SENATE SÉNAT

CANADA

DEBATES OF THE SENATE

1st SESSION • 42nd PARLIAMENT • VOLUME 150 • NUMBER 210

OFFICIAL REPORT
(HANSARD)

Tuesday, May 29, 2018

The Honourable GEORGE J. FUREY,
Speaker

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

THE SENATE

Tuesday, May 29, 2018

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

Prayers.

SENATORS' STATEMENTS

ACCESSABILITY WEEK

Hon. Wanda Elaine Thomas Bernard: Honourable senators, this is National AccessAbility Week, a time to celebrate the achievements of Canadians living with disabilities and to recognize the gains made by activists advocating for a more accessible Canada.

The topic of accessibility is particularly important to my home province of Nova Scotia, as it has the largest number of residents living with a disability in Canada. An emphasis on accessibility is well reflected in the development of the 2017 Nova Scotia Accessibility Act. It is a good example of how the development of legislation which directly consults with those affected will bring accessibility to the forefront.

During the development of this legislation, Nova Scotians living with disabilities were consulted throughout the province on the barriers they experienced and how they might be rectified. The main findings of these consultations highlighted the importance of the equity and inclusion of Nova Scotians living with disabilities in society, including accessing services.

This legislation aims to make Nova Scotia accessible by 2030. This has far-reaching implications, and I encourage Nova Scotia to continue to include the voices of marginalized Canadians in this work. I encourage particular emphasis on including people with disabilities who are also impacted by intersecting identities like women, racialized people or incarcerated individuals.

As part of the Human Rights Committee study on prisoners' rights, our interviews in a Nova Scotia prison uncovered that some women with disabilities were unjustly moved to higher security units, which was due to the inaccessibility of the minimum security unit. Furthermore, these women were required to pay out of their own pockets for mobility aids. Inaccessibility of prisons impacts all incarcerated people living with a disability, but particularly the most marginalized who are impacted by other factors such as racism, sexism, in addition to ableism.

Honourable colleagues, those who are listening, this week I ask to you reflect on how you can advocate for the needs of all Canadians with disabilities within the policy work that you do.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Her Honour, Antoinette Perry, Lieutenant Governor of Prince Edward Island, accompanied by Kelli Ellis. They are the guests of the Honourable Senator Griffin.

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

Hon. Senators: Hear, hear!

THE LATE GLEN PATTERSON

Hon. Dennis Glen Patterson: Honourable senators, I was with my amazing 96-year-old dad on May 15 when he took his last breath. Thank you for your expressions of condolence to me.

Dad was a veteran, one of the first professional foresters on the West Coast, a senior Canfor executive who loved nature, hiking, photography, gardening and botany, and was an enthusiastic world traveller. I was delighted to have surprised him with a tribute when he visited the Senate last year.

From a young age, he inspired me to understand the importance of politics in our lives and gave me regular advice about Canadian and world affairs from his extensive Internet research and news monitoring.

My brother and sister and I remember my dad for his intellect that never faded in his later years, his many pronouncements on diet, health and fitness, his fierce commitment to his numerous opinions, his shrewd investing, the utter joy he derived from photography and being in the mountains, his exquisite penmanship, his yearning for travel, being a crazy cat person, his passion for music and opera and his perfect pitch, his steadfast commitment to his independence in the face of the vagaries of age, and his lifelong grief over losing my mother Isobel in 1971.

I had a touching discussion with my dad in March when I visited him. He gave me some letters he'd sent to himself in the first airmail in Canada, at the age of 17 and 18 in 1938 and 1939, to the postmasters in remote communities in the Arctic, including Craig Harbour, a sovereignty RCMP post on Ellesmere Island. I was amazed he'd been researching and reaching out to remote Arctic communities in the 1930s, long before I was given the privilege of representing those same communities in the Senate of Canada. I told him I'd love to make a statement in the Senate noting that extraordinary thing. He pooh-poohed that idea, but I mention it today as just one example of what an amazing guy he was from a very young age.

Throughout his life, my dad constantly expressed his enthusiasm and gratitude for the gift of life. No matter what his condition — and he did have various ailments in his later years — dad's answer to the question "How are you?" was always "Couldn't be better." He was active and independently

living right to the end and even spent an hour with his regular personal trainer doing weights two days before he went to hospital.

I feel a huge void in my life, but I'm happy that he realized his wish to go peacefully at the end when sudden health problems prevented him from living actively and independently.

He challenged and inspired me all my life, and I'm so grateful for the many years I had with him so large in my life. Reflecting on my life, I recognize what I am is very largely due to him.

I love you, dad, and you will always be in my heart. Thank you.

THE LATE DWIGHT DOREY

Hon. Jim Munson: Honourable senators, Dwight Dorey was a very good friend of mine. Dwight had hoped to experience one more summer in his beloved Nova Scotia. Dwight was a proud Mi'kmaw, who loved his family, friends and his community — that community was both on and off reserve. Sadly, Dwight never got to see the summer of 2018, but I'm sure his spirit is flying high over the skies of Nova Scotia and on the ocean which caresses the province's shores.

Dwight died last week. The cruellest of all diseases took his life. It was a short battle with ALS, sometimes known as Lou Gehrig's disease.

Honourable senators, let me tell you a short story about Dwight Dorey's good life, because he never got the recognition he truly deserves. Dwight worked with infamous Harry Daniels in the 1970s. Harry was the leader of the Native Council of Canada. Dwight Dorey ended up being national chief of the renamed council, CAP, the Congress of Aboriginal Peoples. What they did was set in motion the first steps in recognizing the Aboriginal people who live off reserve.

• (1410)

These, I describe as forgotten or ignored rights.

Dwight never stopped fighting. From the grassroots to the steps of the Supreme Court, Dwight Dorey helped launch the council's legal case, *Daniels v. Canada*, in 1999. In April 2016 — that's 17 years later — the Supreme Court of Canada ruled that Metis and non-status Indians are "'Indians' under s. 91(24) of the *Constitution Act*," confirming the federal government's fiduciary responsibility.

Today, 700,000 people who live off reserve are still waiting for federal government action — real action. Rights are rights. In the words of Dwight Dorey in June 2016, after the Supreme Court ruling:

> The Métis and non-status Indian people, lacking even the protection of the Department of Indian Affairs and Northern Development, are far more exposed to discrimination and other social disabilities. It is true today that in the absence of federal initiative in this field they are the most disadvantaged of all Canadian citizens.

Beyond Aboriginal politics, I thought Dwight would have made a great parliamentarian. In fact, as National Chief of the Congress of Aboriginal Peoples, he spoke here in the Senate at our annual National Child's Day celebration. Speaking from his heart and in traditional dress, he engaged children with words that inspired.

But Dwight, honourable senators, had no greater love than family and friends. Tomorrow, at the Millbrook Reserve in Truro, Nova Scotia, Dwight Dorey will be remembered as a dad, as a granddad, as a brother and as a son.

Friends will remember his kindness — a young boy who dropped out of high school, only later to earn a master's degree from Carleton University in Canadian studies. His close buddy, Dr. Neil MacDonald, told me, "In Chief Dorey, we can find a model of one who gave a lifetime to enhance the lives of our most disadvantaged peoples."

In closing, this was written in a sympathy guest book: "A man with a passion to correct historical wrongs, a bridge builder and an eternal believer in a better future for all."

At the end of a work week here in Ottawa, Dwight would love to have a pint or two with friends at the Carleton Tavern. He enjoyed those non-judgmental or happy moments where trust and camaraderie were what matter most.

Thank you, honourable senators.

Hon. Senators: Hear, hear!

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of a delegation from the National Assembly of the Co-operative Republic of Guyana, led by The Honourable Barton Scotland, Speaker.

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

Hon. Senators: Hear, hear!

BIKE DAY ON THE HILL

Hon. Chantal Petitclerc: Honourable senators, today is Bike Day on the Hill. MPs and senators are welcome for a bike ride across the Ottawa River and back to Parliament Hill.

I strongly support the effort of Canada Bikes, the voice of recreational and commuter cycling in the country, and many other bike advocacy groups who together are helping to make Canada a bike-friendly nation.

[*Translation*]

That said, esteemed colleagues, we urgently need dedicated cycling infrastructure and a national cycling strategy.

[*English*]

Bike Day on the Hill also ties in with National Health and Fitness Day, which is Saturday, June 2. This initiative, from our dear friend Nancy Greene Raine, continues to promote physical activities for all Canadians.

Cycling has amazing potential to increase physical activity for Canadians of all ages no matter where they are from, while helping to decrease CO_2 emissions.

[*Translation*]

It has been proven that in the countries outperforming Canada in terms of health and physical fitness, biking to school and work is much more common than it is here.

[*English*]

The truth is most Canadians want to bike more — they just need the routes to be safer.

By working together and sharing the dream of Nancy Greene Raine, we can make Canada the fittest nation on Earth. Join me at 5 p.m. in front of Centre Block, where the short bike ride will begin — the perfect opportunity to show off your biking skills!

[*Translation*]

Thank you, and I hope to see you this evening.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of a delegation from the Democratic Republic of the Congo, led by Félix Tshisekedi, leader of the opposition.

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

Hon. Senators: Hear, hear!

[*English*]

MEMORIAL UNIVERSITY

MEDICAL RESEARCH TEAM—GOVERNOR GENERAL'S INNOVATION AWARD

Hon. Norman E. Doyle: Honourable senators, I rise today to pay tribute to a medical research team from Memorial University of Newfoundland who recently received the Governor General's Innovation Award. This Innovation Award was one of six awarded in our nation. It is given to individuals, teams or organizations whose innovations are truly, truly exceptional, transformative and positive in their impact on the quality of life in Canada and worldwide.

Memorial's medical team identified a lethal gene mutation, which has led to life-saving screening methods and preventative treatments for a cardiac disease. A *Globe and Mail* article on May 22 outlined the achievements of this medical innovation:

> In January 2004, Terry-Lynn Young, then a newly hired assistant professor of molecular genetics at Memorial University in Newfoundland, got a phone call from the hospital morgue. On the line was Kathleen Hodgkinson, a genetic counsellor and epidemiologist who had been trying . . . to get Dr. Young to help her identify the cause of a cardiac disease that is unusually common in Newfoundland and that has led to hundreds of premature deaths. Dr. Young . . . already had her plate full of research commitments. But she agreed to come to the morgue . . . .
>
> There, she found Dr. Hodgkinson together with the provincial coroner standing on either side of a steel table. On the table was a human heart, one side healthy-looking and muscular, the other side diseased and fibrous.
>
> "This is the heart of a 42-year-old man who dropped dead in front of his two kids over the weekend," said Dr. Hodgkinson. "Are you going to take this project on or not?"
>
> With tears running down her cheeks, Dr. Young said she would. Together with Dr. Hodgkinson, clinician Sean Connors and medical ethicist Daryl Pullman, she commenced a needle-in-the-haystack search that would ultimately encompass 25 family trees going back a dozen generations in search of a genetic link behind the disease, known as arrhythmogenic right ventricular cardiomyopathy.

After groundbreaking and pioneering research, the Memorial team found the answer!

> For the first time, families living under the spectre of the disease were given the chance to know who among them is at risk. Since then, many who carry the telltale variation have received implantable defibrillators that can keep their hearts beating when the disease strikes.

Honourable senators, join me in congratulating Kathleen Hodgkinson, Terry-Lynn Young, Sean Connors and Daryl Pullman for their medical breakthrough and making the difference in Canada and the world.

Hon. Senators: Hear, hear!

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Steve Podborski, President and CEO of Parachute, Preventing Injuries, Saving Lives, former Olympic Medalist and an Officer of the Order of Canada. He is the guest of the Honourable Senator Deacon.

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

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Amanda Wilson, Canadian Health Coalition and Kat Lanteigne, BloodWatch. They are the guests of the Honourable Senator Wallin.

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

Hon. Senators: Hear, hear!

[*Translation*]

ROUTINE PROCEEDINGS

AUDITOR GENERAL

2018 SPRING REPORTS TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the 2018 Spring Reports of the Auditor General of Canada to the Parliament of Canada, pursuant to the *Auditor General Act*, R.S.C. 1985, c. A-17,sbs. 7(5).

• (1420)

OFFICIAL LANGUAGES

BUDGET—STUDY ON CANADIANS' VIEWS ABOUT MODERNIZING THE OFFICIAL LANGUAGES ACT—NINTH REPORT OF COMMITTEE PRESENTED

Hon. René Cormier, Chair of the Standing Senate Committee on Official Languages, presented the following report:

Tuesday, May 29, 2018

The Standing Senate Committee on Official Languages has the honour to present its

NINTH REPORT

Your committee, which was authorized by the Senate on Thursday, April 6, 2017, to examine and report on Canadians' views about modernizing the *Official Languages Act*, respectfully requests funds for the fiscal year ending March 31, 2019.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

RENÉ CORMIER
Chair

(*For text of budget, see today's* Journals of the Senate*, Appendix, p. 3462.*)

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

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

THE SENATE

NOTICE OF MOTION TO AFFECT WEDNESDAY SITTINGS UNTIL THE END OF JUNE 2018

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

That, until the end of June 2018, when the Senate sits on a Wednesday:

1. the provisions of the order of February 4, 2016, relating to the adjournment or suspension of the sitting at 4 p.m. only take effect at the later of 4 p.m., the end of Question Period, or the end of Government Business;

2. notwithstanding the provisions of paragraph 1 of this order, the sitting not continue beyond the time otherwise provided in the Rules; and

3. without affecting any authority separately granted to a committee to meet while the Senate is sitting, if the Senate sits past 4 p.m. pursuant to this order, committees scheduled to meet be authorized to do so for the purpose of considering bills, even if the Senate is then sitting, with the application of rule 12-18(1) being suspended in relation thereto.

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

Hon. Senators: Agreed.

[*English*]

ELECTIONS MODERNIZATION BILL

BILL TO AMEND—NOTICE OF MOTION TO AUTHORIZE LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE TO STUDY SUBJECT MATTER

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, in accordance with rule 10-11(1), the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine the subject matter of Bill C-76, An Act to amend the Canada Elections Act and other Acts and to make certain consequential amendments, introduced in the House of Commons on April 30, 2018, in advance of the said bill coming before the Senate; and

That, for the purpose of this study, the committee have the power to sit even though the Senate may then be sitting, with the application of rule 12-18(1) being suspended in relation thereto.

CRIMINAL CODE

BILL TO AMEND—FIRST READING

Hon. Kim Pate introduced Bill S-251, An Act to amend the Criminal Code (independence of the judiciary) and to make related amendments.

(Bill read first time.)

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

(On motion of Senator Pate, bill placed on the Orders of the Day for second reading two days hence.)

VOLUNTARY BLOOD DONATIONS BILL

BILL TO AMEND—FIRST READING

Hon. Pamela Wallin introduced Bill S-252, Voluntary Blood Donations Act (An Act to amend the Blood Regulations).

(Bill read first time.)

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

(On motion of Senator Wallin, bill placed on the Orders of the Day for second reading two days hence.)

BANKING, TRADE AND COMMERCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES PERTAINING TO THE MANAGEMENT OF SYSTEMIC RISK IN THE FINANCIAL SYSTEM, DOMESTICALLY AND INTERNATIONALLY

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

That, notwithstanding the order of the Senate adopted on October 17, 2017, the date for the final report of the Standing Senate Committee on Banking, Trade and Commerce in relation to its study on issues pertaining to the management of systemic risk in the financial system, domestically and internationally, be extended from June 29, 2018 to December 28, 2018.

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES AND CONCERNS PERTAINING TO CYBER SECURITY AND CYBER FRAUD

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

That, notwithstanding the order of the Senate adopted on October 17, 2017, the date for the final report of the Standing Senate Committee on Banking, Trade and Commerce in relation to its study on issues and concerns pertaining to cyber security and cyber fraud be extended from June 29, 2018 to November 30, 2018.

QUESTION PERIOD

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, pursuant to the motion adopted in this chamber Thursday, May 24, 2018, Question Period will take place at 3:30 p.m.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table the answers to the following oral questions:

Response to the oral question asked in the Senate on February 7, 2018 by the Honourable Senator Oh, concerning the statement of defence related to a class action lawsuit.

Response to the oral question asked in the Senate on February 15, 2018 by the Honourable Senator Martin, concerning the sixty-fifth anniversary of the Korean war preparations.

Response to the oral question asked in the Senate on February 15, 2018 by the Honourable Senator Martin, concerning support for veterans.

Response to the oral question asked in the Senate on February 15, 2018 by the Honourable Senator Downe, concerning the residency of senior managers.

Response to the oral question asked in the Senate on February 15, 2018 by the Honourable Senator Pratte, concerning the regulatory framework of the cannabis sector.

Response to the oral question asked in the Senate on February 15, 2018 by the Honourable Senator Boisvenu, concerning support for veterans.

Response to the oral question asked in the Senate on February 27, 2018 by the Honourable Senator Black, concerning the Trans Mountain pipeline.

Response to the oral question asked in the Senate on February 27, 2018 by the Honourable Senator Joyal, concerning the cannabis bill (Health Canada).

Response to the oral question asked in the Senate on February 27, 2018 by the Honourable Senator Joyal, concerning the cannabis bill (Department of Justice).

Response to the oral question asked in the Senate on February 28, 2018 by the Honourable Senator McIntyre, concerning the judicial selection process.

Response to the oral question asked in the Senate on March 1, 2018 by the Honourable Senator Cordy, concerning job losses in Atlantic Canada—Federal Public Service.

Response to the oral question asked in the Senate on March 21, 2018 by the Honourable Senator Smith, concerning Budget 2018.

Response to the oral question asked in the Senate on March 22, 2018 by the Honourable Senator Bovey, concerning accommodation for Canadians who are visually impaired.

Response to the oral question asked in the Senate on March 22, 2018 by the Honourable Senator Wallin, concerning the summer jobs attestation.

Response to the oral question asked in the Senate on March 22, 2018 by the Honourable Senator McIntyre, concerning Military Grievances Review Committee—Vacancies.

Response to the oral question asked in the Senate on March 28, 2018 by the Honourable Senator Jaffer, concerning the Trans Mountain pipeline.

Response to the oral question asked in the Senate on March 28, 2018 by the Honourable Senator Wallin, concerning Service Canada auditors—temporary foreign workers.

Response to the oral question asked in the Senate on March 29, 2018 by the Honourable Senator Ngo, concerning Taiwan—participation at World Health Assembly meetings.

Response to the oral question asked in the Senate on April 19, 2018 by the Honourable Senator McIntyre, concerning criminal court delays—judicial appointments.

Response to the oral question asked in the Senate on April 25, 2018 by the Honourable Senator Joyal, concerning artwork in the national collection—export permits.

Response to the oral question asked in the Senate on April 25, 2018 by the Honourable Senator Wallin, concerning the summer jobs attestation.

Response to the oral question asked in the Senate on April 25, 2018 by the Honourable Senator Housakos, concerning the Champlain Bridge.

Response to the oral question asked in the Senate on April 26, 2018 by the Honourable Senator Smith, concerning the legalization of illicit drugs.

Response to the oral question asked in the Senate on May 3, 2018 by the Honourable Senator Oh, concerning the refugee youth application process.

JUSTICE

CLASS ACTION LAWSUIT—STATEMENT OF DEFENCE

(*Response to question raised by the Honourable Victor Oh on February 7, 2018*)

Canada is fully committed to providing and maintaining a safe and harassment free workplace for all of its employees and members of the Canadian Armed Forces.

I am pleased to say that the plaintiffs and the Government of Canada have mutually agreed to suspend the current litigation timelines in order to allow for the opportunity for discussions, with a view to potentially resolving these cases out of court.

The Government of Canada has yet to file a Statement of Defence in these proposed class actions nor have these cases been certified by a court to proceed as class actions to date. Certification hearings have been delayed on a mutual basis as the Government of Canada and the Plaintiffs have agreed to explore settlement options.

The Government of Canada has withdrawn its motions wherein it argued that there was no private law duty of care owed to members of the Canadian Armed Forces.

VETERANS AFFAIRS

SIXTY-FIFTH ANNIVERSARY OF THE KOREAN WAR PREPARATIONS

(*Response to question raised by the Honourable Yonah Martin on February 15, 2018*)

Veterans Affairs Canada

The year 2018 will mark the 65th anniversary of the Korean War Armistice. Working closely with organizations such as the Korea Veterans Association, Veterans Affairs Canada will plan and support domestic ceremonies commemorating this important milestone. One of these ceremonies will take place on July 27 at the Korea Veterans Association Wall of Remembrance at the Meadowvale Cemetery in Brampton, Ontario. Overseas, Veterans Affairs Canada will support Veterans participating in the Korean Government's Revisit Korea Program. A ministerial delegation will accompany Korean War Veterans travelling to Korea to attend commemorative ceremonies. To raise awareness of this anniversary year, a suite of learning resources—with a specific activity focused on reaching out to Korean War Veterans—will be available to educators and youth. In addition, banners marking the Korean War Armistice will be included in the commemorative display along Confederation Boulevard in Canada's National Capital Region to pay tribute to all those who served.

SUPPORT FOR VETERANS

(*Response to question raised by the Honourable Yonah Martin on February 15, 2018*)

Veterans Affairs Canada

As of September 2017, Veterans Affairs Canada relies on approximately 400 Case Managers to offer case management services to 12,783 Veterans, or an approximate ratio of 32:1. This is down from 38.5:1 when the Government took office on November 4, 2015.

There has been an increase in the number of Veterans needing and receiving case management services since 2015. Veterans Affairs Canada remains committed to serving Veterans by hiring qualified individuals, by reviewing and fulfilling case management plans to provide the appropriate level of services to Veterans, and by ensuring Case Managers are working from the correct locations.

Veterans Affairs Canada's Case Managers have diverse educational backgrounds. The job requires a professional degree from a recognized university, with specialization in social work, nursing, psychology, or some other specialty relevant to the position. When hiring, priority is given to candidates who have experience in dealing with a military culture, was a member of the Canadian Armed Forces or is experienced as a caseworker in a rehabilitation environment. In addition to the education and experience they bring to the job, Veterans Affairs Canada equips staff with tools and training available to support them in their very important role.

The staffing cuts under the previous Conservative government drastically reduced the number of front-line full-time employees, exacerbating the backlog of adjudications. In Budget 2016, the Government re-opened the nine offices closed by the previous government and hired more staff. In Budget 2018, the Government announced $42.8 million to increase service delivery capacity.

RESIDENCY OF SENIOR MANAGERS

(*Response to question raised by the Honourable Percy E. Downe on February 15, 2018*)

Veterans Affairs Canada

Veterans Affairs Canada is unique in that it is the only federal Department, with a national mandate, that is headquartered outside of the National Capital Region. With Veterans Affairs Canada's continued need to coordinate and liaise with other federal departments and central agencies, having some senior leaders located in Ottawa provides needed leadership, flexibility and responsiveness to better serve Veterans overall. Senior representation by Veterans Affairs Canada in Ottawa also serves to support the broader federal government's agenda by establishing relationships that serve to advance collaboration and facilitate multi-partnered and inter-governmental initiatives.

Veterans Affairs Canada continues its commitment of having the mainstay of its senior leadership at the national headquarters in Charlottetown. Notably, this includes one of its most senior leaders, the recently appointed Associate Deputy Minister, who has relocated to, and is working out, of Charlottetown. The Assistant Deputy Minister, Strategic Policy and Commemoration, the Assistant Deputy Minister, Service Delivery, and the Assistant Deputy Minister, Chief Financial Officer and Corporate Services, are also based in Charlottetown.

Veterans Affairs Canada is a federal government department serving Veterans and Canadians across the country, and abroad. It meets its nationwide responsibilities through its various programs and services. These include programs for disability pensions, Veterans allowances, pension advocacy, health care and commemoration. They provide compensation for hardships arising from disabilities and lost economic opportunities, innovative health and social services, professional legal assistance and recognition of the achievements and sacrifices of Canadian Veterans and their families during periods of war and conflict.

FINANCE

REGULATORY FRAMEWORK OF CANNABIS SECTOR

(*Response to question raised by the Honourable André Pratte on February 15, 2018*)

The Access to Cannabis for Medical Purposes Regulations set strict personnel security requirements designed to prevent infiltration by organized crime and diversion of legal cannabis into the illicit market. All key personnel in a company licensed to produce cannabis, including all officers and directors of the corporation, must undergo a criminal record check and a law enforcement record check by the RCMP. As part of the new regulatory framework, the Government has proposed to expand the list of individuals that would require a security clearance to include the directors and officers of any parent company.

In addition, the proposed Cannabis Act would provide authority to the Minister to require any applicant seeking a license to submit any additional information, including financial information, deemed necessary for the Minister to consider the application. These measures would complement broader government actions to improve ownership transparency throughout the Canadian economy.

VETERANS AFFAIRS

SUPPORT FOR VETERANS

(*Response to question raised by the Honourable Pierre-Hugues Boisvenu on February 15, 2018*)

Veterans Affairs Canada

Veterans Affairs Canada is fully committed to the health and well-being of Veterans and their families. Disability benefits claims have increased by more than 20% during the last two fiscal years, which means more people are coming forward to get the help they so need and deserve. Veterans Affairs Canada is working hard to ensure individuals coming forward are receiving the benefits and services they need. In certain circumstances applications are processed in an expedited manner for those who are medically at risk, are in financial distress or have unmet health need related to their claimed condition. Veterans Affairs Canada is also triaging claims to ensure released Veterans applying for a mental health condition are adjudicated on a priority basis to ensure expedited access to treatment benefits. Veterans Affairs Canada continues to make every effort improve the process.

As of January 1, 2018 Veterans Affairs Canada had approximately 29,000 (First Applications, Reassessment and Departmental Reviews) applications for Disability Benefits, at various stages of completeness, working through the adjudication process.

The 29,000 includes applications from Veterans who have been retired for decades, those more recently retired, those transitioning from the Department of National Defence to Veterans Affairs Canada and those still serving in the Canadian Armed Forces.

The number of completed first applications for disability benefits rose from 1,600 applications in November 2017, to over 2,200 decisions rendered in January 2018. This increased production has halted the increase in the volume of pending applications, which has remained steady at close to 29,000 applications.

NATURAL RESOURCES

TRANS MOUNTAIN PIPELINE

(*Response to question raised by the Honourable Douglas Black on February 27, 2018*)

The Government of Canada is committed to developing the vital infrastructure that is critical to Canada's ability to get resources to global markets; and to do this while protecting the environment, which includes safeguarding our coasts.

Multiple courts, including the Supreme Court of Canada, have affirmed the federal government's jurisdiction over interprovincial pipelines, and a province's inability to block a federal project.

The Government approved the TMX project following a rigorous review process because it is in the national interest and we remain committed to seeing this pipeline built, subject to 157 legally-binding conditions primarily to protect communities, the environment, and ensure safety.

Canada will be intervening before the British Columbia Court of Appeal, on the BC Governments' question, to assert and defend the clear and established federal jurisdiction it knows it already has over interprovincial pipeline infrastructure.

JUSTICE

CANNABIS BILL

(*Response to question raised by the Honourable Serge Joyal on February 27, 2018*)

Health Canada

The legalization and regulation of cannabis has been on the formal agenda of recent FPT meetings of Ministers, and Deputy Ministers, responsible for Justice, Public Safety and Health. This was the case at a February 14th-15th, 2018 FPT meeting of Deputy Ministers responsible for Justice and Public Safety, where each jurisdiction had an opportunity to raise any concerns they might have. The agenda for the

recent FPT conference of Deputy Ministers responsible for Health, held on April 4-5, 2018, also included an update on the legalization and regulation of cannabis.

HEALTH

CANNABIS BILL

(*Response to question raised by the Honourable Serge Joyal on February 27, 2018*)

Department of Justice

In their April 25, 2018 reply to Minister Fournier's letter dated February 23, 2018, the federal Ministers of Health and Justice reaffirmed that provinces and territories have the flexibility to impose additional restrictions on personal cultivation based on local circumstances should they wish to do so. Should a conflict arise between federal and provincial law, for example, where certain aspects of the provincial law are found to frustrate the purposes of the federal law, the federal law would prevail.

The proposed Cannabis Act would permit adults to cultivate up to four cannabis plants per household. Under no circumstances could home-grown cannabis be sold to any other person or provided to a young person. Allowing for the cultivation of a limited number of cannabis plants at home supports the Government's objective to displace the illegal market, and setting a very low limit on the number of plants is a reasonable way to allow adults to cultivate cannabis for their personal use. This is consistent with the Government's objective of avoiding criminal penalties for the possession and production of small amounts of cannabis.

JUSTICE

JUDICIAL SELECTION PROCESS

(*Response to question raised by the Honourable Paul E. McIntyre on February 28, 2018*)

Department of Justice

The Government has taken significant steps to ensure that the process for appointing judges is transparent and accountable to Canadians, and promotes greater diversity on the bench.

Furthermore, the Government is committed to ensuring that the most meritorious candidates are appointed to the bench in order to meet the needs of all Canadians. As of April 13th, 2018, the Government has made 167 highly meritorious appointments and elevations. We have also appointed 40 deputy judges in the Territories.

In fact, 2017 was a record-breaking year — the Government made 100 appointments and elevations, more than any government in at least two decades.

All judicial candidates are evaluated by independent Judicial Advisory Committees in each province and territory. In making appointments, the Minister of Justice considers a candidate's case law and subject-matter expertise, and works closely with Chief Justices, to ensure appointments meet the needs of the courts.

The Government is very proud that the modernized judicial appointments process is building a judiciary that better reflects the country it serves. Today, the diversity of appointments is unprecedented. Looking at new judges appointed to the bench in 2017, half are women, four are Indigenous, and 16 have self-identified as a visible minority, LGBTQ2, or a person with a disability.

EMPLOYMENT, WORKFORCE DEVELOPMENT AND LABOUR

JOB LOSSES IN ATLANTIC CANADA—FEDERAL PUBLIC SERVICE

(*Response to question raised by the Honourable Jane Cordy on March 1, 2018*)

Treasury Board of Canada Secretariat:

Federal government employment continues to play an important role in regional development. There are opportunities for government departments and agencies to create more jobs in regions and to put decision-making closer to the people and resources affected by these decisions. This proximity leads to better outcomes and better decisions. As such, the Government is assessing the needs of our workforce and working to develop approaches that look to regions as opportunities to increase public service representation, with a focus on meeting the needs of Canadians.

Furthermore, one of the Government's key priorities is renewing the public service. Ensuring that the Government recruits, develops and supports the right people is a pressing challenge. In meeting this challenge, the Government is taking an enterprise-wide view and is adopting approaches that are inclusive of regions outside the National Capital Region (NCR). An example is the Indigenous Youth Summer Employment Opportunity initiative to strengthen the representation, development, and retention of Indigenous youth in the public service. Open to Indigenous post-secondary students across Canada, last summer, this initiative, attracted a quarter of its non-NCR participants from Atlantic Canada.

• (1430)

FINANCE

BUDGET 2018

(*Response to question raised by the Honourable Larry W. Smith on March 21, 2018*)

The Government has a plan and significant progress is being made on the $180+ billion *Investing in Canada plan* (Plan). The Government has recently released a comprehensive publication on the Plan, which outlines details for the full $180+ billion envelope.

An updated profile of Phase 1 funding under the Plan was included in Budget 2018. This reprofiling reflects when the Government expects claims will be made from recipients and does not necessarily indicate delays in infrastructure construction or the start of projects. Further adjustments will be made over time to ensure funding is available to other jurisdictions when it is needed.

Projects may begin once federal funding is committed, however federal contributions are paid only when requested by partners. To date, at least 28,000 projects worth $11.8 billion in federal investment have been approved, and at least 20,000 projects have started or completed.

Infrastructure Canada is working with its 13 partner departments to report on the delivery of the Plan. For example, the Government has launched the Plan's geo-map, which allows Canadians to view the investments that are being made in their communities.

The Government is delivering on its commitment to make historic infrastructure investments that will benefit all Canadians now and in the future.

TREASURY BOARD

ACCOMMODATION FOR CANADIANS WHO ARE VISUALLY IMPAIRED

(*Response to question raised by the Honourable Patricia Bovey on March 22, 2018*)

The availability of alternate format materials is very important for persons with print disabilities to fully participate in Canadian culture and society. The Government of Canada has supported these efforts by joining the Marrakesh Treaty in 2016, to facilitate access to published works for persons with print disabilities. Further, in 2017-18, the Government of Canada provided $3.5 million in funding for the production and distribution of alternate format materials. Of this funding, $2.5 million was provided to the Canadian National Institute for the Blind (CNIB) and $1.0 million was provided to the National Network for Equitable Library Service (NNELS) through the Social Development Partnerships Program-Disability Component.

This is an issue involving stakeholders from multiple sectors. This is why in December 2017, a working group comprised of industry, government and other key stakeholder representatives (including CNIB) was established to collaboratively develop a longer-term strategy. Options are being considered to provide transition funding for the production and distribution of alternate format materials in 2018-19 while a longer term strategy is developed.

EMPLOYMENT, WORKFORCE DEVELOPMENT AND LABOUR

SUMMER JOBS ATTESTATION

(*Response to question raised by the Honourable Pamela Wallin on March 22, 2018*)

Employment and Social Development Canada (ESDC)

ESDC regularly consults the Department of Justice on a wide range of matters. Legal advice is protected by Solicitor-Client Privilege and cannot be disclosed.

Applicants are not asked to provide their views, beliefs or values as these are not taken into consideration during application for the program. Faith-based groups are required to meet the same eligibility criteria as any applicant to CSJ 2018.

The Government of Canada seeks to ensure that youth opportunities funded by the Canada Summer Jobs program take place in an environment that respects the rights of all Canadians. With the 2018 CSJ attestation, an organization confirms that through its primary activities, individual human rights are respected, and that students' job activities do not seek to actively undermine these existing rights.

PRIVY COUNCIL OFFICE

MILITARY GRIEVANCES REVIEW COMMITTEE—VACANCIES

(*Response to question raised by the Honourable Paul E. McIntyre on March 22, 2018*)

The Military Grievances External Review Committee is an independent tribunal which reviews military grievances referred to it through Section 29 of the *National Defence Act* and provides findings and recommendations to the Chief of the Defence Staff and the Canadian Armed Forces member who submitted the grievance. The Committee has developed extensive knowledge on matters related to the administration of the Canadian Armed Forces and the Chief of the Defence Staff benefits from this wisdom.

Several open, transparent and merit-based appointment processes were launched to fill several positions with the Military Grievances External Review Committee. Official appointments of the full-time and part-time Vice-Chairpersons were announced in March 2018 and May 2018

respectively. The process to select the full-time Chairperson is progressing well and the official appointment should be made by the Governor-in-Council in the coming weeks.

NATURAL RESOURCES

TRANS MOUNTAIN PIPELINE

(*Response to question raised by the Honourable Mobina S.B. Jaffer on March 28, 2018*)

The Government of Canada approved the Trans Mountain Expansion (TMX) project following a federal regulatory review and the most rigorous Indigenous consultation on a major project to date. The project was approved subject to 157 legally binding conditions to protect communities, the environment, and to ensure safety. The Government and Indigenous leaders co-developed, for the first time, the $64.7 million Indigenous Advisory and Monitoring Committee, ensuring sustained Indigenous engagement for the lifecycle of the project.

The Government also further protected the environment: We made the largest ever investment to safeguard oceans and coastlines through the $1.5 billion Oceans Protection Plan. Together with stringent conditions for the TMX project, this provides for best-in-the-world practices, better response time in the event of a spill, regional response plans, unlimited compensation, and safeguards for all vessels.

Canadians can have confidence that their coastline is protected by science-based, world-leading standards and implemented by experts, Indigenous and coastal communities, scientists and industry.

The economic case for building Canada's refinery capacity is lacking owing to high capital costs, market demand for heavy crude products, and the fact that Canada is a net exporter of refined products. It is also owing to excess refining capacity in Canada and North America and growing capacity in Asia.

NATIONAL REVENUE

SERVICE CANADA AUDITORS—TEMPORARY FOREIGN WORKERS

(*Response to question raised by the Honourable Pamela Wallin on March 28, 2018*)

Our government takes its responsibility to protect temporary foreign workers and to maintain the integrity of the Temporary Foreign Worker Program seriously. All workers in Canada, including temporary foreign workers, have a right to a healthy and safe working environment.

Our government is following the advice of Parliament and the Auditor General to help farmers and food processors continue to grow their businesses and create jobs.

To better protect all users of the Temporary Foreign Worker program, including employers, we are increasing onsite inspections of workplaces employing temporary foreign workers. During these inspections, we work closely with employers to ensure compliance with program requirements while minimizing disruption to their business. This includes providing employers with an opportunity and a reasonable amount of time to respond to the Department's preliminary findings. In over 45 percent of cases in 2017-18, employers willingly took corrective measures in areas where they were initially found non-compliant.

The precautions that are taken during an unannounced inspection are the same as during a scheduled inspection. Service Canada employees are expected to conduct themselves in a professional and respectful manner when entering any workplace, and do not have the authority to enter the private dwelling of an employer without their consent or a warrant.

Our government will continue working to ensure that this program works for workers, for employers and for the Canadian economy.

HEALTH

TAIWAN—PARTICIPATION AT WORLD HEALTH ASSEMBLY MEETINGS

(*Response to question raised by the Honourable Thanh Hai Ngo on March 29, 2018*)

Canada continues to support Taiwan's meaningful participation in international multilateral fora where its presence provides important contributions to the global public good.

Taiwan's role as an observer in the annual World health Assembly meetings is in the interest of the international health community and is important to the global fight against pandemic and disease.

Canada is disappointed that Taiwan did not receive an invitation this year.

We welcome participation from the entire international community to promote global health.

JUSTICE

CRIMINAL COURT DELAYS—JUDICIAL APPOINTMENTS

(*Response to question raised by the Honourable Paul E. McIntyre on April 19, 2018*)

Department of Justice

The Government is committed to ensuring that our criminal justice system keeps communities safe, respects victims, and holds offenders to account. The Government recognized that bold action to tackle courts delays and

modernize the criminal justice system was needed and they acted. In tabling Bill C-75, they are fulfilling their promise to move forward with substantial criminal justice reforms. Once passed, this legislation will have a real and lasting impact on court delays. This legislation, and all actions to date, are aimed at addressing the root causes of delays. This bill is intended to bring about a culture shift within the criminal justice system, something the Supreme Court in the Jordan decision stressed is required.

The Government also takes its responsibility to appoint judges very seriously. They have taken significant steps to ensure that the process for appointing judges is transparent and accountable to Canadians, and promotes greater diversity on the bench.

As of May 4, 2018, the Government has appointed or elevated 175 judges across the country, including 33 in Alberta. And due to investments through Budget 2017, today there are more federally appointed judges in Alberta — than under the previous government.

CANADIAN HERITAGE

ARTWORK IN NATIONAL COLLECTION—EXPORT PERMITS

(*Response to question raised by the Honourable Serge Joyal on April 25, 2018*)

The National Gallery of Canada (the Gallery) has withdrawn the Marc Chagall painting, "The Eiffel Tower" from auction. It will remain in the national collection.

The export permit for the painting was issued in compliance with the *Cultural Property Export and Import Act*. As required by the *Act*, a permit was issued by the Canada Border Services Agency based on the recommendation of a qualified expert institution designated under the legislation. Under the *Act*, the Canadian Cultural Property Export Review Board does not have any role in instances where a designated expert directs that a permit be issued.

Deaccessioning is a normal part of responsible museum management. The *Museums Act* establishes the Gallery as an independent Crown Corporation that operates at arm's length from the Government. It has the legal authority to make its own decisions about collection acquisitions and deaccessions.

EMPLOYMENT, WORKFORCE DEVELOPMENT AND LABOUR

SUMMER JOBS ATTESTATION

(*Response to question raised by the Honourable Pamela Wallin on April 25, 2018*)

The intent of the Canada Summer Jobs program has always been to provide young people with high quality, paid summer work opportunities, where they can gain valuable experience and earn money to help pay for school.

That's why the Government has doubled the number of summer jobs under the Canada Summer Jobs program since 2015, creating paid work experience for almost 70,000 students per year, and this year, more than 3,000 employers are first-time funding recipients.

Through the attestation, ESDC is ensuring that applicants are aware of the new eligibility requirement for the Canada Summer Job program and comply with it.

The employer attestation for Canada Summer Jobs 2018 is consistent with individual human rights in Canada, including the values underlying the *Canadian Charter of Rights and Freedoms* (Charter). It also reflects the Government of Canada's commitment to human rights, which includes women's rights and women's reproductive rights, and the rights of gender-diverse and transgender Canadians.

This change helps to ensure that Government of Canada funding supports organizations whose mandates and projects respect individual human rights, and that youth job opportunities funded by the Government take place in an environment that respects the rights of all Canadians.

As in previous years, faith-based organizations were encouraged, welcome and eligible to apply for the Canada Summer Jobs program. These groups provide valuable service to communities across the country and hundreds of faith-based organizations have been approved for funding this year. Applicants were not asked to provide their views, beliefs or values as these were not taken into consideration during the application process.

The Department regularly consults the Department of Justice on a wide range of matters. Legal opinions are protected by Solicitor-Client Privilege and as a result, cannot be disclosed.

TRANSPORT

CHAMPLAIN BRIDGE

(*Response to question raised by the Honourable Leo Housakos on April 25, 2018*)

Under the terms of the settlement agreement reached with Signature on the Saint Laurence, penalties of $100,000 per day for the first 7 days and of $400,000 per day thereafter to a maximum of $150M will apply if the New Champlain Bridge is not open on December 21, 2018. The project agreement signed in June 2015 requires that the Signature on Saint Laurence be compensated for certain events beyond its control. The settlement agreement in the amount of $235 million compensates the Signature on Saint Laurence for the additional costs associated with these events, such as load restrictions on the existing Champlain Bridge and 2017 labour disputes.

The settlement agreement does not provide Signature on the Saint Laurence with financial compensation for the removal of tolls. Amending the contract to remove tolls does not impact the project schedule.

JUSTICE

LEGALIZATION OF ILLICIT DRUGS

(*Response to question raised by the Honourable Larry W. Smith on April 26, 2018*)

Health Canada

Opioid-related overdoses have claimed the lives of thousands of Canadians, devastating families and communities throughout the country.

The Federal Government is taking a public health approach to respond to the opioid crisis. This includes restoring the harm reduction pillar to the Controlled Drugs and Substances Strategy and supporting harm reduction initiatives, increasing access to treatment options, and working on ending the stigma associated with people who use drugs.

We are not looking at decriminalizing or legalizing all drugs. Over the past year, Health Canada has not conducted any public opinion research on this issue.

IMMIGRATION, REFUGEES AND CITIZENSHIP

REFUGEE YOUTH APPLICATION PROCESS

(*Response to question raised by the Honourable Victor Oh on May 3, 2018*)

Insofar as Immigration, Refugees and Citizenship Canada (IRCC) is concerned:

Applications received before June 19, 2017, by persons under the age of 18 will continue to be processed in accordance with the previous requirements to seek a waiver of the age requirement under subsection 5(3), or, if the applicant has requested discretionary consideration under subsection 5(4), will continue to be assessed under subsection 5(4). As always an applicant may request to withdraw their citizenship application for any reason and at any time before a decision has been taken on the application. Of note however, all 13 applications that were made by minors under subsection 5(3) prior to the coming into force of Bill C-6 legislative amendments have been processed. Of the 13 applications received, all but two cases were granted citizenship. In the two cases where citizenship was not granted, both cases are currently in process pending a decision on discretionary grounds.

[*Translation*]

ORDERS OF THE DAY

THE SENATE

MOTION TO AFFECT WEDNESDAY SITTINGS UNTIL THE END OF JUNE 2018 ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of earlier this day, moved:

That, until the end of June 2018, when the Senate sits on a Wednesday:

1. the provisions of the order of February 4, 2016, relating to the adjournment or suspension of the sitting at 4 p.m. only take effect at the later of 4 p.m., the end of Question Period, or the end of Government Business;

2. notwithstanding the provisions of paragraph 1 of this order, the sitting not continue beyond the time otherwise provided in the Rules; and

3. without affecting any authority separately granted to a committee to meet while the Senate is sitting, if the Senate sits past 4 p.m. pursuant to this order, committees scheduled to meet be authorized to do so for the purpose of considering bills, even if the Senate is then sitting, with the application of rule 12-18(1) being suspended in relation thereto.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*English*]

ENDING THE CAPTIVITY OF WHALES AND DOLPHINS BILL

BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

Hon. Murray Sinclair moved third reading of Bill S-203, An Act to amend the Criminal Code and other Acts (ending the captivity of whales and dolphins), as amended.

He said: Honourable senators, I rise to speak as the replacement sponsor of Bill S-203, the ending the captivity of whales and dolphins act. This bill proposes to phase out the captivity of whales, dolphins and porpoises, except for rescue and rehabilitation, licensed scientific research or for their best interests. Bill S-203 would also require a licence for performance and entertainment purposes.

The bill implements the phase-out through the changes to the Fisheries Act regarding capture; the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act regarding import and export; and the animal cruelty provisions of the Criminal Code regarding breeding.

I'd like to begin my remarks by acknowledging our friend and retired colleague Senator Wilfred Moore, the original sponsor of this bill. I actually feel a tinge of sadness today in the fact that he could not be in this chamber with us as we reach what I can only hope is the beginning of the conclusion on something that has been so close to his heart and about which he felt very strongly. He isn't in the gallery, but I'm sure he's listening as we debate this bill.

The story of how his dedication to this cause arose is an interesting one. As I'm sure you've heard, if you've ever talked to him, one evening he and his family watched *Blackfish*, a documentary that highlights the dangers to humans and cetaceans of the forcible capture and captivity of such intelligent aquatic animals. Afterward, Senator Moore's son Nicholas asked his dad if he could do something about such treatment of whales here in Canada. This compelled Senator Moore to introduce this bill on December 8, 2015, that would phase out the captivity of whales, dolphins and porpoises, collectively known as cetaceans, with those specific exceptions.

So passionate is he about this cause, Senator Moore continues to this day to dedicate his time to promote the welfare of cetaceans. With others, he is now working toward the realization of Canada becoming the home of the world's first open-water seaside sanctuary for whales. The intention of this sanctuary is to provide a place where rescued whales and dolphins can be rehabilitated for release while living in an environment that maximizes their well-being and autonomy in a setting as close as possible to their natural habitat, or where they might remain permanently if unreleasable. Some locations being considered for this sanctuary are British Columbia, Nova Scotia and Washington State.

In recognition of his work, last April, the Canadian Federation of Humane Societies presented Senator Moore with the 2017 CFHS Animal Welfare Leadership and Innovation Award for Humane Legislation. This award is given for positive action in Canadian animal welfare that promotes respect and humane treatment toward all animals.

Honourable senators, I know that we all believe it is morally wrong to treat animals with cruelty. We do not distinguish between those individuals who are intentionally cruel or those who are cruel through negligence or ignorance. It is enough if their treatment of animals is cruel on a reasonable standard.

Our moral sense of right and wrong has led to such conduct being criminalized in our Criminal Code. Bill S-203 makes it clear that we have a moral obligation to phase out the capture and retention of cetaceans for profit and entertainment. This bill would have Canada join other countries that have already banned cetacean captivity.

This bill also follows other positive developments in Canadian animal welfare and within the work of this Senate. This year, we have seen a bill calling for an end to the removal and importation of shark fins from live sharks. We have before us another bill calling for an end to animal testing in the cosmetics industry and to require cruelty-free cosmetics. How fitting it is, then, to have before us this bill, calling for an end to the cruelty inherent in cetacean captivity for profit and entertainment purposes.

Societal attitudes are changing with respect to our relationship and responsibility to animals. Canadians are calling upon us to do better. Last week, Angus Reid released a survey showing that over 50 per cent of Canadians support the banning of cetacean captivity in Canadian aquariums. Around the world, steps are being taken to do so. Bill S-203 is groundbreaking for Canada, but it is a consolidation of related developments.

Ontario has banned orca captivity and breeding. The Vancouver Parks Board has now banned all cetacean captivity, which the Vancouver Aquarium has also voluntarily renounced. Other national jurisdictions have adopted similar policies banning or strictly limiting cetacean captivity. Outright bans have taken place in Chile, Costa Rica, Croatia and India.

• (1440)

Such a ban was also recently adopted in France. Strict restrictions are also in place in the United Kingdom, Italy, New Zealand, Cyprus, Hungary, Mexico City, South Carolina and Maui County in Hawaii. California has banned orca captivity, and similar legislation is now under consideration in New York state and Florida.

Bill S-203 builds on this trend and would place Canada and, moreover, the Senate of Canada, as an international leader on this issue.

This would be particularly the case if Canada becomes the site of the world's first open-water sanctuary. In Canada, there are only two businesses that hold captive cetaceans for profit: Marineland in Ontario and the Vancouver Aquarium in British Columbia. In 2017, I remind you, the Vancouver Park Board banned future cetacean captivity, and the aquarium has said it will voluntarily phase out whale captivity. Also, as I said earlier, this bill was introduced in the Senate on December 8, 2015. The bill received second reading and was referred to the committee almost one year later, on November 17, 2016.

The committee held 17 hearings and heard from over 40 witnesses. Almost one year after referral, the committee reported on the bill, with amendments, on October 31, 2017. The committee report was almost adopted in December 2017, but was finally adopted on April 26, 2018. Now here we are, 29 months, 21 days later.

The Standing Senate Committee on Fisheries and Oceans heard extensive scientific reasons why cetacean captivity should be banned. We heard from some of the most reputable animal protection organizations in Canada, from world-renowned cetacean scientists and from researchers and educators, both domestically and internationally. They told us that there are 83 cetacean species around the world, including whales, dolphins and porpoises. Dr. Naomi Rose, a marine scientist and cetacean biologist for over 25 years, had this to say about the space that captive cetaceans are housed in:

> We know so much more about them ecologically and biologically that we can formulate science-based arguments to demonstrate that the finest state of the art facilities can only provide these animals with space that is one-ten thousandth of one per cent of their natural home ranges. With even the smallest identified home range for a dolphin or an orca, one-ten thousandth of one per cent is all we can give them in captivity.

So think about this, senators: How would you feel if you had to live the rest of your life in a bathtub? In the wild, cetaceans live in complex societies. They demonstrate high-level intelligence, emotions and sociability. They have a high acoustic sensitivity and a roaming lifestyle. Dolphins are one of the world's most intelligent animals. Only humans have a larger brain relative to their body size. They can swim up to 100 miles a day, jump 15 feet straight up and reach speeds up to 20 miles an hour in short bursts. Dolphins have been recorded diving up to depths of 1,700 feet.

They are social animals that often travel in pods of 50 to 100 individuals. Mothers and their calves are the main components of large dolphin social groups that are often comprised of three generations.

The beluga, our captive whales, are known as the canaries of the sea because they make chirping sounds. Their dives may last up to 25 minutes and can reach depths of 800 metres.

Orcas are very curious creatures. They like to sky hop. This is when they poke their heads out of the water, and they look around. They can dive up to 100 feet and are social animals that live in pods that they stay in for the rest of their lives. They are so family oriented that they sleep together in a tight circle and have synchronized breathing.

There are six known species of porpoises. They usually prefer to live in small groups of 10 or fewer but can come together into groups of several hundred during times of feeding or during certain social interactions.

Cetaceans possess intelligence, emotions, social lives that include extremely close bonds to their families, complex communication skills and roaming lifestyles. It is because of these characteristics that cetaceans are the least suitable of all creatures for captivity.

Even though captive whales and dolphins are kept in an environment free from predators, pollution and other threats, they suffer as a result of living in small sensory-deprived concrete enclosures. Ingrid Visser, the founder and principal scientist of the Orca Research Trust, explained that these harms include isolation, health problems, reduced lifespans, high infant mortality rates and extreme boredom, where they self-mutilate and end up with scars, wounds and damage to their teeth because they live in barren environments where everything involving choice is removed. Some of the compromised behaviours they exhibit include abnormal repetitive behaviour and logging, which is when they simply float in one place.

It is extremely rare for cetaceans in the wild to stay still for more than a minute or two. These behaviours are indicative of the poor quality of life that these animals are forced to endure.

Expert witnesses stated that cetaceans in Canadian facilities do not have enough access to shade and are confined in tanks too small to exhibit normal behaviour, like diving, and some are held captive in inappropriate social groups, while others are held captive in isolation. One example of this is Kiska, the only orca in the world to live in complete social isolation.

We were told that, in order to subdue and control cetaceous behaviour, it is a standard practice in the aquarium industry to use starvation methods and inappropriate or excessive amounts of drugs, such as Diazepam, commonly known as Valium, on these animals.

Cetaceans are also being bred in captivity for profit. Calves are then separated from their mothers and live an average of two or three years. We heard that, when separated from their calves, the mothers sink to the bottom of the pool and bang their heads against the concrete because they are distressed.

Some of the witnesses raised concerns that captive cetaceans are important for conservation, research and educational purposes. In response, Dr. Hal Whitehead from Dalhousie University, who has been studying cetaceans in the wild since 1974, with a focus on their social structure, culture, populations and conservation, said that research on captive cetaceans uses manipulative experiments. Rather than being fed live prey, for example, they are typically fed dead fish. As acoustic animals, they live in debilitating concrete tanks that act as echo chambers. Even though captivity research has provided some insight into the nature and cognition of these animals, it is uncertain that these results would translate to animals in the wild, he said. He also informed us that the only worthwhile results from captivity research come from dedicated research facilities, mostly from the United States Navy and the University of Hawaii. They do not come from display facilities such as Marineland, which is a display facility.

Dr. Lori Marino is a neuroscientist, an expert in animal behaviour and intelligence with a PhD in biopsychology. She is internationally known for her work on the evolution of the brain and intelligence in dolphins and whales, as well as in primates and farm animals. She has published over 130 peer-reviewed scientific papers, book chapters and magazine articles on marine mammal biology and cognition, comparative brain anatomy, self-awareness in nonhuman animals, human-nonhuman animal relationships and the evolution of intelligence. She is also an expert on marine mammal captivity issues, such as dolphin-assisted therapy and the educational claims of the zoo and aquarium industry.

• (1450)

Dr. Marino conducted an extensive analysis of research done on facilities here in Canada. According to her analysis, Marineland, which does not tout itself as a research facility, has produced six research papers using their captive dolphins and whales over a 10-year period. Only three of those papers have been cited by independent authors, and of those, only one had any relevance to wild cetaceans.

The number of in-house studies of captive dolphins and whales conducted by the Vancouver Aquarium over a 30-year period is 13. Only five of those studies have been cited more than a few times by the rest of the scientific community. Dr. Marino concluded by saying this:

> . . . there is little to no evidence for the claim that either the Vancouver Aquarium or Marineland are conducting research with captive dolphins and whales that has any relevance to the conservation of wild cetaceans. Therefore, if captive cetacean research were to be terminated in Canada tomorrow, the impact on conservation would be negligible at best.

Dr. Naomi Rose said that she is of the opinion that all facilities compromise the welfare of cetaceans, including the two facilities here in Canada.

Dr. Ingrid Visser informed the committee that Marineland has at least 50 belugas on display and holds 65 per cent of all the captive belugas in North America. She pointed out that a minimum of 32 belugas and 21 orcas have died in the cramped and inadequate tanks at Marineland. That is not a very good track record.

The committee was also told that Marineland has enough belugas on hand to be able to continue to operate for another 20 years because this bill contains a grandfather clause that allows existing facilities to continue to operate with existing stock, so long as new animals are not taken captive.

Honourable senators, I'd like to address the so-called educational benefit to having whales and dolphins held in captivity. There are many ways to learn about whales without having to visit an aquarium. We can watch documentaries, we can read about them in books or we can go whale watching. By the year 2000, Canada had 240 whale watching companies operating in six provinces, providing employment and citizens with ample opportunity to encounter cetaceans in their natural settings. That number is bound to grow if whale captivity for display in so-called educational purposes is ended.

I would note that support for Bill S-203 reflects changing social attitudes, which have evolved with our increasing scientific knowledge of cetaceans. We do not stand in judgment of those activities in the past, but we are seeking to establish appropriate policy and laws based on current knowledge for the future.

Internationally renowned marine biologists are among the driving forces behind this bill. Over 20 scientists have endorsed this bill because scientific evidence indicates captivity is cruel, given the characteristics and needs of cetaceans. That should weigh heavily in your own independent assessment, honourable senators, as to whether the capture and captivity of cetaceans is simply too cruel to be allowed to continue.

During the committee proceedings, some senators and the lawyer from Marineland, who is now lobbying against Bill S-203, said it should not move forward because Indigenous groups have not been consulted. Now, I support thorough consultation with Indigenous groups whenever legislation could potentially impact their rights. However, I'm not aware of any Indigenous tradition of displaying live whales for public entertainment, nor am I aware of Indigenous people capturing cetaceans or breeding them for captivity or research purposes. That is simply not a traditional way to use animals and is, quite frankly, contrary to the Indigenous worldview of the relationships and correctness of the natural world.

Indigenous people are careful to respect the natural life cycles of the animals that they share the earth with. Efforts were made not to overfish, over-hunt or over-harvest. Every part of the animal is used and, in many cultures, there are accompanying celebrations and ceremonies of appreciation for the use of the animal. This has been the attitude in many Indigenous traditions. It is one of stewardship and respect.

Honourable senators, you may recall receiving a letter from the Coastal First Nations of British Columbia calling on the Senate to vote in favour of this bill. In their letter, the author said:

> As stewards of much of Canada's Pacific Coast, we are in a unique position to speak to the importance of protecting whales and dolphins while keeping them in the wild where they belong. Historically our coastal communities have had a special and important relationship with cetaceans. Our experience in developing marine use plans, using ecosystem-based management and building successful whale watching and ecotourism businesses provides a compelling alternative vision for more respectful ways of appreciating and living with some of the most magnificent wild animals on the planet. Many of our communities are home to lucrative and sustainable whale watching and ecotourism operations. As such, we see ourselves as key stakeholders in this discussion.

Now, some argued that this bill would impact Indigenous rights. It did not and could not. Federal law cannot impinge upon a constitutionally protected Indigenous right. Nonetheless, in

response to this concern, the bill has now been clarified to communicate to Indigenous peoples, including Inuit communities who export narwhal tusks, that their rights will not be affected.

For greater certainty, I introduced, as an amendment, a measure to reassure Indigenous people that this bill will not derogate from any rights that are constitutionally protected under section 35 of the Constitution Act of 1982. This amendment was supported by all of the Indigenous senators at the committee, including now-retired Senator Watt.

I would like to take some time to talk about the other amendments that were introduced and adopted during committee, as well, to strengthen this bill.

Responding to the concern of the value of research on captive cetaceans, this bill now allows an exception for breeding or taking a cetacean into captivity for scientific research if licensed by a province. The only Canadian facility doing scientific research on captive cetaceans in Canada is the Vancouver Aquarium, which has now committed to no longer holding captive cetaceans in response to evolving social attitudes.

With the whale seaside sanctuary in mind, an amendment was adopted to allow the import or export of a cetacean when to do so is in its best interest, such as when it is injured.

The breeding offence has been altered to now make it a summary offence with a maximum fine of $200,000. This is modelled on the law in California, where they have banned the breeding of orcas.

Scientists were clear at committee, when the question was put to them directly, that keeping cetaceans in concrete tanks is cruel. So, it is appropriate to create a practice-specific animal cruelty offence in this instance. That way, if Bill S-203 is adopted, it will prevent the births of any additional cetaceans in captivity, saving them from the cruel fate of living their entire lives in a relatively minuscule concrete tank. I think we are sympathetic enough to imagine what that must be like. With Bill S-203, I hope the calves born in captivity this year will be the last captive cetaceans born in Canada.

Efforts have been made by many so that this bill has a chance to become law as soon as possible. Conservative Senator Janis Johnson was an early supporter of this bill. As deputy chair of the committee proceedings, Senator Elizabeth Hubley was an important leader and passionate supporter of the bill, as was Senator Munson, whose intervention to adopt the committee report last December reminded us that the public is very eager to see a vote on this matter.

Cetacean captivity is an issue that touches the hearts of thousands of Canadians. You may recall that public support asking us to pass this bill twice shut down the Senate servers. Tens of thousands of Canadians wrote to us because they wished to see a vote on this bill. Over 5,000 Canadians have petitioned the House of Commons, several thousand have petitioned the Senate, and over 80,000 people have signed an international online petition in support of Bill S-203.

On that point, I would like to acknowledge and thank all of those people who took time to write us and sound their support for this bill. And let me assure them, we have heard your voices. You have made a critical difference in moving Bill S-203 forward, and this bill belongs to all of its supporters.

• (1500)

Some measures similar to those contained in Bill S-203 are now contained in government Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence. These include a ban on cetacean captures except for rescues, and the ability to regulate imports of cetaceans. Measures in Bill C-68 are a step in the right direction, and it is encouraging to see Minister LeBlanc take a positive, constructive and proactive approach on the issue. As the minister stated in February:

> The public acceptance of keeping these majestic creatures in captivity has changed and we think the law should also change to reflect that so we're going to ban the taking of cetaceans. We think Canadians massively support that principle.

The major difference of these bills is in respect to the breeding ban. Bill S-203 calls for a total ban on breeding cetaceans. This is very important because it is the only way to truly phase out the practice of keeping cetaceans captive in Canada. I expect that our statement in the Senate about the provisions of Bill S-203 will have an influence on the process of Bill C-68 as it passes through committee stage and its amendment process.

We need to remember what this bill is really about: whether whales, dolphins and porpoises should be kept in captivity. When thinking about this, the bottom line is let's not forget the creatures living in the concrete tanks, and let's not forget the wild cetaceans who may yet face violent capture from their family groups for the purpose of display for human entertainment. That's what this bill is about and why it matters so much.

Given the scientific knowledge presented by experts about the biological characteristics and needs of cetaceans during the study of this bill, it is evident that it is cruel to keep cetaceans in captivity. We, I believe, do not want to be cruel. We should not allow others to be either.

In my community, the Anishinaabe recognize that we are all related, not just you and I, but you and I and all life forms of creation. As living things, we are connected to each other. We depend upon one another. Everything we do has an effect on other life forms and on our world. That is why we use the term "*nii-konasiitook*," all of my relations, when addressing each other.

So bear in mind why we are here. We are here to take care of our nation, to take care of our land, to take care of the people and to take care of all that is part of this Creation. So *n'gwamazin*: Be strong and steadfast in your beliefs. *Nii-konasiitook*: Take care of all of our relations.

Thank you for your attention. I ask you to support this bill. *Meegwetch*.

(On motion of Senator Omidvar, for Senator Christmas, debate adjourned.)

[*Translation*]

DISTINGUISHED VISITOR IN THE GALLERY

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

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

Hon. Senators: Hear, hear!

CANADA REVENUE AGENCY ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Downe, seconded by the Honourable Senator Eggleton, P.C., for the second reading of Bill S-243, An Act to amend the Canada Revenue Agency Act (reporting on unpaid income tax).

Hon. Rosa Galvez: Honourable senators, I rise today to speak to Bill S-243, An Act to amend the Canada Revenue Agency Act.

[*English*]

In the last decade, numerous events have impacted and damaged the confidence of the public in governments, financial organizations and corporations around the world. Among these: the economic crisis of 2008, triggered by sub-prime mortgages in the U.S., which was followed by a banking crisis and solved by massive government bailouts. More recently, the big data leaks of the Paradise and Panama Papers, as well as offshore Swiss, Luxembourg and WikiLeaks, revealed the systemic use of tax havens by individuals, corporations and trusts, exposing greed beyond limits, huge losses of government revenues, corporate irresponsibility, social inequality, the growth of white-collar crimes, and the rise and fall of leaders and political parties around the world.

During the 2012 World Economic Forum, global risks were identified as priorities requiring solutions due to their impact on socio-economic stability and deep interrelations across all sectors of society. They are: one, chronic fiscal imbalances; two, greenhouse gas emissions; three, global governance failure; four, unsustainable population growth; and five, critical systems failure.

The WEF recommended governments initiate and collaborate in designing programs that will map, monitor, assess, manage, mitigate and minimize these global risks which affect us all.

The good news is that these problems are solvable. When one problem is redressed, this action corrects the others, creating a positive domino effect.

To show how these risks are interrelated, I offer the following chain of events.

Tax evasion causes loss of government revenues and lack of liquidity. It leads to chronic fiscal imbalances, income disparities and systemic financial failures, which may end in governance failure, which encourages corruption and brings volatility and instability to essential economic sectors such as natural resources, energy or infrastructure, making climate change adaptation more difficult and resulting in increased emissions of greenhouse gases.

Last April, in my capacity as Vice-President of ParlAmericas Canada, I participated in the Eighth Summit of the Americas held in Lima, which hosted meetings of heads of state, CEOs, parliamentarians, civil society representatives and Indigenous peoples. The central theme was "Democratic Governance against Corruption." The outcome was a set of measures called the Lima Commitment, which forces movement from words to action, undertaking specific commitments for which governments and corporations will be accountable to citizens. They include appropriate accounting, promoting accountability, increasing fiscal transparency, protection of whistle-blowers, creation of financial intelligence units and administrative authorities to investigate offences of corruption, money laundering and transnational bribery in order to identify, trace, freeze, confiscate, seize and recover assets.

Many real-world cases were used to illustrate other cause-effect chains as the one I described before. One worth noting is the Odebrecht scandal, initiated by information from the Panama Papers, which resulted in the U.S. Department of Justice accusing the Brazilian engineering firm of fraud, collusion, bribery, corruption and tax evasion in 2016. Hundreds of government officials from 12 countries were implicated in the scandal. The investigation revealed a complex web of influences that began in the 1990s. Whistle-blowers and investigative journalists were essential to uncover the systemic illegal scheme.

[*Translation*]

These same leaked Panama Papers revealed that 3,000 Canadian companies, trusts, foundations and individuals use offshore accounts as tax havens. The Royal Bank of Canada closed more than 40 accounts as a result of the audits carried out after the leak. However, to date, the agency has only disclosed one case where action was taken.

• (1510)

Bill S-243 will result in specific and effective action to help identify, monitor, assess, and manage the chronic fiscal imbalance. As explained by the bill's sponsor, Senator Downe, Bill S-243 would require the Canada Revenue Agency to disclose all convictions for international tax evasion and would have the Minister of National Revenue present a report to Parliament on the tax gap. The bill would also have the agency provide the

Parliamentary Budget Officer with the data it has collected on the tax gap, and additional data that the Parliamentary Budget Officer would deem pertinent to carry out his own analysis.

Honourable senators, tax evasion does occur in Canada and causes economic and social instability. Taxation is the basis for the federal government's capacity to provide services to Canadians. Canada is the only developed country that does not have an official estimate of its tax gap. However, many organizations have tried to estimate the extent of this loss of tax revenue.

[*English*]

Based on Statistics Canada information, tax fairness estimated assets of $198 billion were officially held by Canadian corporations in the top 10 tax havens in 2014. Statistics Canada also estimated the size of Canada's shadow economy at $45 billion in 2013. Dennis Howlett of Canadians for Tax Fairness told the parliamentary Finance Committee that the growing use of tax havens may be costing Canadians an estimated $8 billion annually. Another evaluation suggests $80 billion per year on use of loopholes, tax evasion and tax avoidance. Applying estimates from other countries, the Conference Board of Canada estimated that the federal tax gap could range between $8.9 million and $47 billion annually.

Under the access of information, Postmedia News revealed that in 2014 the federal government cut programs and staffing at the CRA which resulted in reduced capacity to investigate the growing problem of tax haven usage. Federal spending cuts from the 2012 and 2013 budgets meant the CRA was going to cut over $310 million annually and more than 3,000 full-time positions by 2017.

Unsurprisingly, in his 2014 report, the Auditor General of Canada, Mr. Ferguson, noted the lack of efficiency of the CRA at detecting and deterring aggressive tax planning, a technical term for forceful schemes to reduce or eliminate the amount of tax owing.

Two federal budgets identified fighting aggressive tax planning as a key action, and the CRA itself identified aggressive tax planning as one of the highest risks to its mandate. Yet National Revenue ministers have been silent about how CRA layoffs and department reorganizations have affected the CRA's mandate to ensure taxpayer compliance.

Statistics obtained by the *Toronto Star* in 2016 showed the Canadian government convicted only 49 people and levied only $13.4 million in fines for what it calls offshore activity since 2010. These numbers are far lower than in comparable countries and show that the CRA recovers only a small, tiny fraction of the estimated billions in taxes Canada loses to offshore tax havens each year. While other governments have devoted significant resources to cracking down on bank secrecy and offshore tax schemes, Canada's results appear to pale in comparison. For example, Australia's Project Wickenby has collected more than $600 million from schemes using tax havens since 2006. The U.K. has recuperated more than $3.5 billion from offshore tax evasion since 2010.

Journalists from the *Toronto Star* revealed a six-year-long fight between parliamentary budget officers and CRA officials over requests for federal data to calculate the tax gap. Compare this to the U.S., where the tax gap has been calculated and publicly declared for more than 50 years or to the U.K. where they have done it since 2009. More than a dozen Western countries — including Australia, Sweden, Poland, Belgium, Portugal, Mexico and Denmark — follow OECD recommendations and calculate their tax gap. On its 2017 *Tax Administration* report, the OECD stated that more countries are measuring the tax gap. Why is Canada lagging on this important issue?

In 2016, the government directed $444 million to the CRA aimed at rooting out offshore tax evasion. The government's 2017 budget reserved another $523.9 million over the next five years to prevent tax evasion and improve tax compliance with a focus on wealthy individuals and multinational corporations. But this injection of funds has not accelerated the processes, and the tax gap remains unknown. One thing for certain is that time is necessary to operationalize these recent investments, but this should not be used as an excuse for further delay.

A recent investigation by the *Toronto Star* and CBC explains how Canada is becoming the world's newest tax haven called "snow washing" or "winter paradise." Extremely troubling, among the Panama Papers leak was a memo from law firm Mossack Fonseca stating that "Canada is a good place to create tax planning structures to minimize taxes like interest, dividends, capital gains, retirement income and rental home." Attracted by Canada's prudent reputation and stable economy, companies are creating a sprawling tax avoidance industry using Canada as a jurisdiction for hiding financial wealth. This is facilitated by the secrecy and relative ease in registering corporations in Canada.

Honourable senators, yesterday I conducted a web search and found dozens of disturbing advertisements offering services to non-residents, including how to incorporate and set up partnerships in Canada and how to open an account in Canadian banks. The following text was extracted from one of these sites:

> How can you minimize the chances of losing assets? By becoming a smaller target. How can you become a smaller target? By shrinking the size of your estate so that you are no longer the legal owner of the assets to be controlled and enjoyed. How can you shrink your estate? By getting as many assets out of your personal name as possible. One of the best ways to do this is to transfer money, investments and assets into a corporation, a legal entity that you control.

While tax lawyers may claim that sheltering money in tax havens is legal, they help keep funds beyond the reach of tax authorities, regulators and criminal investigations. Loopholes have been illegally used to get around sanctions and hide collusion. The built-in secrecy attracts money launderers, drug traffickers, kleptocrats and others who want to operate in the shadows.

Recently, a copy of Calgary-based businessman Wentao Yang's passport was found among the Panama Papers, sparking a CRA investigation and raids on his luxury homes. Mr. Yang was brokering deals worth hundreds of millions for Chinese investors to buy Alberta's oil and gas assets, including old wells. The CRA alleges that the Shanghai-born financier evaded paying more than $860,000 in income tax and GST on the nearly $2.7 million in income he pocketed from brokering one of the biggest Chinese purchases in the West Canada petroleum industry in recent years. He was involved in a number of companies buying up resource assets including Calgary-based Sequoia Resources Corporation, which acquired thousands of gas wells in Alberta but filed for bankruptcy last March.

The investigation of Yang is the first and only case the CRA has divulged the existence of public records on any particular Panama Papers probe.

The lost revenues in the form of tax evasion or tax avoidance could assist in solving many pressing needs of Canadian taxpayers such as health care, education, environmental protection, law enforcement or national defence. Canada ranks 11 out of 145 countries surveyed in the total amount of tax evaded. To give some perspective, a loss of $80 billion per year from tax evasion represents half of Canada's total health care spending. That's amazing.

• (1520)

[*Translation*]

Honourable senators, the vast majority of Canadians pay the taxes they owe on time.

The Hon. the Speaker: Senator Galvez, I'm sorry, but your time has expired. Would you like five more minutes?

Senator Galvez: I'll just need two minutes, Mr. Speaker.

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

Hon. Senators: Agreed.

Senator Galvez: That is why it is unfair that the vast majority of Canadians face a massive tax gap, which robs us of a better quality of life.

Like Senators Bovey and McIntyre, I urge you to support Bill S-243, an important step towards promoting the transparency and accountability that Canadians rightly expect from their government.

I sincerely thank Senator Downe for his courage and tenacity on this file.

[*English*]

Dear senators, if we cannot measure a problem, how can we expect to solve it? Thank you.

Hon. Senators: Hear, hear.

(On motion of Senator Omidvar, for Senator McPhedran, debate adjourned.)

EXPUNGEMENT OF HISTORICALLY UNJUST CONVICTIONS BILL

THIRD READING—DEBATE CONTINUED

Leave having been given to revert to Government Business, Bills, Third Reading, Order No. 2:

On the Order:

> Resuming debate on the motion of the Honourable Senator Cormier, seconded by the Honourable Senator Wetston, for the third reading of Bill C-66, An Act to establish a procedure for expunging certain historically unjust convictions and to make related amendments to other Acts.

Hon. Frances Lankin: Thank you to my colleagues.

I intend to be brief. Bill C-66 is the expungement of historically unjust convictions. This deals with a group of Canadian citizens who experienced some of the most overt discrimination in the utilization of our justice system, policing, charges, courts, criminality, findings of criminality and retention of records of that sort. I'm talking, of course, of the men in our country who were convicted unjustly of homosexual sexual relations.

In fact, in the late 1970s and early 1980s, I was living in Toronto, and I am keenly aware of and remember the advent of what people refer to as the bathhouse raids. The finding of a particular establishment as being a common bawdy house is one thing, but in these circumstances, the overwhelming and oppressive use of force of police raiding these facilities was not just an invasion of an individual's privacy but an abuse of the determination of naming something, an establishment, a bawdy house.

So we have this historical existence of criminality and records of criminality for people engaged in activity that would not be considered illegal today.

This bill is long overdue and I support it. It is an important step. I almost hesitate to say this, but it reminds me of my old activist days when I used to say that this is good but it doesn't go far enough. In this case, this is a great bill, but it doesn't go far enough.

There are three key areas, at least, although the Senate Human Rights Committee identified 10 areas that they urged the government to consult further on with experts from the LGBTQ community, legal experts and human rights experts to look at addressing these undealt with matters and the people who still have records that are based on discriminatory actions of the time.

I'm not going to go through them, but certainly the issue of bawdy house. The definition of bawdy house is a complex issue to deal with in the context of a bill such as this because there are other applications of the bawdy house law with other groups and relations of people who have been accused of offending or who have records. It needs to be considered in that context and perhaps with some delicacy and nuance and a full understanding of the consequential implications of moving forward on that. The government needs to do that. I'm fine that it's not in this bill.

One of the things I am worried about is that this bill takes away the guarantee of archival records. I think people have made very strong points about the need to be able to access these records for historical research purposes. They can certainly be redacted, names can be taken out, but the context, the content and the circumstances are something that should be available. I would ask the government to really follow up on the Senate Human Rights Committee's recommendations with respect to addressing these outstanding areas.

The one issue that I want to spend a bit of time talking about today is the age of consent. It gives me great concern that we didn't fix it in this particular bill.

The current age of consent for sexual activity is 16. This bill certainly will expunge the criminal records of the people we are talking about if they were over 16 at the time that they were charged and convicted. That's good. But the problem is at the time of many of these activities of charges and convictions, the age of consent was 14. The age of consent only was moved to 16 in 2006. From 1892 to 2006, the age of consent was 14.

The real discrimination here is that heterosexual young people at that time between the ages of 14 and 16 would not have been charged with anything, would not have been convicted of anything, would not have been criminalized in that way. Yet members of the homosexual community who were discriminated against in the application of these laws and were between the ages of 14 and 16, the legal age of consent for heterosexuals at that point in time, are not having their records expunged. It's just not fair.

The deputy minister came forward and testified and said, "It's because the age of consent today is 16." I understand that. That's the first swath of what should be done, but this is an injustice. The fact that there remains this unequal age of application is an injustice.

So, Your Honour, I see the clock approaching Question Period. I want to say that as John Ibbitson so aptly stated in his *Globe and Mail* article on April 30:

> Senators, then, face a choice. Pass Bill C-66 knowing that a large group of gay men who deserve to have their criminal records expunged will be left out, or return the bill to the House with a proposed amendment to include those men, which could put the bill at risk.

While this bill is flawed in that aspect. I intend to support it at third reading. I believe it's an important first step.

In doing so, I urge the government to abide by the recommendations of the Senate Human Rights Committee and work to address the many historical unjust burdens that will still remain after this legislation is passed.

Thank you, Your Honour.

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

QUESTION PERIOD

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, as it is now 3:30 p.m., the Senate will proceed to Question Period. I ask honourable senators to join me in welcoming the Hon. Lawrence MacAulay, P.C., M.P., Minister of Agriculture and Agri-Food. Welcome, minister.

Pursuant to the order adopted by the Senate on December 10, 2015, to receive a Minister of the Crown, the Honourable Lawrence MacAulay, Minister of Agriculture and Agri-Food, appeared before honourable senators during Question Period.

MINISTRY OF AGRICULTURE AND AGRI-FOOD

CANNABIS BILL—OUTDOOR LAND USE

Hon. Larry W. Smith (Leader of the Opposition): Good afternoon. Welcome, minister.

[*Translation*]

I will start my question in French.

Mr. Minister, my question has to do with marijuana legalization's impact on outdoor farming and land use. I'm sure you know that the Standing Senate Committee on Agriculture and Forestry published a report earlier this year on farmlands and land use in Canada. The committee's report noted that farmland is being lost to urban expansion and real estate development.

• (1530)

[*English*]

I would like to know what steps your department will take to avoid compounding the problems identified in the committee's report.

Minister, will you, for example, take steps to avoid the diversion of thousands of hectares of land currently applied to food production by not permitting a policy that allows for commercial-scale outdoor grow operations when cannabis is legalized later this year?

Hon. Lawrence MacAulay, P.C., M.P., Minister of Agriculture and Agri-Food: Thank you, Mr. Leader. It is a pleasure to be in the Senate. It's an aspiration that many have in the area that I come from. I'm here for a short time today, and pleased to be here.

The Cannabis Bill is an interesting piece of legislation. When it was first brought forward, of course, there was the concern about addiction. It brought me back to the time — I wasn't around at that time, but I've been around quite a while — of prohibition. A lot of people thought I would be opposed to the cannabis legislation, but the fact of the matter is if a human being wants it, a human being generally gets it. That's the case we're in in this situation. I know you're not asking specifically that question.

The legislation is under the jurisdiction of the Minister of Justice and the Minister of Health at this time, but I am a member of the cabinet and also very concerned about the use of land, farmland in particular, and looking at what we're trying to do and will do as a government — and with your help, I might add — to make sure we export $75 billion worth of agricultural and agri-food products. The only way we can do that is to take care of the farmland that we have.

I can assure you, my honourable colleague, that I will do everything I can to preserve agricultural property for agricultural use. Of course, you are aware that this legislation is now before the Senate. We expect it will pass. The production will take place, of course, with a close eye at all times, I can assure you, honourable senator.

Senator Smith: Even though I recognize it's in another area, have you provided any advice to Health Canada officials on the matter of legalization and outdoor growing when it applies to agriculture?

Mr. MacAulay: Thank you. Of course it will have to be grown on land somewhere, either indoors or outdoors. A lot of it will be grown outdoors. I cannot prevent that. It's a product that will be grown and will be sold under the same provisions as alcohol and other items that are sold. That's what will take place.

I cannot commit to you that I will not permit cannabis to be grown on agricultural land, because, in fact, it will be. If you're asking me if I have a concern about agriculture and agricultural property, of course I have.

As a farmer and seeing the urban sprawl in a lot of areas, it can sometimes be quite concerning, but we are blessed in this country. We have a lot of great arable land. We have all kinds of water and good soil to produce products.

Again, your point is well taken. I will keep a close eye on what takes place in the production, but I'm certainly not indicating that I will stop the growing of marijuana, and it will have to take place on farmland. Thank you, senator.

[*Translation*]

SPRUCE BUDWORM

Hon. Ghislain Maltais: Welcome, minister. It must be the nice weather that's making you smile. It is a good time for planting crops. I hope that your island's fishery is doing well.

I'm not going to talk to you about cannabis today. There are more important issues and decisions must be made quickly. My question is a follow-up to a question my colleague Senator Carignan asked a few weeks ago with regard to the spruce budworm.

The budget allocates $75 million to the Atlantic provinces. That is an excellent idea and I commend you for it. The four Atlantic provinces will be given $75 million over five years. Well done.

However, right next door to the Atlantic provinces are Quebec and Ontario, which together encompass a geographic area 20 times the size of France. In 2017, seven million hectares of that land were destroyed by the spruce budworm. With the support of your government, Quebec registered an insecticide that does not pollute and is not harmful to flora, fauna, or waterways. Has the federal government forgotten about Quebec? Are there not enough MPs from Quebec? What is the government waiting for?

This is spraying season. Spraying has already begun on the North Shore region, where I am from, and in Saguenay-Lac-Saint-Jean, which is home to one of your MPs. It has also already begun in the Témiscamingue region and in northern Ontario. It is high time that your department—

The Hon. the Speaker: Senator Maltais, are you going to ask a question?

Senator Maltais: I was about to, believe it or not: how much money are you going to give Quebec and when are you going to give it?

[*English*]

Hon. Lawrence MacAulay, P.C., M.P., Minister of Agriculture and Agri-Food: I want to thank my honourable colleague for the question and concern. Of course I have a concern about Quebec. I can assure you, number one, I will be more than pleased to work with you in order to address it.

The spruce budworm is a disaster. It costs us massive dollars lost in the forests. It's a great concern in Atlantic Canada and, of course, in Quebec, which is much larger. It's something that we must deal with.

Also, I would suggest to you that it's my understanding that the approach was quite successful in the Maritime region, and hopefully we could use the same thing in Quebec and any other province where there is a problem. I would be more than pleased to work with you to try to solve this. In fact, what we're doing, if we do not do it, we're losing money. We want to make sure we preserve the product.

I would be more than pleased to work with you and make sure we address the problem as best we can.

One small point on Prince Edward Island. I appreciate you asking the question, but the weather has finally become pretty good.

[*Translation*]

Senator Maltais: I would like to give the minister a document, through a page, to assist him in his work.

The Hon. the Speaker: After Question Period, senator.

[*English*]

CLIMATE CHANGE ADAPTATION INITIATIVES

Hon. Terry M. Mercer (Deputy Leader of the Senate Liberals): Minister, welcome to the Senate. It's always good to have you here. I wouldn't object to you having a permanent seat with us when a vacancy occurs.

The Standing Senate Committee on Agriculture and Forestry, of which I am a long-time member, has been studying the potential impact of climate change on the agriculture, agri-food and forestry sectors. We have heard many concerns from many witnesses. Producers, for example, have told us how changes in climate are already affecting them: quick melts, flooding, extreme weather events, having to change crop varieties to suit new local conditions better, or refining their pest management strategies.

Minister, Canadian farmers are perennially adaptive, but overwhelmingly, they told us that they could use government support when facing these new challenges.

What measures are you and your department undertaking to address the impact of these climate change issues on the Canadian agriculture sector so that it can continue to thrive for years to come?

Hon. Lawrence MacAulay, P.C., M.P., Minister of Agriculture and Agri-Food: Thank you very much, senator. I appreciate your question. I can assure you, as a farmer, we learn to adapt. Farmers are the most innovative people in the world. In fact, if you're going to survive as a farmer, you have to be innovative.

I appreciate your question and the work that the Senate has done on this issue. As we're all aware, we only have one place to live, as far as we know; this is it. Last year we dealt with an area in Western Canada where they had massive floods, and shortly after that, there was a big fire.

• (1540)

These things are so disastrous. We did address these issues with the federal-provincial programs, with the business risk management programs. We addressed them and we paid some money to the farmers. But we didn't address the problem. All we say, in the end, is the government paid some money, but you never really pay what the farmer loses. You never do. The thing is that there's so much of a loss when you have fire and these types of things, and then the farmer is asked to put a list down of what all he has lost. I just know the way it is. A year later, he goes to get that piece of equipment that is $2,000 or $3,000: "I forgot to put that in." That's simply how it is, and I understand that fully, being a farmer.

But what we have done in the last two and a half years hopefully will be helpful, and we must continue. We invested $100 million in agricultural research. That itself, of course, is dealing with part of the problem that you're talking about. But also it's talking about the issue of what agriculture and agri-food scientists have done over the years. One small example, senators, is the canola seed. We developed that here in this country. That has brought billions of dollars into the agricultural sector in this country and around the world. Then, there's swath grazing. It's so interesting to look at that. I was touring out in Western Canada. What they do with feeder cattle is they grow a certain grain crop and cut enough just for the cattle to eat. Then they move it back and back. That's how the cattle graze for the winter. It reduces the environmental footprint. It means that you don't have to run tractors in order to bail; you don't have to run tractors to run the hay into the buildings. All of this type of thing is so important.

Also, we invested $27 million in the agricultural greenhouse gas and $25 million in the Agricultural Clean Technology Program. All of these issues help to create economy, too. When you're dealing with the environment, you're also creating economy. All of this is so important.

The end result is we only have one place to live, and we have to make sure that the farmer — again, I might add that there are so many other things when you talk about precision agriculture, making sure that land does not wash into the waterways. Years ago, you would see — and perhaps even to this day — the river being red. Not only is the farmer losing a lot of money, but we're killing the fish that are in the water. So we have made an awful lot of moves over the last number of years to make sure that we address these types of problems, and we must continue to make sure we do because everything is changing.

On the innovation side, everybody is innovating. We're not the only ones, but we must do that.

FERRY SERVICE BETWEEN PRINCE EDWARD ISLAND AND NOVA SCOTIA

Hon. Diane F. Griffin: My question is to the minister. Thank you for being here today, minister. He also happens to be my member of Parliament.

My question is not an agricultural one, but it's in your role as senior member from Prince Edward Island. It's related to the ferry services between eastern Prince Edward Island and the province of Nova Scotia.

Last May, you made an announcement in Belfast, P.E.I., that in order to provide stability and certainty in the communities of eastern Prince Edward Island, the Government of Canada would

seek long-term contracts, perhaps as long as 20 years, for ferry operations and that P.E.I.'s ferries would be replaced within the next three years with new ones.

What are the projected maintenance costs of extending the ferry services' contribution program from 2018 to 2020 for the Wood Islands ferries, and can Islanders expect new ferry vessels for Wood Islands within the three-year window that you announced last year?

Hon. Lawrence MacAulay, P.C., M.P., Minister of Agriculture and Agri-Food: Thank you very much, senator. As you know, it is not really my department, but you also know it's been pretty well my issue from the time I got elected to the House of Commons. It's something that's vital to your area. From Charlottetown east, to say the least, it's vitally important that that ferry service is updated and maintained to provide an appropriate service. I appreciate your question, and it's so vitally important.

I was so proud, number one, to make that announcement. I understand and you understand, senator, how vitally important this is for the economy of eastern Prince Edward Island. Without that ferry service, it would be disastrous for us.

As the senator mentioned, I announced approximately 20 years. An RFI went out, and they're evaluating that. There will be RFPs issued. During the government process, things will happen through the government in order to make sure that we come to the situation that I announced a little over a year ago.

To tell you what it would cost for the ferry service, number one, as I indicated, it's not my department, but my understanding is that it's like a working capital loan. It's worked on cost from the ferry service.

You know very well when we had the trouble of the one ferry and then that one ferry breaking down. It's so harmful to our economy, and that's what we have to be careful does not happen.

I appreciate your question. I will tell you that the government hopefully will proceed with the announcement that I made. Sometimes you and I can be a bit impatient. I can be fully impatient. It hasn't happened yet, but it will happen. It's a necessity for eastern Prince Edward Island, and it is an issue that I've dealt with all of my political career, with all different stripes of government.

COUNTRY-OF-ORIGIN LABELLING

Hon. Robert Black: Minister, last week, during one of our meetings of the Standing Senate Committee on Agriculture and Forestry, we learned that since CETA's entry into force, Canada's largest single agricultural export to Italy, durum wheat, has fallen from about 1 million tonnes a year to zero. I'm told that this is the result of protectionist country-of-origin labelling regulations, combined with an anti-Canadian campaign by the Italian farmers' union. I learned today that this same farmers' union has now actively turned its sights to Canadian pulse exports, and they are using the same tactics that have worked for durum wheat. What is the government doing at present or planning to do to mitigate this issue, which is impacting Canada's grain farmers across the country?

Hon. Lawrence MacAulay, P.C., M.P., Minister of Agriculture and Agri-Food: Thank you very much, senator. I can assure you I'm fully aware of the issue. Country-of-origin labelling has been an issue that has cost this country a lot of money over the last number of years. We're still in it.

Yes, in Italy, there is a big problem. You're so correct that they have basically indicated to the Italian consumer that there were some problems or some pesticides that were used, whether they were or weren't, and it has cost us a lot of problems. On the pulse side, of course, perhaps they'll take the same path. I'm not a lawyer, but my understanding is they're not following the EU trade deal regulations that were put in place.

We're evaluating whether we should make an appeal to the WTO or not. We're also discussing the issue with the Italian officials. Having travelled in Italy and met a lot of the bread makers and people who use the Canadian wheat, which is in great demand, they want the wheat.

Whatever will evolve, we have to see, but the truth is, with country-of-origin labelling with the U.S., the American farmer, the American rancher, was a great help in that situation. Hopefully, we can get help from the consumers inside Italy that really want this product. Because, if you produce a poor product, a poor bread or whatever, I would hope and think that they will want our wheat. That kind of pressure is important.

Also, we're evaluating the legal process, whether we can and have the proper criteria to go forward. I mentioned it to the top officials with the EU, too, who are also concerned. It's so important when you make a deal with an EU country or any other country around the world that both countries follow the trade regulations, whether it's this type of a means to try to stop the product entering or if it's so important that they use a science-based regulatory system, which they're not. But I can assure you, my honourable friend, we're working on it.

• (1550)

CARBON TAX

Hon. Salma Ataullahjan: Minister, welcome to the Senate. The Standing Senate Committee on Agriculture and Forestry has been studying how the carbon tax would impact farming activities across Canada. The committee has heard on numerous occasions that the federal government did not properly consult with farmers and farming associations about carbon pricing and its potential impact. David Mol, President of the Prince Edward Island Federation of Agriculture, when speaking about being consulted by the Minister of Agriculture, said:

> No, I was never consulted on the specifics of a carbon tax. . . . there was a lot of smoke and mirrors around carbon credits.

When asked if he was consulted on the carbon tax, Todd Lewis, President of the Agricultural Producers Association of Saskatchewan, said that as far as Bill C-74 goes, there were no consultations on the proposed greenhouse gas price pollution act:

> We certainly haven't had any indication from the federal government as to what the implementation of the tax will mean.

Minister, can you please comment on these concerns? If true, why hasn't the federal government consulted with the agricultural and farming communities with respect to the carbon tax?

Hon. Lawrence MacAulay, P.C., M.P., Minister of Agriculture and Agri-Food: Thank you, senator. I appreciate your question. I can assure you that we have made consultations right across the country. Have we consulted with every farmer in the country? I doubt it. But we have consulted widely right across the country.

I might add there's nobody in the country more conscious of the environment, taking care of our soil, water and air, than farmers. They fully understand how important it is that we have the proper growing conditions in order to produce the product.

You know that we have invested a lot in science, precision agriculture and a number of other areas to make it better for farmers.

You're also aware, senator, that the provincial government has the authority to refund funds in certain areas to certain groups within the province as they see fit. Of course, gas and diesel fuel are exempt for farmers. As you're no doubt aware, the committee has just approved an amendment to make sure the fishers are in the same boat.

Basically, we're trying to make sure we have a place to live that's safe and clean and where we can grow good crops. I can assure you the farmers are fully on our side and have always helped in this area. Thank you.

Hon. Carolyn Stewart Olsen: Minister MacAulay, welcome to the Senate. In New Brunswick, our farmers aren't the type of big corporate operations that can afford to lose thousands of dollars here or there. Our farmers are family-owned businesses, and they struggle against tight profit margins to be sure there will be something left over after the bills are paid.

The Canadian Federation of Agriculture is concerned that a federal carbon tax will increase costs for Canadian farmers. Last year, Agriculture and Agri-Food Canada estimated that farmers in the West can expect to pay up to $3,700 more per year after the federal carbon tax comes into effect.

Minister, there are farmers in New Brunswick who don't even make minimum wage after all their expenses are accounted for. Can you please tell me what will the federal government's carbon tax plans cost New Brunswick farmers?

Hon. Lawrence MacAulay, P.C., M.P., Minister of Agriculture and Agri-Food: Thank you very much. Again, I appreciate the honourable senator's question.

I have to reiterate that farmers are caretakers of the lands and waters, and you would find that most farmers support the moves we have made to make sure that we put a tax on carbon. That is vitally important, and that is going to happen. Farmers fully support it for the reasons that I've just indicated to the previous honourable senator.

Farmers understand quite clearly, number one, that they must have good clean land, air and water. They also appreciate the investments our government has made in research. You know that we invested $100 million in agricultural research. That's vitally important. We also invested $27 million in agricultural greenhouse gas programs. These types of programs are appreciated by farmers. You'll find that many farmers are using the programs. Many farmers are making sure they are involved in these programs and will continue to be involved. Thank you.

TRANSPORTATION MODERNIZATION

Hon. Percy E. Downe: Minister, welcome to the Senate.

As you know, we have no farmers in the Senate of Canada. But I'm wondering if you could elaborate for the members the changes that were made to bills —

Senator Lankin: Yes, we do.

Senator Downe: Oh, no. I mean a farmer, an actual farmer. I checked with Senator Black, and he grew up on a farm and worked in the agri-food and agricultural business, but he's not actually a farmer, as Minister MacAulay is, having come out of the fields to the Parliament of Canada.

On Bill C-49, the transportation bill, can you explain the benefits Bill C-49 and its amendments, some of which were made by the Senate, will have for the agricultural industry in Canada?

Hon. Lawrence MacAulay, P.C., M.P., Minister of Agriculture and Agri-Food: Thank you very much, senator. I appreciate your question, and I know your concern.

I hope it's not illegal, but I still have farmer on the ballot, and I still have farmer in my heart. Senator Black can assure you that is the situation. I think being a farmer, always a farmer. You know when the rain should come, and you know when they need the moisture for the potato to size up. These things never leave you as a farmer.

Bill C-49 was a wonderful experience for me, because I grew seed potatoes in Prince Edward Island and I ordered cars, which puts a bit of an age on me. It's a long time since there were railcars on P.E.I. But if that car didn't come in, tough luck; and if you had the seed sold somewhere in Central Canada and it didn't go, you could lose the sale. If that car came in, and I had trouble and didn't quite get it loaded in time, I paid the merge. That was somewhat annoying.

As the Minister of Agriculture and being involved in this bill — it's not my bill, but I was certainly involved in it — and to be able to have reciprocal penalties — not that we want to pick on the railways or anything else — to me that was fair. I remember the first time a farm group mentioned to me that they would like reciprocal penalties. I'm not sure whether I said it under my breath or out loud, "Not a chance," but it happened.

There are so many other things we find inadequate and unsuitable. Of course, putting soybeans under the MRI; long-haul switching; and changes to the Canadian Transportation Agency so that if complaints or investigations are needed, they can bring them to the minister and have them investigated now. Perhaps some might have felt that the agency itself should order the investigation. I disagree with that, because I'm a politician, and if I do something that you do not like, you can vote against me. You cannot vote against an agency. I believe a minister needs to be responsible.

I also want to thank the Senate for the work that you did on this bill. The amendments were pleasing to me, it's fair to say, and I think also pleasing to the agricultural sector. It certainly indicates — and I never had to be told — how valuable the Senate is, overlooking legislation in a nonpartisan way just to be sure it's appropriate. That is the role of the Senate, you did an excellent job there and you made the bill better and I thank you for it.

• (1600)

Thank you very much.

UNITED STATES-CHINA TRADE AGREEMENTS

Hon. Victor Oh: Minister, welcome to the Senate. My question is about the U.S. and China trade tensions and its impact on the Canadian agri-food sector.

According to a joint U.S-China statement released by the White House on May 19, China has agreed to buy massive amounts of additional agricultural products from the U.S. What would that mean to our agri-food exports? We learned at the Agricultural Committee that Canada's food exports have already dropped from third place in previous years to fifth place, lately, in the international market.

We know you were in Shanghai and Hangzhou, China, last week promoting Canadian seafood, beef, pork and greenhouse vegetables. In regard to the current government's strategies, would the U.S-China trade spat hurt our exports to China?

Hon. Lawrence MacAulay, P.C., M.P., Minister of Agriculture and Agri-Food: I appreciate your question, Senator Oh. I remember one time I was in China and I brought your horse issue up. No one with me knew anything about the horse issue. All the officials took a turn. But anyhow, I want to thank you for the help you've given me and Canada on exports to China. I appreciate it, indeed.

To indicate to you what the status is with the U.S. and China, I think you know very well that I wouldn't comment much on that. What we will do is to make sure that we promote the products that we have in this country. You have been with me and others have been with me when I've done it in my short tenure as Minister of Agriculture. You know how important it is to be in China. You know how important it is. I have established a rapport with Minister Han, the Minister of Agriculture, and that's helpful, and you know that.

What you have to do, in my view, when you're dealing with countries in Asia and anywhere in the world, they are very concerned about food safety. You have to be able to indicate what CFIA does. If CFIA approves it, you have to be sure. China, in particular, had a problem one time with baby food and they're very concerned about safety of food, perhaps more than anywhere else in the world. You have to be sure that you promote the Canadian Food Inspection Agency in China when you're there, but also to indicate what you have.

I have done that over time. Of course, things will fluctuate. Trade will go up and down. Politicians will do different things, which I'm not going to comment on. In our country, what we're going to do, senator, is to make sure that we promote what we have.

It's more than China; Vietnam is a large area in that part of the world with a massive number of people joining the middle class every week. So we have to be sure that we provide a safe product.

Another thing that we have to be sure that we do is to provide the product, as you're fully aware, in the way that the Chinese want it. Not the way you want it or I want it; it has to be the way they want it. That's another thing that I think we're better at today than we have been, to make sure that we provide the product.

For example, I remember being on a mission a number of years ago. We were at a trade show and I asked for a lobster. After they dug down into a hole somewhere, they came up with a lobster wrapped in paper. Now lobsters are displayed more openly. It's vitally important. But they also have to be displayed the way they want it. Thank you very much.

[*Translation*]

BUSINESS OF THE SENATE

The Hon. the Speaker: We have time for a second question. If you want to table a document, Senator Maltais, you need leave of the house to do so. There are other ways to get documents to the minister. You can also send it to his office.

Hon. Ghislain Maltais: I want to give it to him in person because that's faster. The question was asked two months ago.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

[*English*]

CARBON TAX

Hon. Diane F. Griffin: Mr. Minister, my next question relates to the carbon levy and the definition for a farmer.

In our Senate Agricultural and Forestry Committee, we heard from many witnesses, including the P.E.I. Federation of Agriculture, asking that the government use the Canada Revenue Agency's definition of a farmer for the purposes of carbon pricing.

My question is whether the government intends that the more expansive, common and ordinary definition of farming would be used. That's the one that would include such activities as greenhouses, Christmas tree operators, chicken hatcheries, fur farmers and a few others.

Hon. Lawrence MacAulay, P.C., M.P., Minister of Agriculture and Agri-Food: Thank you very much, senator. You asked me something that I do not have the answer to. But I will make sure that Canada Revenue Agency is aware of what you propose and if those changes can be made and if it helps the people involved in agriculture, that's certainly the way to go. That's what we want, and what we want to do is make sure we make it better for the agriculture and agri-food sector. Thank you very much.

4-H CANADA

Hon. Robert Black: Minister, we have met and discussed the importance of the agricultural industry and organizations like 4-H Canada. I understand that this highly respected organization has applied for funding under the AgriCompetitiveness and AgriDiversity program in your department.

4-H Canada is poised for growth and youth inclusion is huge in every portfolio, but it must be funded as such since there's a national focus on agriculture as an economic growth sector and 4-H needs funding to grow key skills in support of the Barden Report and others.

My question to you is: Are you committed to funding youth programs and, in particular, 4-H Canada to encourage growth in the youth sector, and are you planning to keep your 4-H funding at current or increased levels?

Hon. Lawrence MacAulay, P.C., M.P., Minister of Agriculture and Agri-Food: I appreciate my honourable colleague's question. It is a well placed one as you're likely aware that a year ago last summer, there was a big conference in Ottawa and I had the privilege of helping to sponsor that. I can assure you, I'll sponsor anything I can with these programs. An egg in a classroom is another area that is very important.

Agricultural education is so important in urban areas, because things have changed so much. I think the population has shifted from 90/10 one way to 10/90 the other. Ninety per cent of people now live in urban areas. It's important that people understand where food comes from. Agricultural programs for youth, in particular, are initiatives that will make sure people fully understand where food comes from and, basically, how hard a farmer has to work in order to produce that product.

Thank you, honourable senators.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, the time for Question Period has expired. I am sure that all senators join me in thanking Minister MacAulay for being with us today. We look forward to seeing you again, minister.

ORDERS OF THE DAY

CRIMINAL CODE

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Howard Wetston moved second reading of Bill S-250, An Act to amend the Criminal Code (interception of private communications).

He said: Honourable senators, this is a bill which, frankly I've had on my mind for over five years.

• (1610)

As I said to Senator Mitchell, I'm now pleased to have the opportunity to get it off my chest. I'm pleased to initiate consideration of Bill S-250, An Act to amend the Criminal Code of Canada to include prohibited insider trading and tipping, section 382.1, as a designated offence for which wiretaps can be authorized. This proposed amendment to section 183(a) of the Criminal Code of Canada would add prohibited insider trading as one of the enumerated offences where the interception of private communications is permitted.

Enforcement of white collar crime in Canada remains an ongoing challenge. More effective investigation and enforcement tools are required. It is with this objective in mind that I propose this straightforward but needed amendment to the Criminal Code. Insider trading cases are fundamentally difficult to prove and most often rely on circumstantial evidence.

Evidence of intention — that is, knowingly using insider information — is essential and direct evidence is probative.

Honourable senators, the pattern of insider trading arises when an insider buys or sells securities of a company knowingly using material non-public information. The insider basically exploits his corporate informational advantage, regarding both good news

and bad news, to the detriment of shareholders and the financial markets. Basically, this illegal activity is unfair and undermines the integrity of trading in the markets. Investor confidence is eroded as well as market efficiency.

Canadian securities regulators and law enforcement authorities face significant challenges in deterring illegal activity and protecting investors. Throughout the last two weeks of December, the *Globe and Mail* published a series of articles after a year-long investigation into the securities industry in Canada, concluding that Canada has a deeply imperfect regulatory regime that fails to recover fines or money for investors or jail sentences that would deter crime.

However, the objective of this bill is not designed to address these particular and important challenges.

As many of you know, securities regulation and enforcement in Canada is a mosaic of 13 regulatory organizations, two self-regulatory bodies and multiple police forces. In Canada, enforcement of insider trading comprises a variety of approaches from administrative to criminal.

Let me talk about administrative enforcement. Insider trading can be prosecuted in one of three ways: administratively, quasi-criminally and criminally. In an administrative or regulatory matter, staff of securities commissions investigate allegations of misconduct in the capital markets such as fraud, market manipulation and insider trading.

An advantage for securities regulators in the administrative or regulatory forum is that staff can compel a person or company to testify or enter a business premises and inspect and seize documents that can be used as evidence before an administrative tribunal. One advantage of this investigative method lies in the burden of proof, which is on a "balance of probabilities" compared to the criminal starred of "beyond a reasonable doubt."

Determining the number of insider trading cases across Canada is not straightforward. Canadian Securities Administrators, otherwise known as the CSA, is the group of 13 provincial and territorial regulators in Canada. But the reports are not that helpful. By my count, at least in Ontario, there were about 11 insider trading cases commenced in the last five years.

In 2001, the Supreme Court of Canada case known as the *Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario*, Justice Frank Iacobucci explained that:

> "[t]he purpose of the Commission's public interest jurisdiction is neither remedial nor punitive; it is protective and preventive, intended to be exercised to prevent likely future harm to Ontario's capital markets" . . . The focus of regulatory law is on the protection of societal interests, not punishment of an individual's moral faults . . . .

A disadvantage of administrative or regulatory proceedings is that the administrative sanctions may not have a sufficient deterrent effect, as can be seen by the respondent and can be seen as a cost of doing business. Indeed, collecting penalties in most administrative proceedings has been extremely demanding and problematic.

Often respondents do not pay the administrative monetary penalty or fine or it cannot be collected. The *Globe and Mail*, over Christmas and New Year's, ran a series of articles discussing this issue and estimated that there are currently over $1 billion of unpaid securities fines in Canada.

Senator Galvez, we should collect that money as well.

Let me talk about quasi-criminal. The administrative or regulatory body, like the OSC as an example, also has the authority to prosecute individuals for alleged breaches of the Securities Act in the Ontario Court of Justice. These are called quasi-criminal proceedings. Staff of the securities regulator are able to seek potentially harsher sanctions and penalties, including terms of imprisonment. Proof beyond a reasonable doubt is required, but a quasi-criminal conviction does not result in a criminal record. Only those under the Criminal Code result in a criminal record.

Professor Anita Anand, a law professor at the University of Toronto, recognized a number of years ago that there are challenges in proceeding quasi-criminally, noting that:

> . . . unlike many other crimes, financial crimes are not situational, opportunistic or thoughtless but tend to be premeditated, carried out in a rational manner, with a profit-seeking motive. In order to deter this rational profit motivation, criminal law has a role to play in creating significant down-side risks. A quasi-criminal prosecution pursuant to securities legislation is simply not a significant down-side risk if the accused stands to make millions from a carefully-planned fraud.

By my count, at least in Ontario, we have had only one or possibly two insider cases in the quasi-criminal area in recent years.

Let me talk about the criminal law.

In criminal enforcement cases, the police investigate violations of the Criminal Code of Canada, including prohibited insider trading — section 382.1. If found guilty of this indictable offence, one is liable to imprisonment for up to 10 years. Tipping is also an offence. *Mens rea* is required for both insider trading and tipping.

The police cannot simply compel evidence as in administrative proceedings before, for example, the Ontario Securities Commission, probably the AMF, BCSC, Alberta Securities Commission — quite convinced they have the same authority.

The accused cannot be compelled to testify in criminal proceedings. We all know that. The police must obtain a judicially authorized search warrant to seize relevant documentary or financial records and/or court ordered production orders to accompany that. Respecting Charter rights is essential, but these cases are difficult to investigate and difficult to prove.

On April 12 of this year, RCMP Chief Superintendent Scott Doran was interviewed by the *Globe* and stated that he was in support of enhanced enforcement of financial crimes. He noted that the RCMP "has been mandated to reconstitute our efforts against market malfeasance, market criminality and so on . . . We also want to take a look at what we don't have. So are we missing any elements?"

This may be one that they're missing, honourable senators.

Currently, police officers can seek judicial authorization to engage in wiretaps relating to certain other capital markets activities, for example, forgery, uttering forged documents, fraud and fraudulent manipulation of stock exchange transactions — an interesting way in which the Criminal Code expresses the fraudulent manipulation of stock exchange transactions. To me, that's just market manipulation.

Significantly and surprisingly, section 183 of the code, the provision dealing with wiretap and electronic surveillance, does not currently include prohibited insider trading. I have scratched my head for years to try and figure out why it does not, and I don't have an answer. If any senator has an answer for that, I'd be more than happy to hear it.

Currently wiretap applications due to privacy considerations must meet current onerous legislative requirements. If this bill becomes law, these considerations would also apply to section 185(i)(h) due to the exceptional nature of such investigative tools.

• (1620)

Honourable senators, challenges remain in the investigation and prosecution of serious criminal violations of securities laws such as prohibited insider trading. Indeed, the RCMP's Integrated Market Enforcement Team, IMET, whom I had the benefit of working with a fair bit in Toronto, unfortunately has not to date been particularly effective in the enforcement of securities crimes. There has been only one conviction for insider trading pursuant to the Criminal Code that I'm aware of.

In the United States, by way of example, Raj Rajaratnam, the billionaire founder and hedge fund manager at Galleon Group—some of you may have read about this—in 2011 was found guilty on a number of counts of conspiracy and securities fraud and sentenced to 11 years in prison.

I'm not commenting on the extent of imprisonment. The issue here is this: The U.S. Department of Justice obtained wiretaps as an investigative tool to gather direct evidence of the offence. In the absence of wiretaps, the police often can only rely on, as I mentioned before, circumstantial evidence to prove that insider trading occurred.

These are complex cases.

It's also important to point out that the Supreme Court of Canada has decided that in addition to a search warrant for text messages in the past, police must obtain wiretap approval in order to search future mobile telephone text messages. I include email in that.

So where are we with respect to this provision, section 382.1?

Prohibited insider trading was introduced as a specific offence in the Criminal Code in March 2004 as part of a legislative package designed to better detect, prosecute and deter serious capital market crime.

Honourable senators, in 2003, 15 years ago, as Senator Tkachuk may remember—he has a great memory not just for football scores, I know—the Standing Senate Committee on Banking, Trade and Commerce issued a report entitled *Navigating Through "The Perfect Storm": Safeguards to Restore Investor Confidence*. The report recommended:

> The federal government review current legislative and regulatory provisions regarding fraud, insider trading and other offences, including the adequacy of any penalties, with a view to implementing any needed changes as expeditiously as possible. It should also examine the extent to which existing procedures and resources are adequate to ensure that instances of corporate corruption are properly prosecuted.

It appears that the Senate's report may have influenced the government to act as amendments were made in 2004, except for the one that I'm talking about today.

Legislation was introduced to deal with corporate corruption, but insider trading did not make the list in section 183. The bill before you is intended to correct this omission.

More recently, in 2014, the Uniform Law Conference of Canada unanimously voted to adopt and recommend a proposal for such an amendment.

In closing, honourable senators, I am pleased to bring forward this proposal for your consideration. This is a stiletto, not a hacksaw amendment. It's a narrow amendment. This amendment to the Criminal Code would ensure that the police community has the tools available to advance important investigative work as it relates to prohibited insider trading in Canada.

Allowing law enforcement agencies access to wiretaps for prohibited insider training is long overdue. Recognizing the importance of privacy rights, it should be understood that the statutory criteria for the application and issuance for a third-party authorization are among the most robust requirements in the Criminal Code.

There is presently before the house clause 23 of Bill C-47, An Act to amend the Export and Import Permits Act and the Criminal Code, which permits wiretaps. I bring that for your information.

Together, honourable senators, we can add a new enforcement tool for those dedicated to the vigorous and effective protection of Canada's securities markets. Colleagues, I encourage your support of this bill.

In closing, honourable senators, I'm pleased to bring this forward for your consideration. This amendment to the Criminal Code would ensure that the police community has these tools to advance the important investigative work as it relates to prohibited insider trading in Canada. Thank you.

[*Translation*]

Hon. Renée Dupuis: Thank you, Senator Wetston. I listened to you carefully and I couldn't help but notice your reference to Bill C-74. I just want to make it clear that I listened to you carefully.

[*English*]

That would normally translate to I listened to you carefully.

Senator Wetston: I just want to get it accurately. Thank you, senator.

[*Translation*]

Senator Dupuis: Yes, thank you. Toward the end of your speech, you mentioned Bill C-74. The Standing Senate Committee on Legal and Constitutional Affairs is studying part of Bill C-74. From what I understand from your comments on Bill S-250, authorities will be getting more power to gather evidence in this kind of insider trading case. What is really striking is that, once evidence has been gathered and charges have been laid, this part of Bill C-74 authorizes the prosecutor to enter into an agreement with the accused in complete confidentiality, up to the time when the court renders its decision, at which point it is revealed that an agreement was negotiated between the prosecutor and the insider trader.

Could you help me reconcile these two bills? I gather that you think Bill S-250 is a very narrow amendment. However, we seem to be facing multiple narrow little amendments that do not seem to be linked, but that paint a very specific picture.

The Hon. the Speaker pro tempore: The Hon. the Speaker *pro tempore*: Do you have another question?

Senator Dupuis: That was my question.

[*English*]

Senator Wetston: Thank you, Senator Dupuis. I'm sorry about the translation, and I wanted to get it accurately.

I'm not actually familiar with the provision that you're referring to, unless what you are referring to is the fact that the Crown and an individual accused can enter into a pre-prosecution agreement. I take it it's not that; it's post.

I think the only way to rationalize this from my own perspective is to understand that this amendment only goes to designate this particular provision for the designated officer and police to be able to seek a wiretap from the court of justice.

This does not affect any other provisions. If this provision allows—it specifically refers to insider trading—this provision isn't going to affect it whatsoever because the designated provision needs to be amended to include that.

I'm not talking about the substantive events here. I'm only talking about section 183 to allow for the designation of insider trading to be included to allow the police to obtain that wiretap.

That may not be a clear explanation of what you're getting at. I'm actually not sure. If I saw the provision and understood it more carefully, I might be able to help resolve the issue in my own mind.

The best I can say is that this is a very narrow provision, and I say "narrow" only because I think it's left out. It applies to other provisions dealing with markets, and I don't understand why this provision is an amendment to allow that to occur.

So I'm sorry, Senator Dupuis; I can't define that.

Hon. A. Raynell Andreychuk: Thank you for bringing the legislation. You said it was five years in the making. You're beginning to understand what parliamentary processes are like. I appreciate that you're bringing it forward.

If I understand you, you're not asking for any other procedural or regulations of how we would get a wiretap. It's simply adding insider trading as one cause that could lead to a wiretap. There's been some question in some people's minds that perhaps a wiretap within insider trading could disrupt proper trading and the after effects to our economy. That's not my specific field, but that's been raised. So I want to be sure that you believe there is no difference in obtaining a wiretap for insider trading as opposed to other wiretaps already in existence.

• (1630)

Senator Wetston: That's exactly right. I don't see that argument whatsoever. I see no impact. Let's understand that right now. Securities commissions do deal with insider trading cases under the administrative or regulatory area. As I indicated, about 11 cases have been brought in Ontario at the OSC in the last number of years and there are cases in the quasi-criminal area. That's not where the disruption occurs in this situation, however. I see no disruption with insider trading, basically on information which is not available generally; that is, material information that's not available publicly.

That is not what this amendment is about. However, there are those who believe that insider trading should always be legal and should never be illegal and there's a school of economists in the market or individuals who believe that. I happen not to be one of them. It will have no impact on that.

You should also understand, senator, that today insiders, under a system called SEDI, must report insider trades when they are individuals in those particular situations when they decide that they are not trading on the basis of undisclosed public information. However, when they make those trades they need to disclose it in this system which is transparent and public. So I would say no, I can't imagine this would have an impact in the way that you have described it.

(On motion of Senator Marwah, for Senator Boniface, debate adjourned.)

BUSINESS OF THE SENATE

Hon. Art Eggleton: Honourable senators, I'd like to seek leave, if I might, to revert to reports of committees.

The Hon. the Speaker *pro tempore*: Is leave granted, honourable senators, to revert presenting or tabling reports?

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: I hear a "no." Leave is not granted.

SENATE MODERNIZATION

TENTH REPORT OF SPECIAL COMMITTEE— DEBATE CONTINUED

On the Order:

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

Hon. Leo Housakos: Honourable colleagues, I rise today to speak to the tenth report of the Special Senate Committee on Senate Modernization on the "nature" of the Senate.

I had hoped we were finally moving past the navel gazing that seems to have consumed some of my colleagues over the past couple of years, certainly the government leader. After all, things do tend to come full circle in this place. While some may view that as a deficit, I believe it is the greatest testament to the resilience of this Westminster hybrid our founding fathers adopted when this great nation was born. But as resilient as our system is, it should not be taken for granted. And it should not be trifled with just to satisfy one Prime Minister's legacy building.

A desire to reform the Senate in one fashion or another is as old as the Senate itself. It was the creation of the Senate and its role and composition that almost derailed Confederation. Had it not been for the creation of the Senate, Quebec and the Maritime provinces wouldn't have signed on and Canada, as we know it, wouldn't exist today.

The discussion of the Senate at the Quebec Conference in 1864 centred on the Upper Chamber being a balance of representation to the Lower Chamber. While the House of Commons is composed of representation by population, the Senate is composed of representation by region. This was very important because it protected minorities. It protected the less populous provinces from the more populous. It protected the cultural and linguistic minority. However — and this is very important — it also protected the electoral minority and that's something, intentional or not, that seems to have been lost in a lot of the discussions around the Senate's role of late.

For example, there are currently no Conservative members of Parliament in government from the Atlantic provinces. Were it not for senators from that region, those Canadians who did not vote Liberal or NDP in the last election would have nobody representing them in Parliament. The importance of this was no more evident than in the recent vote on Bill C-49.

My colleague Senator Mitchell knows the importance of this all too well. Not that long ago, he and Senator Tardif were the only Liberal representation in Parliament from the province of Alberta. After next year's election, he might be the only one.

While the Senate was meant to balance representation, make no mistake, our founding fathers also intended for it to be a balance of power. The Senate is meant to guard against tyranny of a majority in the other place. As none other than Justin Trudeau said in 2014, "If the Senate serves a purpose at all, it is to act as a check on the extraordinary power of the prime minister and his office, especially in a majority government." That's a quote from Justin Trudeau.

George-Etienne Cartier referred to the Senate as a "power of resistance to oppose the democratic element." Sir John A. Macdonald described it as a body of "sober second thought" that would curb the "democratic excesses" of the elected House of Commons.

To that end, our Fathers of Confederation gave both houses virtually the same powers. The Senate can amend or reject all legislation and, with the exception of bills imposing taxation and appropriating public funds, can also initiate legislation.

The Senate and the House of Commons also have the same power to discipline its members as does the House of Commons at Westminster. It is quite telling, colleagues, that the Senate was given the same power as the House of Commons rather than the House of Lords.

While it has not always been an easy road for the Senate, here we are, 150 years later, by and large the same institution our forefathers envisioned. And that's a good thing. That is not to say that I do not believe that there is room for change. I was, after all, a member of the Internal Economy Committee that, through consultation and cooperation with all members of this chamber,

ushered in an era of improved transparency, efficiency and accountability the likes of which has never been seen in this place or probably any other Parliament.

We adopted a new, more detailed model of proactive disclosure for senators' expenses. We oversaw a complete transformation of our communications approach and completely opened up the meetings of Internal Economy to the public, going so far as to televise those meetings.

We were able to do all of that because, as parliamentarians, we have the privilege of setting and enforcing the rules that govern the Senate, as long as it does not change the constitutional nature of the institution. We did this through consensus, rather than one-sided, heavy-handed tactics. We did not take steps in haste just to satisfy a political agenda or a campaign promise.

The Senate has spent the past two and a half years dealing with the ramifications of just such a politically expedient decision by the then leader of the third party, Mr. Trudeau, a few years ago.

We have changed the wording of some of the rules to accommodate preferred titles and names, so now we have representatives and liaisons and parliamentary groups. And we've had to make budgetary changes that have seen the cost of operating the Senate increase dramatically. However, none of this required or resulted in changing the nature of the institution. Nor should it. Changing the fundamental nature of our Parliament is a much bigger undertaking than changing the composition of committees or recognizing parliamentary groups and must be treated as such.

As outlined in the 2014 Supreme Court of Canada ruling, any attempt by any one Prime Minister to fundamentally change the nature of this institution without consulting the provinces would be unconstitutional. Past Prime Ministers have known this instinctively and where there has been any doubt, have had the good sense and the intestinal fortitude to turn to the highest court in the land to draw the distinction. Our current Prime Minister should do the same.

Furthermore, before we embark on making fundamental changes to an institution and a parliamentary system that has served this country so well for so long, we must ask: What is the alternative and what does the alternative set out to do? If the alternative serves to weaken the Senate or senators in any way, especially in our responsibility and ability to hold government to account, we must then ask ourselves, who does this benefit?

• (1640)

A weak Parliament benefits the government and the Prime Minister of the day. It does not benefit Canadians.

And while the current Prime Minister would have you believe that his Senate is one where senators are more empowered than ever before, it couldn't be further from the truth.

As former Leader of the Senate Liberals, Senator James Cowan, cited in his speech in December 2015, the opening words of the Supreme Court of Canada ruling in 2014 are as follows:

> The Senate is one of Canada's foundational political institutions.

And as Senator Cowan is fond of saying, "We are all politicians. We all make political decisions."

In his speech he said:

> Excess partisanship in the Senate is not an institutional failing. When it happens, it's a personal choice and therefore a personal failure.

I take no issue with senators who do not wish to sit as members of a caucus. And I take no issue with senators who do not wish to caucus based on political affiliation. I do take issue with anyone who denies or denigrates my wish and my privilege to do so. I assure you, I am no less independent than my colleague across the aisle. I do, however, have the benefit of being able to be part of the policy-making and legislative process in its earliest stages.

When we go to caucus and conventions, it allows us to voice our concerns and opinions at the embryonic stage and throughout the maturation of policy and eventually legislation.

Just a few weeks ago, I had the privilege of attending a convention for Quebec members of our party in Saint-Hyacinthe. This was an opportunity for all party members, not just parliamentarians, to come together to discuss and propose policy ideas that we can bring forward at our national convention this summer.

This involvement in public discourse at the grassroots level, which is sadly being denied my colleagues who have been appointed by the current Prime Minister, allows us to truly hear concerns and ideas from the constituents we represent and allows us to be part of the debate at the earliest stages of legislative creation.

Furthermore, we don't attend caucus to receive our marching orders but rather for us, as caucus members, to let leadership know what we want and expect. I assure you, leadership is accountable to caucus members, not the other way around. At least that's how we, as Conservatives, operate. Perhaps it is different in a "parliamentary group" or the government caucus.

I do know that if Mr. Trudeau's appointees were allowed to attend policy conventions or sit as part of his national caucus, it would vastly improve his government's efficiency in getting legislation passed. You see, contrary to the narrative we so often hear, it isn't the opposition that's holding up government legislation in the Senate. No, a big part of the problem is that Trudeau senators are shut out of the legislative process until the end stages. And only then do they have an opportunity to raise concerns rather than having done so more efficiently at national caucus before it gets to this floor. Not to mention, some then feel compelled to seize the opportunity to make a show of their independence. We have seen that time and again. A show that, in the end, amounts to much ado about nothing, something Senator Pratte knows all too well.

My colleague Senator Pratte often points to the amendments the Trudeau Senate has put forth as a badge of honour, as if it's something new or some sort of proof that Trudeau appointees are not beholden to the Prime Minister who appointed them. Yet even his own amendment on the Infrastructure Bank, the budget bill he threatened to split, the honourable senator put on quite the show in this place, but when it was all said and done, he voted against his own motion.

Colleagues, the Fathers of Confederation would be scratching their heads. They would also be puzzled by the amount of time we have spent in the last couple of years talking about process and debating our own budgets and titles rather than debating actual legislation. It's the navel gazing I spoke of earlier.

For example, the government leader continues to write papers and give interviews and lament about the need for a so-called business committee, disingenuously claiming it is the only way to move his government's legislation through. And every step along the way, he points the proverbial finger at the opposition for using delay tactics.

As a matter of fact, as we now know, Senator Harder has so far remained silent on the opposition's offer to work together on a plan for prioritization of government legislation as we near the end of this session.

And let's be clear, we already have a business committee; it has existed for a long time and it meets daily, colleagues. It's called scroll.

This is just another example of how Mr. Trudeau and his government leader here in the Senate want credit for fixing something that isn't broken and inventing something that already exists. It's like calling a whip a liaison or calling a leader a representative and then proudly claiming to have done something new.

None of this changes anything. None of this is new. We don't need a business committee. What we need is for the government leader to spend a little less time writing policy papers and more time and energy using the tools available to him, like negotiation, as has every other government leader before him.

I find myself asking: Is it more important to the government leader and his fellow Trudeau appointees that the Senate function smoothly or that the Prime Minister who appointed them get the credit for it functioning smoothly? If it's to be the latter, then it must be seen as being dysfunctional.

To that end, the Prime Minister and his government leader have gone out of their way to convince Canadians that the Senate, as a legislative body, has not been functioning properly. And that's just not the case. It's political posturing at its finest or quite frankly at its worst.

It goes back to when Mr. Trudeau was leader of the then third party. The other leaders had a position on the Senate, so Mr. Trudeau needed one too. He expelled Liberal senators from national caucus citing partisanship as the root of all evil in the Senate. It was also clever cover for absolving himself of all accountability for anything that might arise from the audit of senators' expenses.

And now as Prime Minister, Mr. Trudeau is doubling down on his false but convenient narrative about partisanship and is using it as an opportunity to centralize power and create a legacy. Despite our Prime Minister's attempts to take credit for granting the Senate its independence, this was done by design at its inception by our founding fathers, not by Justin Trudeau.

Likewise, senators were also granted independence by design by our founding fathers. It comes from our security of tenure by virtue of appointment.

Senators are free from having to worry about convincing a party leader to sign their nomination papers or being beholden to special interest groups to secure their tenure. It has nothing to do with political affiliation or lack thereof. The very first Senate under the government of Sir John A. Macdonald consisted of a government and an opposition, divided along party lines. The opposition was comprised of 25 staunch Liberals appointed by then Prime Minister Macdonald, a staunch Conservative.

As Senator Cowan alluded to, it is up to each senator individually to guard against bias, whether gender, ethnic, language, professional, economic or political. That is why we take an oath, and we all take the same oath. It doesn't matter which side of the chamber we sit on, which group or caucus we sit in, that oath was sworn exactly the same by every single one of us.

None of this is new, colleagues. And Justin Trudeau isn't the first Prime Minister to try to dictate to his appointees how to handle his government's legislation. There has always been some attempt or desire to interfere or influence from the other place. All that has really varied from one government to the next is to what degree and/or the tactics employed.

What is new about Mr. Trudeau's attempts to interfere in the Senate is his attempt to control both the government and the opposition. Mr. Trudeau can whip his appointees all he wants to get them to behave and vote accordingly, but his attempts to whip the opposition are unprecedented and frankly quite dangerous.

Let me be perfectly clear. The Senate does have the power to amend and defeat government legislation, even that on which the government of the day campaigned. As we heard in testimony from Professor David Smith at committee, "If the Senate is to play the role of sonar, detecting and communicating the views and opinions which the representative system in the House of Commons fails to detect adequately, then concluding that it could never defeat legislation would only serve to hinder its performance."

And as Senator Serge Joyal rightfully pointed out, the Senate has the power to consent, and if we have the power to consent and say yes, we also have the power to say no.

The Supreme Court of Canada on the question of whether the Senate could be required to give Royal Assent to a bill after a certain passage of time, notwithstanding that it had not been adopted in the upper house, had this to say, and I quote the Supreme Court of Canada, and no one will question their legitimacy, I hope:

> A provision of the kind contemplated would seriously impair the position of the Senate in the legislative process because it would permit legislation to be enacted under s. 91 without the consent of the Senate. . . . it is our view that Parliament cannot under s. 91(1) impair the role —

The Hon. the Speaker *pro tempore*: Your time is up.

Senator Housakos: Can I ask for five more minutes to conclude?

The Hon. the Speaker *pro tempore*: Is it agreed?

Hon. Senators: Agreed.

Senator Housakos: I will continue the quote:

> . . . it is our view that Parliament cannot under s. 91(1) impair the role of the Senate in that process. We would answer that question in the negative.

So, yes, much as the government leader, the current Prime Minister, and every prime minister before him don't like it, the Senate does have the power and authority to defeat government legislation.

For the past 150 years, senators, Conservative and Liberal, have known full well their role and responsibility and consequences of their actions in this place.

• (1650)

I understand the struggle that many of you in the ISG are feeling. You were told you were appointed as independent senators. And now you're being told by the same Prime Minister that your independence has limits. The truth of the matter is, the Prime Minister of the day put your name forward for appointment to this chamber, the same as the Prime Minister of the day put my name forward. The same goes for every one of us here. We're all here because a prime minister saw fit to ask us to come here and serve the people of this great country. Prime ministers appoint people with whom they share common goals and values. This is not new, and I'm sure we have all, to one agree or another, felt a sense of loyalty.

I appreciate Senator Gold's concern that he doesn't want to be accused of being a failed experiment. More than that, we don't want to be accused of being partisan hacks.

At the end of the day, regardless of who appointed you, there are two groups of people in this chamber: those who fundamentally, ideologically agree with the government of the day and those who don't. Whatever we call ourselves or whoever a prime minister says we are, this truth does not cease, nor should it.

Prime ministers appoint people to the Senate to fill gaps invariably created through the electoral process in the other place. They do so in adherence to the Westminster system, which includes a government caucus and an opposition caucus. If you're not sure which side of the coin you're on, look no further than your voting record. The numbers are clear. Conservatives vote in favour of government legislation far more frequently than Trudeau appointees vote against it, and that's okay. The important thing is that the government be held to account. That is the role of Parliament; the job of parliamentarians is to hold government to account.

I vehemently disagree with Senator Gold when he says we, the Senate, have no horse in that race. The Senate is a house of Parliament. It's crystal clear in the Constitution. Senators are parliamentarians. We have a horse in the race.

And contrary to what Senator Gold said, it is not partisanship that is inconsistent with the constitutional role of the Senate; what is inconsistent with the Constitution is the current Prime Minister's attempt to do an end run in diminishing the opposition and reducing the Senate to nothing more than an echo chamber rather than the strong, responsible legislative body our forefathers intended it to be, with all the rights and privileges of the other chamber in our bicameral Westminster system.

A strong, recognized opposition in both chambers of our Parliament ensures that the government of the day will face the level of scrutiny Canadians expect and deserve. Any attempt to thwart that responsibility is unconstitutional and an affront to our democracy.

For now, I will take comfort in knowing that we, as the opposition, will continue to hold the government to account with the protection afforded us as the minority voice in Parliament. The government leader can take comfort in knowing that the Prime Minister has named enough like-minded appointees to hold a majority number of votes to get his legislation through. Canadians can take comfort in knowing that when something is so harmful to their best interests as to be egregious, senators will thoughtfully exercise our constitutional responsibility to guard against the tyranny of a majority government, just as our forefathers had intended for this place. Thank you very much.

Hon. Marc Gold: Senator Housakos, thank you for that. Your ideas are well known, and you express them elegantly, strongly, and I wish I could say persuasively, but certainly —

Senator Plett: I was on the fence.

Senator Gold: — very competently. There's still hope.

An Hon. Senator: Must be a pretty wide fence.

Senator Gold: At times, I wasn't sure whether I would rise at all or rise to chuckle — I certainly wasn't going to rise in anger; I have no anger toward you — or in sadness. It's a little bit of all of that.

But let me begin by quoting one of the great civil libertarians our country has known, Alan Borovoy, who said, "Thank you for the penetrating glimpse into the obvious." Your views are well known; you've stated them before. What is obvious, respectfully, is that there's somewhat of a gap, in my judgment, between the high rhetoric we hear and — I say this not only with affection but sincerely — the transparently partisan nature of your discourse. You quoted Shakespeare at some point, *Much Ado About Nothing*. If I can put it into gender-neutral language as well, "the person doth protest too much."

It's hard to take seriously the argument that the ISG is responsible for delaying legislation when less than 30 minutes before your caucus, members of your caucus — members on the other side — refused to grant leave for the tabling of a report on a matter.

Some Hon. Senators: Oh, oh!

The Hon. the Speaker *pro tempore*: Order. Senator Gold has the floor. Out of courtesy, let's listen to Senator Gold, no matter how angry you are. You can get up after Senator Gold has finished, and you can debate him, Senator Carignan. Meanwhile, let's listen to Senator Gold.

Senator Gold: We have an expression in Yiddish: "You can call me a pisher, but that's how I saw it."

Senator Lankin: I don't know what that means.

Senator Gold: Ultimately, I rise more in sadness than in anger, because I find it sad that with so many able senators in this chamber who have done so very much to contribute to the improvement of our laws and to the well-being of Canada, we are still continuing to play what I consider to be these rather petty games. It's sad and — I'm not sure if it's parliamentarian to say — pathetic. There's something not right here.

There are important questions of principle that you raise, and I know that as a matter of sincere principle you believe that partisanship not only belongs in the Senate but is a necessary part of the Senate. I've heard some of your colleagues say, and perhaps you have yourself, Senator Housakos, "I'm proud to be a partisan." I accept that, and I respect that. Almost all of you were appointed by a prime minister who believed, as your current Prime Minister continues to believe, that this is the role of the Senate.

I know you believe this, and it's a question of principle. I think you're wrong. You know that; I've spoken in this chamber, and I won't repeat myself. In fact, I think you're dead wrong. I think it's actually a betrayal of what the original idea of Confederation was, notwithstanding your citations. Frankly, I think it's a betrayal of the 2014 Supreme Court decision, and I think it's a betrayal of what Canadians can and should expect from their Senate.

But I accept that you believe it sincerely, and reasonable people, as you are — because I've come to know a lot of you and I like a lot of you, I like all of you — but more importantly, what I admire, senator — I'm not being facetious; I'm really being sincere. What I admire about you, Senator Housakos, and your colleagues is your loyalty and your solidarity. Frankly, I wish sometimes we had a little bit more of that on our side as the liaison. I'm called the "liaison" because I have no power. But I won't go there.

I also deeply, sincerely admire your competence, not only yours individually but the competence of all the colleagues I've had the privilege to work with on committees and in this chamber. You bring a lot more experience to your work than I and many of our colleagues who have more recently arrived could ever claim to have.

You're competent in many ways. One thing you're really good at is in your communications strategy and in the way in which you have crafted a win-win strategy for your purposes.

What is that strategy? It's twofold. It's pretty clear. Under the heading of "hold the government to account," it is to embarrass the government at any opportunity, whether in Question Period — you know your strategy, but allow me to put it on the record. It's to embarrass the government and to question government or ministers, sometimes respectfully and sometimes in a manner that should make any gentle person cringe. It is to delay bills using whatever procedural rules we all can avail ourselves of, and we all use the rules to our advantage. There are no angels here. I've never been one, and you will never hear me distinguish between our merits as senators. We simply see the world differently.

• (1700)

That's part one. That's your prerogative. After all, you believe that's what you're here to do. When you do it, I'm sure your constituents approve, your colleagues in the other place approve, and good on you.

The second part of the strategy that was evident in the speech, and is evident in the tweets and press releases, is to delegitimize the current process of appointing senators.

I'm not here to defend Senator Harder, and certainly not the Prime Minister, whom I have met on two or three occasions in my life and from whom I've never received a phone call except to ask me if I would accept this nomination. It's not only that you're delegitimizing the process. You also, of course, delegitimize, or attempt to, the integrity, dare I say, of the individual senators who sit in the Independent Senators Group.

Some Hon. Senators: Oh, oh.

Senator Gold: That used to bother me a lot. I remember rising here on one occasion. It wasn't crocodile tears. I was kind of hurt.

What you've taught me over time — and as Senator Plett has mentioned — we do share a drink together from time to time. And I'll be ready for one soon. Maybe the skin gets a little thicker. I understand the game, and I understand you poke and I poke, but the truth is that it's a win-win strategy. I admire it.

Please don't take this the wrong way. I am a big fan of Machiavelli. Not Machiavelli of *The Prince*, but of the *Discourses*, who was hundreds of years before his time when he pointed out what the true purpose of republican government should be.

I'm a fan of competency. My second to least favourite American president — you can maybe guess; I'm a child of the 1960s — was horribly corrupt in many ways, but he was competent. I'll take competence over incompetence.

You guys are very good. The strategy is a win-win. If after our internal discussions and debates we vote the same way, then we're being whipped. So we're not independent. But, of course, if the government can't get its bills through as fast as it wants, if things are slower and if it bumps on the road, then hey, the new Senate isn't working.

Now, this is nice work if you can get it. I wish, frankly, we, as individual senators, those of whom are not affiliated — I'm choosing my words carefully. I'm not affiliated with a political party. I would never sit in the Senate if I was required to be a member. That's my personal choice. I was asked to sit in an unaffiliated manner.

We all have independence institutionally. I would never deny that. Honourable colleagues, if we can be honest with ourselves and Canadians, there are differences, but that is not what I want to talk about today.

I'll conclude with this: Thank you for your speech. I'm sure it will be communicated in the echo chambers that you have cultivated so well. In the paper that I read religiously every day, the *Toronto Sun*, because I miss Toronto, it was foreshadowed. I'm sure it will be replayed, re-tweeted, followed, applauded and good on you.

And when the cameras come into this chamber when we do move, whenever that will be, Canadians will have a chance to look at us. I have no doubt that what is to my ears, and again, since you're proud of it, please don't take offence — I believe in transparency — blatantly and transparently partisanship will be wrapped up in highfalutin rhetoric, whether it's over the Charter or the Westminster model and so on and so forth. Canadians will watch it, and Canadians will buy what they buy.

But to anybody who knows what truly goes on inside our world — and I don't purport to know, and I'm not saying what's going on in your world — but if anybody truly knows and cares to know and penetrate what actually happens in this important and historical place, we're not fooling anybody with this kind of rhetoric.

So I conclude with how I started. I think it's rather sad that we're still playing these kinds of rhetorical games. I think it's a disservice to Canadians.

The Hon. the Speaker *pro tempore*: Do you have a question, Senator Housakos?

Senator Housakos: Would Senator Gold take a question?

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

Senator Gold: I don't think so. Thank you.

Some Hon. Senators: Oh, oh!

The Hon. the Speaker *pro tempore*: Senator Gold is not accepting questions.

An Hon. Senator: Oh, oh!

The Hon. the Speaker *pro tempore*: Senator Cools, excuse me. Thank you. The senator has a right not to accept questions, end of story.

Will someone move the adjournment?

Hon. A. Raynell Andreychuk: Could we have a clarification? I think it was whether Senator Gold would accept a question from Senator Housakos, and he said no.

Are you interpreting the rule, therefore, that no questions can be put?

The Hon. the Speaker *pro tempore*: I am indeed doing that.

Senator Housakos: I'd like to ask the chair if I still have a couple of minutes left on my time.

Some Hon. Senators: Oh, oh!

The Hon. the Speaker *pro tempore*: I'm sorry, you do not. Is someone rising to speak or is an honourable senator moving the adjournment?

Hon. André Pratte: Honourable senators, on debate. I will be very short. This is for clarification purposes.

Senator Housakos, during his speech, spoke about Bill C-44, the Budget Implementation Bill. He said that I voted against my own motion. That is not true. I did not do so. I voted for my motion to split the bill, and the motion was defeated on a tied vote.

(On motion of Senator Andreychuk, debate adjourned.)

ABORIGINAL PEOPLES

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—STUDY ON A NEW RELATIONSHIP BETWEEN CANADA AND FIRST NATIONS, INUIT AND METIS PEOPLES—TWELFTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the twelfth report of the Standing Senate Committee on Aboriginal Peoples (*Budget—study on the new relationship between Canada and First Nations, Inuit and Métis peoples*), presented in the Senate on May 24, 2018.

Hon. Lillian Eva Dyck moved the adoption of the report.

She said: Thank you, senators. I'd just like to say a few words about this. This is a budget request that is going to support an event on June 6, 2018. It's what we call Youth Indigenize the Senate.

We invite eight to nine youths from across the country, and we attempt to get a balance between gender, regional representation and the three Indigenous groups: First Nations, Metis and Inuit. This is the third time we've actually held such an event. This year we received about 150 applications, out of which we had to pick eight to nine participants. It was really quite a challenging chore because they were all highly educated, highly successful and highly motivated and active individuals within their own communities.

• (1710)

I don't like to brag, but in 2011 the Aboriginal Peoples Committee first started inviting youth leaders to our committee. At that time, we invited the leaders from the major national Indigenous organizations. So we would have the youth leader then from the Assembly of First Nations, the youth leaders from the Metis Nation of Canada and so on. Out of that grew an awareness that we really need to have Indigenous youth voices represented in our work as a committee, and this was opportunity for us to grow that.

In 2016, when we were doing our northern housing study, we met a couple of youth in Kuujjuaq who really impressed us, and we decided that we needed to really make their voices part of Senate testimony.

When Senate Communications revamped and became a bigger part of the Senate, they saw the value of our initiatives and ramped it up into what is now called Youth Indigenize the Senate. It has been very successful. The budget is modest. It's only $1,900, mostly for hospitality and for getting the services of elders to aid the youth that are coming here.

That's your brief background.

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 CALL UPON THE GOVERNMENT TO RECOGNIZE THE GENOCIDE OF THE PONTIC GREEKS AND DESIGNATE MAY 19 AS A DAY OF REMEMBRANCE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Merchant, seconded by the Honourable Senator Housakos:
>
> That the Senate call upon the government of Canada:
>
> (*a*) to recognize the genocide of the Pontic Greeks of 1916 to 1923 and to condemn any attempt to deny or distort a historical truth as being anything less than genocide, a crime against humanity; and
>
> (*b*) to designate May 19th of every year hereafter throughout Canada as a day of remembrance of the over 353,000 Pontic Greeks who were killed or expelled from their homes.

The Hon. the Speaker *pro tempore*: Senator Martin, are you going to reset this one or not?

Hon. Yonah Martin (Deputy Leader of the Opposition): Yes, thank you very much. I will take adjournment of this motion.

(On motion of Senator Martin, debate adjourned.)

[*Translation*]

MOTION TO AUTHORIZE SENATORS WHO ARE CHAIRS OR DEPUTY CHAIRS OF MORE THAN ONE COMMITTEE TO WAIVE ALLOWANCES FOR ADDITIONAL POSITIONS AS CHAIR OR DEPUTY CHAIR—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Saint-Germain, seconded by the Honourable Senator Lankin, P.C.:
>
> That, pursuant to chapter 4:01, section 2, of the *Senate Administrative Rules*, for the remainder of the current session, any senator who occupies more than one position of chair or deputy chair of a committee for which an additional allowance is payable be authorized to waive the portion of his or her allowance payable in respect of those additional positions of chair or deputy chair.

Hon. Raymonde Saint-Germain: Honourable senators, I seek leave of the Senate that, after I speak today, the motion be adjourned in the name of the Honourable Senator Joyal.

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

Hon. Senators: Agreed.

[*English*]

Senator Saint-Germain: Honourable senators, I rise today to speak to Motion No. 286, which provides that, for the remainder of the current session, any senator who occupies more than one position of chair or deputy chair of a committee, for which an additional allowance is payable, be authorized to waive that allowance.

I would like to begin by pointing out that the annual allowance for chairs or deputy chairs of committees was introduced by means of Bill C-28 of the Thirtieth Parliament, First Session, which amended the Parliament of Canada Act. Before January 1, 2001, senators who occupied a position of chair or deputy chair were not entitled to an allowance under the law.

The motion on committee membership adopted by the Senate in November 2017 provides for the appointment of a second deputy chair of many committees. This measure aims to adjust to the significant increase in the number of Independent Senators Group members.

[*Translation*]

Prior to the adoption of the sessional order of November 7, 2017, the leaders of the various caucuses and parliamentary groups reached an agreement. Motion No. 286 reflects this shared desire to avoid paying out multiple allowances, although it leaves the decision up to each senator as to whether he or she will waive the portion of his or her allowance payable in respect of those additional positions of chair or deputy chair.

[*English*]

The Senate is not empowered to repeal unilaterally statutory rights by means of a Senate order. In this particular case, such a change would require a bill to amend the Parliament of Canada Act, which is not the purpose of Motion 286. Rather, it simply offers the possibility of waiving the payment of an additional committee allowance, similar to section 2, Chapter 4:01, Division 4:00, of the *Senate Administrative Rules*, which authorizes the waiver of the sessional allowance.

From an administrative point of view, the proposed waiver would not be retroactive. Moreover, there would be no tax impact because no additional amount would be paid, nor deemed to be paid.

However, this motion must be adopted so that the Finance Directorate can refrain from making a payment, where applicable.

Currently, the allowance for a position as chair or deputy chair of a committee is paid out automatically. This should be distinguished from the case when a senator directs the Senate administration to give his or her sessional allowance to Her Majesty in right of Canada, pursuant to section 3, Chapter 4:01, Division 4:00 of the *Senate Administrative Rules*. In this case, a senator is deemed to have been paid.

For ethical reasons, a senator uncomfortable with receiving multiple allowances should be able to act as his or her conscience dictates by waiving his or her rights, but this discretionary choice would not be taken away from a senator under any circumstances. A senator could choose to receive all of his additional allowances for personal reasons. This choice would remain entirely at his own discretion with the adoption of this motion.

From a legal point of view, common law and civil law are two major legal traditions that enshrine the long-standing principle that any person may waive his or her civil rights. There are two conditions under which a person may waive his or her rights. One, the person who waives his or her rights must fully understand them. Two, the waiver must be unequivocal and made knowingly.

[*Translation*]

In addition, waiving a statutory right has another condition attached to it. It must not be contrary to public policy, in other words, a protective measure in the overall interest of society or specific individuals, such as the protection of a particular group in a vulnerable state.

[*English*]

In light of the above, let us agree that the status quo, which prevents a senator from waiving the additional allowance for a position as committee chair or deputy chair, is not acceptable. The only coherent way to protect the general interest is to explicitly confirm the right of senators to waive one or more of the allowances provided for by the law. This is the way to proceed legally.

This is why the Law Clerk of the Senate wrote Motion 286 the way it is. I cannot imagine any valid reason for forcing a senator to receive more than one committee allowance against his or her will.

For these reasons, I encourage you to unanimously support Motion No. 286.

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

Hon. Donald Neil Plett: On debate. Then, I would be happy to have it adjourned in Senator Joyal's name, as was suggested.

I will be very brief, only to say that I do want to support Senator Saint-Germain in this motion. She is quite correct. When we, as leadership groups — and I know there were three of us, three from the Independent Senators Group and three from the Liberals. I'm not sure if there were two or three. I know the Liberals were three, we had three and Senator Saint-Germain says there were three, so I'll take her at her word.

• (1720)

Nevertheless, we spent a number of evenings talking about restructuring committees, restructuring the chairs and deputy chairs. As you all know, we now have two deputy chairs in a number of committees. This was, again, by agreement.

Because of the makeup that in some committees it was logistically difficult to not have one person occupying, possibly, a chair and a deputy chair's position, we came to the agreement that we would do exactly what Senator Saint-Germain had suggested and that the chair or deputy chair would only receive remuneration for one of those positions.

I, for one — and I have been here for a little over eight years — was still not aware at that time that we couldn't simply decide amongst us and that that would, in fact, happen. Clearly, because of the Parliament Act, we cannot do that.

But we certainly had an agreement on the intent of that, so I really would support it. Again, as the honourable senator said, it would have to be done on a volunteer basis at this point, and I recognize that.

I'm simply saying that I do support you, Senator Saint-Germain, in what you have said. It was clearly in agreement by the two caucuses and your group that this was the intent of what we wanted to do. So I will leave it up to the individual senators to make the decision if this motion passes. I will certainly be supporting you in this motion.

(On motion of Senator Joyal, debate adjourned.)

LEGISLATIVE WORK OF THE SENATE

INQUIRY—ORDER STANDS

On Other Business, Inquiries, Order No. 8, by the Honourable A. Raynell Andreychuk:

> Resuming debate on the inquiry of the Honourable Senator Bellemare, calling the attention of the Senate to the Senate's legislative work from the 24th to the 41st Parliament and on elements of evaluation.

Hon. A. Raynell Andreychuk: Honourable senators, I would ask leave for this item to remain standing in my name.

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

Hon Senators: Agreed.

(Order stands.)

INCREASING OVERREPRESENTATION OF INDIGENOUS WOMEN IN CANADIAN PRISONS

INQUIRY—DEBATE CONCLUDED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Pate, calling the attention of the Senate to the circumstances of some of the most marginalized, victimized, criminalized and institutionalized in Canada, particularly the increasing overrepresentation of Indigenous women in Canadian prisons.

Hon. A. Raynell Andreychuk: Honourable senators, this is an inquiry that was started by Senator Pate dealing with the increasing overrepresentation of Indigenous women in Canadian prisons. I wanted to just put a few comments on the record.

I want to thank Senator Pate for again bringing to our attention this issue of overrepresentation of Indigenous women in our prisons. It is one issue that cannot be stated too often. It's something that we have to address. I believe in the inquiry, particularly given that it was initiated on International Human Rights Day, as I recall.

I want to support the comments and underscore the issue of the overrepresentation. Senator Pate, in her rather broad inquiry, actually made a very compelling case and drew our attention to her years of experience. She noted a woman named "D," a compelling, horrific case of issues that this woman had to overcome and, incredibly, was able to overcome with the help of people throughout the process.

That did not erase the issues that Ms. "D" had to deal with, but it underscores that there were many points within this woman's life such that if intervention had occurred and if we had different policies and practices, perhaps she wouldn't have gone through the decades she endured before she was able come out of it and, as I understand, be helpful to others in that situation.

It is a tribute to "D," as she is called in the inquiry, but also to the people who attempted to help her and stayed with her. Of course, Senator Pate was one of those, and she has been for decades working on these issues.

I also want to associate myself with the comments that Senator Sinclair made. He indicated the overrepresentation in his province and put forth some historical perspective and issues that we need to address and are, in fact, addressing in other means.

I don't want to prolong this inquiry. I simply wish to underscore the comments and the issues that Senator Pate and Senator Sinclair underscored for us.

I did want to put two more issues on the record. While these stories are horrific and while there are injustices that have to be dealt with, I wanted to point out that if we only look at the increasing overrepresentation of Indigenous women in prison, we will not have done the job appropriately.

If you look at the history of many of these cases, there were not the needed interventions nor the policies at the time. Surely we are at a point where prevention should be the issue. If you look at these individual cases, you can see that prevention at an early age would have been helpful.

While governments continue to address the broader issues, those of us who worked on the ground with young people knew that if we could get to some preventive and mental health services early, perhaps their lives would have changed.

As I did when I was a family court judge, I would look at the youth justice system and say that I can talk about security, I can talk about safety and I can talk about all of the issues that lead a young person to imprisonment, even though it may be in a juvenile-type facility.

What would be better is to address what was in the front end: the preventive services. The dilemma always is that there aren't those services. Family court judges often find themselves with a whole host and litany of support services on paper, but when it comes to actually dealing with the young person, either there are time delays or the resources don't exist.

I've been out of the judicial system for quite some time, but I go back and the issues are still there. So I commend all the judges who I worked with and continue to work with — and I'm sure Senator Sinclair supports me in this — who struggle every day. I want to commend the social workers who, when they can't find a resource, take the child home. I want to commend those that work weekends because someone else didn't show up.

What I know is that we can wait and talk about prison, and we need to. There are many issues that we're going to address in the Human Rights Committee, I hope, on that score. At the same time, however, this is another plea for preventive services, and they should come early. Childhood education at an early age is the best resource.

I was very happy to be involved with the University of Regina when we set up the first Aboriginal university. It has had many changes of names since then. The number of graduates that have come out of that program and have gone back to the reserves and the urban communities of the Aboriginals has changed the story of the Aboriginals in Saskatchewan, and I'm only going to speak to that. They may not be known; they may not be seen. We seem to see the negatives, not the positives, but I can see what education has done in my province. It has given us hope for the future.

• (1730)

If we continue on that road, if we start to look at it, address it and question our governments, why are there not more preventive services? Why aren't the support services timely in rural areas and in urban areas? Because there is a great need.

The final point I wanted to make was about statistics. Senator Sinclair put out some statistics on Manitoba, and I want to point out one from Saskatchewan. This was published by Statistics Canada in March 2016, and it says that 11 per cent of the Aboriginal identity population in Canada lived in Saskatchewan in 2011. They made up 16 per cent of the total population of the province.

Here is the one that catches my attention: Over half, 54 per cent of Aboriginal people in Saskatchewan, were under the age of 25, compared with 30 per cent of the non-Aboriginal population. If we do not address the youth, if we do not start at the beginning and support these young people, I'm afraid that those increasing statistics will continue. While I have some hope that we can change our prison systems and provide for different alternatives, including sentencing circles and other resources for Aboriginal women, I still believe that if we give the resources in the family at an early age, those statistics of having 54 per cent of Aboriginal people in Saskatchewan will be a positive. It will be the shining light in Saskatchewan rather than the difficulty and the incarceration.

Again, I thank those that contributed to the inquiry. I wanted to make those few comments.

Hon. Senators: Hear, hear.

Hon. Kim Pate: I wish to exercise my right of final —

The Hon. the Speaker: Honourable senators, I wish to inform you that pursuant to rule 6-12 if Senator Pate speaks now, her speech will have the effect of closing out debate on this inquiry.

Hon. Senators: Agreed.

Senator Pate: Honourable senators, the overrepresentation of Indigenous peoples in prisons, particularly Indigenous women, is rooted in the historical and systemic discrimination that is our racist and sexist legacy of colonialization. The atrocities of residential schools, the forced, state-sanctioned removal of Indigenous infants and children, the so-called Sixties Scoop and ongoing discrimination and discriminatory treatment continue to cause unimaginable grief and intergenerational trauma.

I sincerely thank Senator Andreychuk for astutely pointing out the need for early intervention and prevention in order to address many of these issues before we end up with children in those states, before we end up with children who are marginalized, victimized, criminalized and institutionalized.

Today I will close the inquiry that I launched nearly 18 months ago as my first speech in this place. I would like to thank all honourable colleagues whose expertise and perspectives have enriched this inquiry. There should be no question why the Correctional Investigator has referred to the topic of this inquiry as one of the most pressing human rights issues in Canada.

[*Translation*]

In her speech, and in response to this inquiry, Senator Jaffer indicated, and rightly so, that we cannot point to just one reason for the overrepresentation of Indigenous women in the prison system. It is a set of distinct social disadvantages such as race, poverty, lack of education, gender inequality, loss of identity, victimization, and abuse.

[*English*]

Senator Dyck reminded us that Indigenous women are more likely to have faced violence and inequality than non-Indigenous women. She linked these statistics and the violent victimization to the horrific realities of missing and murdered Indigenous women and girls. Indigenous women are three times more likely to be made missing and four times more likely to be the victims of homicide than non-Indigenous women.

Senator Bernard urged us to understand overrepresentation of Indigenous women in prisons as a form of colonial violence. We must recognize in the experiences of Indigenous and other racialized women, most of whom end up in prison as a result of their attempts to negotiate poverty and lack of community supports, the same intersection of sexism and racism that makes them more likely to be missing and murdered. We must recognize that children lose their mothers when women are incarcerated. We must recognize the effect this has on individual children but also on the future well-being of communities.

Last month, the UN Special Rapporteur on violence against women, Ms. Dubravka Šimonović, visited Canada. So alarmed was she by the numbers of Indigenous women in prisons, she issued a statement calling on the government to ". . . take concrete steps to eliminate the overrepresentation of Indigenous Peoples in custody over the upcoming decade and to issue detailed annual reports that monitor and evaluate progress in doing so . . .," emphasizing in particular the need to strongly consider alternatives to detention.

Reflecting on the calls to action we have heard from our colleagues, I want to emphasize three key ways forward toward eliminating the overrepresentation of Indigenous women in prison.

Senator McCallum reflected on the prison system's failure to provide culturally appropriate programs and adequate health services to Indigenous women inside.

She said:

> It is time we facilitate these transfers out of prisons and into Indigenous communities for appropriate healing and rehabilitation.

I could not agree more.

Sections 81 and 84 of the Corrections and Conditional Release Act provide for mechanisms to allow Indigenous women to serve their sentences and be paroled, respectively, to Indigenous communities. Yet, since the introduction of these provisions in 1992, overrepresentation of Indigenous women has only increased. From 2003 to 2013, the rate of Indigenous women in prison increased by 86 per cent, and it is continuing to climb. Today, more than one in three women in federal prisons is Indigenous. As Senator Lankin pointed out, these sections are woefully underused and underfunded by the Correctional Service of Canada.

Corrections policy further limits the use of sections 81 and 84 through policies that frustrate the legislative intent of the provisions and subvert what Parliament intended when it enacted these two sections. Senator McCallum also made the astute observation that bureaucratic policy should not be permitted to continue to bar Indigenous peoples in prison from using these statutory provisions.

Senator Dupuis was equally correct in challenging us to ask why the general rule is not the development of agreements between corrections and Indigenous communities where Indigenous prisoners can benefit from culturally appropriate programming and support in Indigenous communities. We must find ways to support and breathe life into sections 81 and 84 to ensure that they fulfill the objectives of our predecessors and this government, and help to reduce the numbers of Indigenous people in prison.

Not only are Indigenous women overrepresented in prison, they face additional discrimination within prison walls. As Senator Omidvar referenced, Indigenous women are more likely to have a higher security classification, to have force used against them, to be segregated and to be denied parole.

Senator Runciman referenced another marginalized group in Canadian prisons, those with mental health issues. More than half of women in prison are identified as having mental health issues. Senator Runciman pointed out that the correctional uses of force, restraints and segregation both generate and exacerbate mental health issues. Prisons are not hospitals. I support his call for the implementation of the Ashley Smith inquest recommendations, particularly that those with mental health issues be treated by and in health-administered mental health services, not federal penitentiaries.

Following her Commission of Inquiry into certain events at the Prison for Women in Kingston in 1996, former Supreme Court Justice Louise Arbour noted that in prisons, "The Rule of Law is absent, although rules are everywhere."

The Correctional Service of Canada imposes all sorts of policies and rules to manage and control prisons and prisoners, yet there remains no meaningful independent oversight of CSC. Even when decisions to charge, shackle, pepper spray, isolate, transfer or otherwise further restrict prisoners amount to making sentences harsher than the ones originally ordered by judges, prisoners have no entitlement to seek a sentence review. We need, and prisoners deserve, judicial oversight of corrections, especially when correctional authorities interfere with the integrity of sentences by rendering them more punitive.

• (1740)

Holding decision-makers within prisons accountable is necessary in order to reaffirm the importance of the rule of law within prisons and prevent abuses of discretion and systemic discrimination that mean Indigenous women too often stay in prison beyond release dates and in harsh and inhumane conditions.

Section 718.2(e) of the Criminal Code directs that all available sanctions other than imprisonment should be considered, where reasonable, and specifically calls for consideration of the circumstances of Indigenous peoples. As Senator Boniface articulated, the intent of legislators was to address the

overrepresentation of Indigenous peoples in prison, a problem that was already well recognized 22 years ago when this provision was introduced.

Mandatory minimum sentences, which require a person to serve a pre-determined minimum penalty for applicable offences, limit judges' abilities to apply section 718.2(e). They prevent judges from weighing the circumstances and context of offences, personal characteristics and concerns such as mental health or cognitive impairments, systemic background factors and appropriate sentencing alternatives.

The Supreme Court of Canada and the British Columbia and Ontario Courts of Appeal have all found mandatory minimum sentences for certain offences to be grossly disproportionate and unconstitutional.

Mandatory minimum sentences also distort the criminal justice process by encouraging plea bargaining to avoid penalties perceived as too severe to risk going to court to defend one's rights.

In the 1990s, the Government of Canada commissioned Justice Lynn Ratushny to review the cases of women who had used lethal force against abusive partners. She was to determine how and why women ended up in prison despite evidence that they acted in self-defence.

After reviewing 98 cases, she concluded that a major impediment to them receiving a fair trial, and even to her review process, was the existence of mandatory minimum life sentences for murder.

A woman charged with first or second degree murder for using lethal force to repel an abusive partner faces the prospect of a mandatory sentence of imprisonment for life. Despite the context of such actions as reactive, often defensive, most Crown prosecutors, instead of recognizing that women may be defending themselves, their children or others and withdrawing the charges, will more often offer women the opportunity to plead guilty to manslaughter in exchange for a non-life sentence.

If a woman used a weapon as part of her defensive actions, she may still face a mandatory minimum sentence, but she is likely to accept the deal rather than risk facing the prospect of life in prison or the possibility that her children may be forced to testify at trial.

In her book *Defending Battered Women on Trial*, Professor Elizabeth Sheehy echoes the findings of Justice Ratushny. Professor Sheehy found that most women in Canada who were victims of domestic abuse and killed their abusers pleaded guilty to manslaughter. This was even more likely for Indigenous women, where 25 of the 37 women whose cases she studied entered guilty pleas despite evidence that they acted defensively.

Senator Sinclair reminded us that during his work with the Truth and Reconciliation Commission, residential school survivors throughout Canada often described being criminalized later in life for behaviour clearly linked to the trauma and abuse they experienced in the schools.

The TRC calls to action, based on survivors' testimony, call for an end to the overrepresentation of Indigenous peoples in prisons by the year 2025.

The calls to action also strongly link this overrepresentation to mandatory minimum sentences, and consequently number 32 calls on the federal government to amend the Criminal Code to allow trial judges to depart from mandatory minimum sentences.

Mandatory minimum penalties disadvantage Indigenous peoples by preventing judges from considering the effects of past trauma and systemic racism when determining appropriate sentences. They also take away from judges the ability to consider the appropriateness of sentences that would offer Indigenous women alternative approaches and could provide meaningful opportunities to rebuild their lives and contribute to their communities.

In its 2015 election platform, the Government of Canada committed to implementing the TRC calls to action. The time to act is now.

To reiterate, more than one-in-three women in the federal correctional system is Indigenous. This statistic tells us we must support Indigenous communities with resources to pursue collective interests and goals and support individuals with the sorts of interventions Senator Andreychuk spoke to today, but also including aspects such as guaranteed liveable incomes, supportive housing, education and health care. It tells us we must prevent unjust criminalization of Indigenous women, stop discriminatory overrepresentation of Indigenous women in prisons and ensure that criminal records do not prevent them from being integral members of the community.

Honourable colleagues, the justice that Indigenous women deserve is not the kind that Canada's criminal justice system generally offers them. We can and we must do better. To this end, and in the names of D and of L and of T and of R and S, for whom I just made submissions again last night for conditional release, and for far too many others who have survived sometimes unimaginable discrimination, inequality and injustices as well as those who have not, I look forward to working with you to remedy these desperate situations.

Consistent with the observations of the Legal and Constitutional Affairs Committee that one way to alleviate the challenges posed by mandatory minimum sentence-related court delays is to allow courts the discretion on a case-by-case basis to shorten or not impose mandatory minimum penalties. I ask that you assist and join me to promote Bill S-251, which I tabled earlier today, to help us along this path.

Thank you. *Meegwetch*.

The Hon. the Speaker: Honourable senators, this matter is considered debated.

(Debate concluded.)

CANADA'S FOUNDING FATHERS

BRITISH NORTH AMERICAN PROVINCES' DELEGATES AT THE 1864 QUEBEC CONFERENCE AND JOHN A. MACDONALD—INQUIRY—DEBATE ADJOURNED

Hon. Anne C. Cools rose pursuant to notice of March 28, 2018:

> That she will call the attention of the Senate to the great nation-building authors of Canada and their constituting statute, the *British North America Act, 1867*, and to this Act's single conceptual and comprehensive framework expressed in its section 91, in the words "It shall be lawful for the Queen to make Laws for the Peace, Order and good Government of Canada;" and, to the meeting of the British North American Provinces' delegates at their Quebec Conference, held October 10 to 25, 1864, which conference yielded the famous 72 Quebec Resolutions, which, when corrected and perfected, became the *British North America Act, 1867*; and to Canada's first Prime Minister, John A. Macdonald, who, with his clear, well-stocked mind, his exceptional skills, and his political intelligence was key to the achievement, success and longevity of our Constitution, the *British North America Act, 1867*, which has now lasted 150 years, a long time in constitution time.

She said: Honourable senators, I speak now to my fifth and last inquiry, Inquiry No. 43, about the meeting of the Confederation Fathers at their Quebec Conference, in Quebec City, October 10-25, 1864, which yielded their famous 72 Quebec Resolutions which, as corrected, amended and enacted, became the British North America Act, 1867.

I shall speak about John A. Macdonald and George Brown, the great and knowledgeable Canadian statesmen who were most dedicated to building a federated Canada with its new Constitution.

Honourable senators, the year 1864 was a great leap forward towards Canada's Confederation. In his 1895 book, *Confederation: Being a Series of Hitherto Unpublished Documents Bearing on the British North America Act*, Joseph Pope records John A. Macdonald at the Quebec Conference on October 11, 1864, at page 53 thus:

> Mr. John A. Macdonald proposed that Upper and Lower Canada should be considered as two Provinces for voting purposes.

Colleagues, unsurprisingly, the Quebec Conference delegates agreed unanimously to Macdonald's motion. The delegates' high regard for John A. Macdonald was legendary. I offer these citations to show the Quebec Conference delegates' high motivation to reach agreement in their large and great enterprise that was their federal union of their provinces, then threatened by the carnage and bloodshed of the United States' second failed constitution, which was known as their cruel American Civil War.

Our British North American provinces were also threatened by President Lincoln's Secretary of State Seward's designs to annex Canada to the United States as part of U.S. hostilities against Great Britain. The Americans believed that Britain was supporting the Confederacy as against the Union. At the Quebec Conference, Joseph Pope wrote, at his book's page 22:

> Friday, 21st October, 1864. . . . It was moved by the Honourable Mr. John A. Macdonald:-That it shall be competent for the General Legislature to make laws for the peace, welfare and good government of the Federated Provinces ...

• (1750)

Honourable senators, John Macdonald's motion was clear that the constitutional purpose and raison d'être of the future general legislature, that is the future Parliament of Canada, would be composed of Her Majesty Queen Victoria, the Senate and the House of Commons, all for the grand purpose that is "the peace, welfare and good government of the Federated Provinces." John Macdonald's motion for the peace, welfare and good government of the provinces was Resolution 9 of the 72 Quebec Resolutions. In 1865, these Canadian delegates debated and adopted their 72 Quebec Resolutions in their respective legislatures. These debates, known as the *Confederation Debates*, clearly reveal that these dedicated public men from the future provinces of the future Confederation of Canada, were deeply committed to their united endeavour, which was to build their great constitutional enterprise, their Confederation. During these debates in the Canadian Legislature, these members adopted a resolution for a humble address to Her Majesty Queen Victoria. The *Journals of the Legislative Assembly of the Province of Canada*, from June 8 to August 15, 1866, on August 11, 1866, record, at page 362:

> 1. That by the 38th paragraph of the resolution of this House, passed on the third day of February, 1865, for presenting a humble address to Her Majesty, praying that she may be graciously pleased to Cause a measure to be submitted to the Imperial Parliament, for the purpose of uniting the Colonies of Canada, Nova Scotia, New Brunswick, Newfoundland, and Prince Edward Island, in one Government, with provisions based on the resolutions which were adopted at a Conference of delegates from the said Colonies, held at the City of Quebec, on the 10th of October 1864 . . . .

Colleagues, now to the Confederation Father George Brown, who was prominent at the Charlottetown and Quebec Conferences. An active Reform Party member, he was the founder-editor of the *Toronto Globe*, later called the *Globe and Mail*, a vigorous newspaper from its 1844 inception. In 1863, George Brown, then the South Oxford member in the Legislative Assembly of Canada West Province, had joined John Macdonald and George-Étienne Cartier in their 1864 Great Coalition, which united Reformers and Conservatives in their shared goal of Confederation. At the Quebec Conference, in debate, George Brown gave his robust support to representation by population for the birthing Confederation's lower house, later called the House of Commons. Brown knew well that "rep by pop" would promote regional equality in Canada West and Canada East, soon to be called Ontario and Quebec by Canada's then new

Constitution. On October 19, 1864, at the Quebec Conference, George Brown moved, and is recorded in Pope's book, at page 19:

> That the basis of representation in the House of Commons shall be population, as determined by the official census every ten years; . . . .

Colleagues, George Brown's motion became Resolution 17 of the 72 Quebec Resolutions. Its adoption meant that the electoral franchise in property would be the electoral foundation for the members of the Confederation's Lower House, soon to be our House of Commons, that embodies that great constitutional principle representation by population. On February 8, 1865, in Canada West's Legislative Assembly, during their Parliamentary Debates on the Subject of the Confederation of the British North American Provinces, known as the *Confederation Debates*, George Brown spoke to representation by population. As recorded in the *Confederation Debates*, he said, at page 88, that:

> The honourable member for North Hastings is of that opinion; but that honourable gentleman is in favor of legislative union, and had we have been forming a legislative union, there might have been some force in the demand. But the very essence of our compact is that the union should be federal, not legislative. Our Lower Canada friends have agreed to give us representation by population in the Lower House, on the express condition that they shall have equality in the Upper House. On no other condition could we have advanced a step; and, for my part, I am quite willing they should have it. In maintaining the existing sectional boundaries and handing over the control of local matters to local bodies, we recognize, to a certain extent, a diversity of interests; and it was quite natural that the protection for those interests, by equality in the Upper Chamber, should be demanded by the less numerous provinces.

Honourable senators, now to the Fathers of Confederation on their visit to England, at their London Conference at Westminster Palace. There, on December 4, 1866, our delegates adopted John Macdonald's motion as the London Conference Resolution 28.

Colleagues, en passant, I note that all of these resolutions were carefully numbered for obvious reasons.

Joseph Pope recorded London Resolution 28, at his book's page 102, that:

> 28. The General Parliament shall have power to make laws for the peace, welfare, and good government of the Confederation. . . .

Joseph Pope recorded the first of several drafts of the then birthing British North America Act, 1867. Titled "Draft of a Bill for The Union of the British North American Colonies, and for Government of the United Colony" and dated January 23, 1867, clause 38 of this draft bill said, at pages 152-153 Pope's book:

> 38. It shall be lawful for Her Majesty, Her Heirs and Successors, by and with the Advice and Consent of the Houses of Parliament of the United Colony, to make laws for the Peace, Order, and good Government of the United Colony and of the several Provinces, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to Provincial Legislation; . . .

Colleagues, the words "Peace, Welfare and Good Government," were changed to the words "Peace, Order, and Good Government." This is the current wording. This change was made at the London Conference in the U.K. On March 29, 1867, Her Majesty Queen Victoria gave Royal Assent to the statute An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith. This statute came into force on July 1, 1867. Its section 1 said:

> This Act may be cited as the British North America Act, 1867.

Colleagues, yet again this defining phrase as amended appears as Section 91 of the B.N.A Act. Its section 91 said:

> 91. It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; . . . , it is hereby declared that . . . the exclusive Legislative Authority of the Parliament of Canada extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; . . . .

Honourable senators, having shown that the phrase "Peace, Order, and Good Government," was born of the earlier phrase "Peace, Welfare and Good Government," I will share with you the genius of Canada's Constitution and the skills in law, politics and governance that the Fathers of Confederation possessed and exercised. We must uphold the success that was Canada's nation building and constitution making. At the Quebec Conference on October 11, 1864, Joseph Pope's book recorded Macdonald's words on the proposed Senate, at pages 57-58:

> As regards the constitution of our Legislature. In order to have no local jealousies and all things conciliatory, there should be a different system in the two chambers. With the Queen as our Sovereign, we should have an Upper and a Lower House. In the former the principle of equality should obtain. In the Lower House the basis of representation should be population, not by universal suffrage, but according to the principles of the British Constitution. In the Upper House there should be equality in numbers. . . . . With respect to the mode of appointments to the Upper House, some of us are in favour of the elective principle. More are in favour of appointment by the Crown. I will keep my own mind open on that point as if it were a new question to me altogether. At present I am in favour of appointment by the Crown. While I do not admit that the elective principle has been a failure in Canada, I think we had better return to the original principle, and in the words of Governor Simcoe, endeavour to make ours "an image and transcript of the British Constitution."
>
> We have to consider what is desirable; and then what is practicable.

Honourable senators, I have shared my love of Canada as conceptualized and actuated by our founding fathers' most skillful efforts to steer their ship of state through new and uncharted waters. Their goal was to reach agreement, and to mold for perpetuity, a workable and enduring constitution for Canada.

Colleagues, for those of us who love to read this fast becoming obscure literature, I am always fascinated and also attracted by the fact that these men were willing to take the time they needed to reach agreement to get to the "yes." The fact that they reached agreement is a great success. Their goal was to reach agreement, and to mould for perpetuity a workable and enduring constitution for Canada.

• (1800)

The Hon. the Speaker: Excuse me, Senator Cools. It's now 6 p.m., and unless we agree not to see the clock, we have to rise until eight.

Is it agreed that we not see the clock, honourable senators?

Hon. Senators: Agreed.

Senator Cools: I appreciate that, colleagues. I only have a few minutes left.

Canada's Confederation and its constitution, the British North America Act, 1867, are now 150 years old. As I often say, 150 years is a long time in constitution time. Such constitutional longevity is rare. As faithful standard bearers we must thank God that by our earlier constitutions that antedated the BNA Act, 1867, and by the 1867 act itself, Canada, in the phrase "peace, order and good government," will long express our high constitutional standards for fair and judicious governance.

Honourable senators, I come now to the widely held but mistaken notion that the Confederation Fathers intended this Senate to be non-partisan. This is not so. It is simply not true. The Fathers of Confederation set out to do the opposite. They set out to uphold the use of political parties, and to maintain the proper balance between the parties in their legislatures. Joseph Pope's book records the Quebec Resolution 14, the subject of which is the selection of senators, at pages 40 and 41, that:

> 14. The first selection of the Members of the Legislative Council shall be made, except as regards Prince Edward Island, from the Legislative Councils of the various Provinces, so far as a sufficient number be found qualified and willing to serve; such Members shall be appointed by the Crown at the recommendation of the General Executive Government, upon the nomination of the respective Local Governments, and in such nomination due regard shall be had to the claims of the Members of the Legislative Council of the Opposition in each Province, so that all political parties may as nearly as possible be fairly represented.

Joseph Pope's book also records the amended Quebec Resolution 14 that became the London Conference Resolution 15, at page 100:

> 15. The Members of the Legislative Council for the Confederation, shall, in the first instance, be appointed upon the nomination of the Executive Governments of Canada, Nova Scotia, and New Brunswick, respectively, and the number allotted to each province shall be nominated from the Legislative Councils of the different Provinces, due regard being had to the fair representation of both political parties, but in case any Member of the Local Council so nominated shall decline to accept, it shall be competent for the Executive Committee in any Province to nominate in his place a person who is not a member of the Local Council.

The Hon. the Speaker: I'm sorry, Senator Cools, for interrupting but your time has expired. Are you asking for five minutes?

Senator Cools: Five minutes.

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

Hon. Senators: Agreed.

Senator Cools: Honourable senators, the Confederation Fathers' labours yielded the great feat, which is that for 150 years, Canada has been well governed by its unbroken, successful, enduring and abiding Constitution. We can wisely conclude that the current assertion that the Senate should rid itself of political parties and partisanship has absolutely no foundation in Canada's Constitution and history, both of which have always intended the meaningful and successful use of political parties as tools to achieve Canada's political and constitutional goals, which must ever be the peace, order and good government of our mighty country. It is to this end that we senators have been appointed by Commissions under Letters Patent to serve here in this the Upper and Royal House of the Parliament of Canada wherein the Queen, the Senate, and the House of Commons may gather as the Parliament of Canada assembled.

I thank colleagues for their attention.

Hon. Senators: Hear, hear.

Hon. Joseph A. Day (Leader of the Senate Liberals): Could I ask a question? Then I'd be pleased for my colleague to take the adjournment.

Senator Cools, thank you very much for the work that you've done on this. We very much appreciate it. You referred several times to the expression, "peace, order and good government."

Did I understand you to say that that expression changed somewhat in London but came out of the Quebec Conference?

Senator Cools: Yes.

Senator Day: So often that expression has been contrasted with the United States. It is used to show a different temperament of the people in the different areas.

Am I correct that came not from Great Britain, although the "peace, order and good government" was defined there, but the expression had its genesis in Quebec and the Quebec Conference?

Senator Cools: It did, and it's very interesting because this is in my other speeches on this matter. After the Plains of Abraham battle, having made many agreements, in 1774, the Quebec Act was enacted in the U.K., and one of its large purposes was to preserve for the French Canadians their religion, their French language, their law and their civil code. So you find the Peace, Welfare and Good Government in the 1774 Quebec Act.

You will find this phrase in the 1791 Canada Act that divided Quebec into Upper and Lower Canada. Then you find it again in the Act of Union in 1840. Then in 1840 they put them back together as Canada East and Canada West.

I began in 1774, but we're moving more towards the time of Sir John A. Macdonald and these emerging leaders who were destined to be successful in their Confederation enterprise.

We had the Act of Union 1844. We must remember that the British brought Lord Durham to Canada in the 1830s. He submitted an excellent report which said that the fact that these people were not granted the same rights as in England, which meant responsible government. His report recommended that Canada East and West should be granted responsible government.

From that we gallop right into the 1860s, and the drive for Confederation, whereby the 72 Quebec resolutions were agreed to.

Then very quickly and rapidly, by the end of 1866, the delegates were at the London Conference. They come home with a document which has lasted now for, as I said before, 150 years.

This is something to be upheld and praised and, if anything, publicized more and more.

Senator Day: Something to be proud of.

Senator Cools: Something to be extremely proud of, but they did it. But you have to know at all times they were up against the savagery and bloodshed that attended the United States of America.

So the contrast is really very sharp, and I think in a way those words "peace, order and good government" are not as glamorous and as poetic as the Americans' "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."

Many Canadians tell me that our Constitution is so boring but the American one is so exciting. I say it's the opposite. Theirs is as boring as hell, and ours is the exciting one. Thank you.

(On motion of Senator Martin, debate adjourned.)

(*At 6:10 p.m., the Senate was continued until tomorrow at 2 p.m.*)

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