minister and the government, whose fiduciary role is to care for this country beyond the provincial boundaries, do what's in the best interests of our nation, to truly do nation building. We hope that the government will be reading and contemplating and not letting the cousins, B.C. and Alberta, get into the kind of conflict which would naturally happen when you leave it to the provinces because they are looking out for their best interests.

So I don't fault our premier, though I'm very angry, nor do I fault Premier Notley for taking the actions she has. They're taking care of their own business, which is why the federal government must remain and stand strong and lead in whatever way possible in the best interests of our country.

As a Burnaby resident who loves our West Coast and the beauty of our country, I want to stand in association with most of what has been said this evening in support of this very important national project and the benefits that it will bring not just to

Alberta but to B.C., the rest of the country and all those who will be working on the project and benefiting from the industry that will also benefit.

I want to thank everyone for what they've said. I thought that as a Burnaby resident, it was my responsibility to weigh in with a voice of reason. Not to say that the others are not, but reason and a perspective that is unique because it is one that only the Senate of Canada can offer. I've seen at our committees how we can have a study. And a university and a college in the same city, just across the river from one another, have never sat down to speak about access to post-secondary education. I've witnessed what the Senate of Canada does, can do and must do.

So we must lead as well, and we've done that this evening. But I urge the Prime Minister and the Government of Canada to fulfill their duty to care about our nation like no other, because we must keep it together, and we must act in the best interests of our nation.

Hon. Yuen Pau Woo: Honourable colleagues, I don't know if it was by design that you've left some of the B.C. senators to speak close to the end of tonight's session, but I, too, live in the area which we are discussing, where the refinery is located in Burnaby. I do not live in Burnaby, but where I live, I see the refinery every day on my way home. I swim, from time to time, when the water is warm enough, in the straits where the Burnaby refinery is located. I, too, am very conscious of the risks that attend to pipeline accidents as well as tanker accidents that might take place, with or without an expansion of Trans Mountain.

I'm very happy, colleagues, to be contributing to tonight's debate. Perhaps you're not as happy, because it will add 15 minutes to your evening. But this is an important issue, not just on how to make the Trans Mountain pipeline a reality, but this is a discussion more broadly about how to deal with the problem of landlocked resources that need to cross provincial boundaries in order to access markets to get the best prices available for those resources.

I want to thank all senators who have spoken tonight. I'm especially impressed by those of you who have had to prepare your speeches on very short notice. Whenever Senator Sinclair gives a preamble about how he's not prepared, you know he's going to give an outstanding speech. It really is heartening to see how everyone has risen to the occasion with their various interventions.

I want to say also that having heard many of the speeches — there may be more after my own — this debate is a good start, but only just a start of what I believe has to be a larger and longer debate on defining the national interest on resource development in the context of what has been called "cooperative federalism."

I apologize if I repeat some of the items that have been mentioned already in the other speeches, but there are some nuances that I feel have not been articulated in this chamber. As a chamber of sober second thought, nuances matter, particularly on an issue as complex as this one.

Let me start by restating, and joining with many senators here, the view that it is so important for Canada to be able to realize the value of the resources we have in our land. We often talk

about Canada as a country that's blessed with natural resources. Natural resources have zero value if there's zero possibility of getting those resources to market, particularly to markets which yield the best price.

• (2320)

In the case of oil and gas, the U.S. has been our market, not just our principal market, but essentially our only market for too many years, and the industry has to take some responsibility for not thinking about diversification earlier in its period of growth, expansion and success.

We are now in a period where new technology has allowed exploration to go deeper, go to more difficult areas, to extract shale oil and shale gas. That was not possible in previous decades, and this has created a glut of oil and gas in the North American market, particularly the United States, which has made Canadian oil less attractive, in some cases perhaps not even desired in the U.S. market. This is the reason behind the discount that many people have talked about between Western Canadian sweet and West Texas Intermediate on one hand, and the further discount between North American oil and Brent Crude. But landlocked resources have no option but to sell to the U.S., because there is nowhere else for that oil to go. That is the reason behind the discount.

On the other hand, we know that the fastest-growing markets in the world today for oil and gas are outside of North America, and in particular in the fast-growing regions of Asia, notably China. The oil sands, unfortunately, are unable to reach these fast-growing markets because they are stranded. Stranded assets will over time lose their value to nothing if it is deemed that there is no possibility whatsoever of getting those resources to appropriate markets.

Let us be clear, colleagues, that the challenge facing the oil industry and the risk of the resource assets losing value over time is not just because they're unable to access promising markets such as the Chinese market. It is also that there is a transition happening in the world today from fossil fuels to renewable resources. This has been brought up by a number of colleagues and hasn't been given enough attention.

We are quite firmly on the path to a lower carbon economy, and that is going to have an impact that is larger than the simple issue of getting pipelines to tidewater, and we need to keep that in the back of our minds and not put all of our energies in focusing simply on market access.

The rapid move towards renewable energy is taking place in China as well, perhaps more quickly than other countries. It will over time make the economic case for oil and gas development less attractive.

The future of the Trans Mountain pipeline is first and foremost a commercial issue, even after all the problems have been sorted out. I do believe they can be sorted out and they will be sorted out, but even after they're all sorted out, there will have to be a very strong commercial case for the company to go ahead, for the joint venture partners that are currently involved. It's a shifting landscape where different partners are going in and coming out based on their assessment of whether having a share of the

pipeline makes economic sense for their company. The Energy East project succumbed to the same conditions of commercial considerations, notwithstanding what others have said, there was a strong commercial reason for why Energy East did not make sense, and we have to take those considerations into account when thinking about other oil and gas pipelines.

Colleagues, I agree wholeheartedly that now that we have a window, now that there is demand for our oil and gas in Asia at a time when the United States does not want as much of our oil, we have to grasp that opportunity. It is about realizing value for resources that otherwise would have no value, and which in the future might indeed have zero value if the transition economy moving towards renewables goes faster than we expected. It's foolish for us not to try to capitalize on those resources while the opportunity is there.

I believe that the very extended NEB review process that has given a clear go-ahead to the project is definitive and that the federal government should indeed exercise its responsibility over that project in order to make it happen. But how? This is where I concur with the comments that Senator Pratte made about not being too glib and simplistic about simply exhorting, cajoling, bullying the federal government into doing something.

There are, in fact, a number of court challenge issues that will pose potential obstacles to the federal government simply bargaining in and "asserting" its authority. Senator Lankin has already referred to the 2016 decision of the B.C. Supreme Court in the case known as *Coastal First Nations*. Let me read part of the decision from the court:

To disallow any provincial environmental regulation over the Project because it engages a federal undertaking would significantly limit the Province's ability to protect the social, cultural and economic interests in its lands and waters.

I continue:

It would also go against the current trend in the jurisprudence favouring, where possible, co-operative federalism.

It is clear to me, colleagues, that tonight's debate, while a very important signal of the Senate's attention to this issue, has not provided us with a magic bullet or simple solution to this problem. I really do appreciate the passionate speeches by all colleagues and the desire for a quick resolution to this problem. I too hope for a quick resolution, but we have not provided it here, and we should be humble enough but also prudent enough to offer more than what we have offered tonight. Here I refer to the ideas of Senator McCoy, Senator Black, Senator Pratte, many others who have talked about how we can continue, through a motion, through an inquiry, through other means in this chamber, to keep the attention on not just Trans Mountain pipeline but really the broader issue of landlocked resource development projects that cross provincial borders, which are deemed to be in the national interest.

We will not solve this problem by disparaging provincial governments. I'm not a political person. I have no ties with the current NDP government. But it is unhelpful to slag them for an election promise that was in their platform when they

campaigned. This government made it very clear — I disagreed with it, but it made it very clear — that it would use every means at its disposal to try to stop the Trans Mountain project, and they genuinely believe they have a mandate from the electorate to do what they're doing now.

It is unhelpful also in some of the rhetoric that singles out British Columbians as being intransigent or obstructionist because this creates a divide. I can assure honourable senators that there are many, many, many Vancouverites particularly, people who are my neighbours, people who live across Indian Arm, the Burrard Inlet, who feel as passionately as you do about the fact that Trans Mountain should not go ahead because they fear all of the dire consequences. Senator Greene has described them as fear mongering, but they genuinely fear these consequences. This provincial government is trying to respond to their interests. I'm not taking sides in the debate, but it is unhelpful for the Senate especially to be criticizing a duly elected provincial government that is trying to do what it considers to be its electoral mandate.

• (2330)

Colleagues, we should not be complacent about what we have achieved tonight, even though we have sent a very important signal. We should not be smug about the fact that we had an emergency debate and somehow feel that we have done our duty and can now wash our hands of the issue.

Hence, I want to get back to the idea that we should collectively spend some time thinking about what the next steps might be. I had suggested an inquiry. Perhaps that's the way to go. Perhaps not. There are others with ideas, but I hope that we would all agree that what tonight has signalled is that we have a problem, we have an issue that we have to address as a country. Right now it's the Trans Mountain pipeline. Tomorrow it could be something else. There are many resource development projects, many issues that require cross-border, cross-province cooperation with the federal government in some way asserting its jurisdiction. I hope we can contribute to a resolution to those conflicts in a way, as Senator Pratte has said, that focuses not on nation dividing but on nation building. Thank you.

The Hon. the Speaker: Honourable senators, the emergency debate has concluded. Pursuant to rule 8-4(7), the motion for adjournment from Senator Tkachuk is deemed withdrawn.

(Motion withdrawn.)

The Hon. the Speaker: Pursuant to rule 8-4(8), we now return to Orders of the Day for the completion of orders unless, of course, there is an adjournment motion.

(At 11:33 p.m., the Senate was continued until tomorrow at 2 p.m.)
