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CANADA

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OFFICIAL REPORT
(HANSARD)

Tuesday, October 16, 2018

The Honourable GEORGE J. FUREY,
Speaker

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

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THE SENATE

Tuesday, October 16, 2018

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

Prayers.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, there have been consultations and there is an agreement to allow a photographer in the Senate Chamber to photograph the introduction of new senators.

Is it agreed, honourable senators?

Hon. Senators: Agreed.

NEW SENATORS

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that the Clerk of the Senate has received certificates from the Registrar General of Canada showing that the following persons, respectively, have been summoned to the Senate:

Patti LaBoucane-Benson

Paula Simons

Peter M. Boehm

Josée Forest-Niesing

Brian Francis

INTRODUCTION

The Hon. the Speaker having informed the Senate that there were senators without, waiting to be introduced:

The following honourable senators were introduced; presented Her Majesty's writs of summons; took the solemn affirmation, which was administered by the Clerk of the Senate; and were seated:

Hon. Patti LaBoucane-Benson, of Spruce Grove, Alberta, introduced between Hon. Peter Harder, P.C., and Hon. Lillian Eva Dyck.

• (1410)

Hon. Paula Simons, of Edmonton, Alberta, introduced between Hon. Peter Harder, P.C., and Hon. André Pratte.

The following honourable senator was introduced; presented Her Majesty's writ of summons; took the oath prescribed by law, which was administered by the Clerk of the Senate; and was seated:

Hon. Peter M. Boehm, of Ottawa, Ontario, introduced between Hon. Peter Harder, P.C., and Hon. Ratna Omidvar.

• (1420)

The following honourable senator was introduced; presented Her Majesty's writ of summons; took the solemn affirmation, which was administered by the Clerk of the Senate; and was seated:

Hon. Josée Forest-Niesing, of Sudbury, Ontario, introduced between Hon. Peter Harder, P.C., and Hon. Lucie Moncion.

The following honourable senator was introduced; presented Her Majesty's writ of summons; took the oath prescribed by law, which was administered by the Clerk of the Senate; and was seated:

Hon. Brian Francis, of Rocky Point, Prince Edward Island, introduced between Hon. Peter Harder, P.C., and Hon. Murray Sinclair.

The Hon. the Speaker informed the Senate that each of the honourable senators named above had made and subscribed the declaration of qualification required by the Constitution Act, 1867, in the presence of the Clerk of the Senate, the Commissioner appointed to receive and witness the said declaration.

CONGRATULATIONS ON APPOINTMENTS

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, it is my pleasure, as the Government Representative in the Senate, to welcome five new senators to this chamber.

We have two new senators from Alberta: Senator Patti LaBoucane-Benson and Senator Paula Simons.

• (1430)

Senator LaBoucane-Benson is a proud Metis who has devoted her career to strengthening Indigenous families.

[*Translation*]

She has also helped underprivileged groups in her province, especially youth-serving organizations. She has invested considerable effort in community healing activities.

[*English*]

Among the many awards and distinctions she has received, let me mention the Aboriginal Role Models of Alberta Award for Education.

Her fellow Albertan, Senator Simons, has spent her career as a journalist, writing about a range of issues with a special focus on her beloved city of Edmonton. She is a storyteller in print and film and, notably, is the co-author of a best-selling popular history book, *Alberta: 100 Years a Home*.

She has received many awards over her long career, including one from the Alberta Civil Liberties Research Centre for writing on LGBTQ rights.

[*Translation*]

Senator Boehm, who is now settled in Ontario, has had a career similar to mine.

[*English*]

He is a career public servant and a foreign service officer, having served as Ambassador to Germany and having represented Canada in postings in Washington, Cuba and Costa Rica.

He has been a colleague and a friend with recognized expertise in a broad range of issues, including hemispheric issues in Canada and the U.S., where he served as the number two in our embassy, Europe, and he was most recently, for the last number of years, the Prime Minister's personal representative, or Sherpa, to the G7.

In addition to his contributions as senior diplomat, he has also distinguished himself as a champion of gender issues in the workplace.

Senator Boehm has received the Public Service of Canada Outstanding Achievement Award and the Canadian Foreign Service Officer Award for his contribution to advancing peace in Central America.

[*Translation*]

Senator Josée Forest-Niesing also comes from Ontario, but from Sudbury, which is further north. We welcome her to the chamber. She is proud to be Franco-Ontarian, and she is also very proud of her Métis heritage.

[*English*]

Senator Forest-Niesing is a lawyer and a community activist who has passionately defended and promoted access to justice in English and in French. Indeed, she was the founding member chair of the Centre canadien de français juridique, as well as the Chair of the Ontario Bar Association's Official Languages Committee.

She is also a proud patron of the arts in Sudbury.

Moving east, I would like to introduce to you Senator Brian Francis, from Prince Edward Island. Senator Francis is a Mi'kmaq with years of experience at all levels of government, advocating for social and economic development through infrastructure investments.

He has been Chief of the Abegweit Mi'kmaw Nation for 12 years. Under his leadership, innovative infrastructure projects have been launched to enhance the well-being of his people, including protecting biodiversity, securing safe drinking water and building better housing.

Awards for his work include the University of Prince Edward Island Founders Award and the Senate of Canada Sesquicentennial Medal.

He is also a Mi'kmaq Elder and Eagle Staff Carrier in recognition of the esteem and respect his community holds for him.

Senators, welcome to your new home. Each of you will discover a range of opportunities as you continue in your service to the people of Canada. We wish you all well and welcome you today.

Hon. Larry W. Smith (Leader of the Opposition): Honourable senators, I am once again pleased to rise to offer a few words of welcome, this time to our five new colleagues who were named to this place earlier this month. They have been called upon by Her Excellency the Governor General, on the advice of Prime Minister Trudeau, to serve their fellow citizens here in the Senate of Canada.

On behalf of all Conservative senators and, indeed, all honourable senators, I extend sincere congratulations to each of you.

The province of Alberta gains two new representatives in this place today. Senator Patti LaBoucane-Benson has enjoyed a long career helping Aboriginal individuals and families through her work with the Native Counselling Services of Alberta.

Senator Paula Simons is well-known to her fellow Albertans for her work as a journalist, most notably as a columnist with the *Edmonton Journal*.

Ontario has two new senators as well. After providing advice on matters of foreign affairs to politicians of varying party stripes over the course of many years, today, Peter Boehm steps into that role himself.

Senator Forest-Niesing is a lawyer and also no stranger to the Senate, having appeared previously as a witness before our committees.

Finally, Senator Brian Francis has led one of the two First Nations in Prince Edward Island for the last dozen years. Today, he becomes that province's newest representative here.

It is a tremendous honour to serve here in the Senate of Canada, and one I trust none of us takes lightly. I'm certain that our new colleagues claiming their seats today will quickly learn our rules and functions and understand the courtesy and respect we extend to each other as honourable senators. After all, each one of us is here to do what we believe is right for the country we collectively cherish.

On behalf of the official opposition in the Senate, I wish all the best to each of our new colleagues and their respective families as they embark on this new and next chapter of their lives.

Hon. Yuen Pau Woo: Educator, mentor, facilitator and thought leader on Aboriginal families and Native communities; prize-winning journalist and champion of media freedoms; dedicated public servant, distinguished diplomat and trusted adviser to ministers and prime ministers; Metis jurist, legal expert and champion of franco-Ontarian heritage; Mi'kmaq chief and elder, advocate for Indigenous economic development, and fisheries industry leader.

These are just a sample of the accolades that describe our five distinguished new Senate colleagues. You have already heard from Senators Harder and Smith a fuller account of their accomplishments, but we cannot possibly do justice to the range of contributions that they have made to Canadian society in a brief welcome statement.

What we can say is that our five new colleagues chose to apply to become senators so that they could further contribute to Canada. We can have no doubt that they have options to do many other things in their lives, but they chose public service.

The knowledge and experience that they bring to their new roles will enrich our collective work as senators and strengthen our ability to function as a non-partisan chamber of sober second thought.

To Senators LaBoucane-Benson, Simons, Boehm, Forest-Niesing and Francis and to your families, on behalf of the Independent Senators Group, welcome to the family of the Senate of Canada.

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable colleagues, on behalf of the independent Liberal Senate caucus, I'm very pleased to join Senators Harder, Smith and Woo in welcoming our five new colleagues to this chamber.

Every one of you is accomplished in your respective field and will bring a wealth of expertise to our deliberations.

Senator Patti LaBoucane-Benson of Alberta, a Metis and a lecturer with the University of Alberta, has worked tirelessly to help vulnerable youth and Indigenous families, serving for years with the Native Counselling Services of Alberta.

Senator Paula Simons, also of Alberta, has been a journalist, producer, freelance writer and political columnist for her entire career, bringing clarity on countless issues to Canadians. Her writing has long garnered her many awards, including the 2017 National Newspaper Award for column writing.

• (1440)

Senator Peter Boehm of Ontario is a career diplomat who served in a variety of positions at Foreign Affairs and most recently served as the Deputy Minister for the G7 Summit. Though he retired only last month, his arrival here makes it very clear that he has a desire to continue to serve Canada and Canadians, and we welcome that.

[*Translation*]

Senator Josée Forest-Niesing also represents the province of Ontario. In addition to practising law for 20 years, she was the founding chair of the Centre canadien de français juridique. She has also sat on numerous boards of directors, including the Carrefour francophone de Sudbury and the Art Gallery of Sudbury.

[*English*]

Senator Brian Francis of Prince Edward Island may be new to the Senate, but he is no stranger to politics. He has ably served as Chief of the Abegweit First Nation for the past 12 years, and his public service has been rewarded with the UPEI Founders Award and one of our very own Senate of Canada sesquicentennial medals.

Senators, there is no doubt that you have joined us at an interesting time. The people in this chamber are all working toward the same goal of renewing and modernizing the Senate to reflect the expectations of our fellow Canadians while fulfilling our traditional role as a chamber of sober second thought. We look forward to your contributions as well in this regard. All Canadians will be served by both your wisdom and your expertise.

[*Translation*]

Once again, the Independent Senate Liberals welcome you to the Senate of Canada. My colleagues and I look forward to working with you.

Hon. Senators: Hear, hear!

[*English*]

SENATORS' STATEMENTS

LNG CANADA

Hon. Richard Neufeld: Honourable senators, ". . . the single largest private sector investment project in Canadian history." Those were the words that Prime Minister Trudeau and B.C. Premier Horgan repeated over and over when announcing that Canada will finally become an exporter of liquefied natural gas.

Two weeks ago, a business consortium announced its final investment decision for LNG Canada, a $40 billion project that will help Asia get off coal and replace it with the world's cleanest LNG. This is a great story for Canada, but you may have missed it.

On the day of the announcement, it took the CBC over 15 minutes to report the story on "The National," and it dedicated a whopping 96 seconds to it. I guess that is what $40 billion of private investment in our country will get you in airtime from our public broadcaster.

Of course, there were smiles all around at the October 2 announcement. This was certainly a story Prime Minister Trudeau wanted to brag about, considering it is under his watch that foreign investment in our resource sector has been vanishing.

Perhaps honourable colleagues would appreciate a brief history of natural gas in Canada to understand how this megaproject actually came to light.

In the early 2000s, Canada was running out of natural gas. In fact, an import LNG facility was approved on B.C.'s north coast.

Thanks to the leadership of former Premier Gordon Campbell, who allowed directional drilling and horizontal fracking in the province, huge reserves of natural gas were discovered in northeastern British Columbia. Other regions of North America found similar deposits. Suddenly governments were determined to find new export markets for trillions of feet of gas. At first, few believed in that idea, but over time people started to appreciate the immense potential.

However, among those who did not believe is the current B.C. premier and a number of his cabinet ministers — those same individuals who were all smiles at the announcement. Not long ago, John Horgan called LNG "an industry that is going nowhere." Horgan's environment minister referred to LNG as "pixie dust." His education minister once said it was "pie in the sky," and the NDP energy minister said LNG "ain't good for anybody in this province."

Isn't it interesting how a $40 billion investment, thousands of good-paying, family-supporting jobs and billions of tax revenues can change someone's mind? Of course, John Horgan was more than happy to consider this massive investment his own achievement. Don't be fooled: LNG is not the brainchild of the NDP.

Honourable senators, I'm sure you will agree that it's good to review history once in a while to see where we have been and to better understand where we are going.

Please join me in celebrating LNG Canada. For my hometown, my region, my province and my country, this is the best news we have had in a long time.

Some 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 Mike and Meredith Brophy along with Ken and Monica Knox. They are the guests of the Honourable Senator Black (*Ontario*).

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

Hon. Senators: Hear, hear!

AUTISM AWARENESS MONTH

Hon. Wanda Elaine Thomas Bernard: Thank you, Your Honour. There is certainly a lot of excitement in the chamber today with the five new senators, and I welcome them all. I hope that I can get through this speech without the distraction of all the excitement.

Honourable senators, I rise today in honour of Autism Awareness Month to pay tribute to Dr. Angela Fountain & Associates Summer Camp. This summer camp, located in Oshawa, Ontario, is on a 60-acre farm. It is an amazing combination of a children's mental health program with a farm that creates an accessible and fun learning environment for children with unique mental health challenges and exceptionalities, such as autism, attention deficit hyperactivity disorders and other non-neurotypical issues.

Dr. Fountain's camp has stables, a swimming pool, playgrounds, sports fields, vegetable gardens, meadows and a forest. The children can spend time with the horses and other small animals. Available activities for campers include artisan crafts and seasonal farm activities. All of these valuable summer camp experiences are available alongside access to the highly trained behaviour intervention team of Dr. Angela Fountain and a full multidisciplinary children's mental health team.

This summer, my two grandsons Damon and Gavin attended the Dr. Angela Fountain & Associates Summer Camp. They had a great summer at the farm, which gave our family peace of mind knowing the boys were receiving the support they needed while having fun and exploring during their months off school.

I inquired at another summer day camp to see what it would look like for our two grandsons with exceptionalities to attend their camp. The response was one of confusion. The person that I asked had no idea what supports were in place for children who require additional support for a successful camp experience. There are actually very few options in this country for families with children with exceptionalities to have a summer camp experience that actually meets their needs.

The support team at Dr. Fountain's camp are exceptional in providing an enhanced level of support to the campers and creating an accessible environment for a wide range of needs.

• (1450)

The children who attend this camp connect with nature through education and exploration. The program also provides these youth support in developing self-awareness, self-regulation and important relationship-building skills.

Join me in thanking Dr. Angela Fountain and Associates Summer Camp for providing such an important program. I encourage you, colleagues, to become more aware of innovative youth programs as we mark Autism Awareness Month.

UNIVERSITY OF VICTORIA

INDIGENOUS LAW PROGRAM

Hon. Lillian Eva Dyck: Honourable senators, on September 25, the world's first Indigenous law degree program was launched at the University of Victoria. I had the honour and pleasure of attending. Congratulations are due to Dr. John Borrows, Canada Research Chair in Indigenous Law, and Dr. Val Napoleon, Law Foundation Professor of Aboriginal Justice and Governance.

Students of UVIC's Indigenous law degree program will earn degrees in Canadian common law and Indigenous legal orders. Over the next four years, these trailblazers will participate in field studies in Indigenous communities across the country and will take on issues facing many of those communities, such as child welfare, housing and environmental protection.

Senator McCallum and I met with the first cohort of students and participated in an experiential outdoor lesson. We also met with several graduate students. Complementing the new JD/JID program is the opening of a new Indigenous legal lodge, which program coordinators hope will act as a national forum for critical engagement, public education and learning. The design of the lodge is said to reflect and honour the long-standing relationship between the law school and local First Nations communities.

Professor Val Napoleon, the JD/JID director said:

> Indigenous law is restoring the world's lawscape — the way that people relate to each other, the land, and non-human life forms. UVic's Indigenous Law Degree program will equip our students to build communities of Indigenous legal practice locally, nationally, and internationally, private to public, and beyond. This is the first law degree of its kind, and it's already rebuilding Indigenous law to meet today's challenges.

It should also be noted that the program was created in response to Canada's Truth and Reconciliation Commission. Furthermore, the B.C. government has budgeted $2.25 million over two years to help support the UVIC program in accordance with the TRC's Call to Action No. 50, which asks governments to fund Indigenous law institutes.

B.C.'s Minister of Advanced Education, Melanie Mark, stated at the ceremony:

> We are resilient Indigenous people and our laws have never gone away.
>
> Today is about affirming our place as Indigenous people in Canada . . . .

Colleagues, this Indigenous law program will gradually create change for the better for Indigenous people. Once again, I congratulate Professor Borrows and Professor Napoleon and offer best wishes to their students.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Vivienne Keane and Gerard Healy. They are the guests of the Honourable Senator Campbell.

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

Hon. Senators: Hear, hear!

SS *CARIBOU*

Hon. Fabian Manning: Today I am pleased to present Chapter 40 of "Telling Our Story."

Only 60 left to go, for those counting.

Seventy-six years ago this week, on October 14, 1942, the Second World War arrived in full force to the shores of what was then the Dominion of Newfoundland. The threat of U-boat attacks in North American waters was quickly becoming a reality due to the German declaration of war on the United States following the Japanese attack on Pearl Harbour during the previous year. Germany sank 44 ships in Canadian waters in just a few months, losing only two U-boats.

In what would come to be known as the Battle of the St. Lawrence, German submarines would indiscriminately torpedo marine traffic along the Gulf of St. Lawrence. Most of the attacks and the eventual losses were against merchant vessels or warships, until that fateful October morning when the passenger ferry the SS *Caribou* was attacked by the German submarine U-69 and sunk, causing a terrible loss of life.

The SS *Caribou* was built in the Netherlands in 1925 for the Newfoundland Railway. During World War II, she became part of a convoy operating between Sydney, Nova Scotia, and Port aux Basques, Newfoundland. Under the cover of darkness, the convoy would make this particular voyage three times a week. On this particular trip, the SS *Caribou* was being escorted by the minesweeper the HMCS *Grandmere*.

The SS *Caribou* carried 73 civilians, including 11 children, and 118 military personnel, plus a crew of 46.

October 14 was a dark night with no moon. At 3:51 a.m., the *Caribou* was struck by a lone torpedo from the U-69, just 37 kilometres from Port aux Basques. Within just five minutes, she sank beneath the waves. Passengers were thrown from their bunks by the explosion and rushed topside to the lifeboat stations. Several lifeboats and rafts had been destroyed in the explosion, and chaos ensued as families who had been accommodated in separate cabins searched for one another. As a result, many were forced to jump overboard into the cold Atlantic waters.

Upon spotting the German submarine, the HMCS *Grandmere* attempted to ram her, but the U-boat, which had misidentified the minesweeper as a destroyer, quickly dived deep and escaped into the Atlantic. At 6:30 a.m. the HMCS *Grandmere* began the task of finding the survivors of the *Caribou*. Of the 237 passengers aboard the *Caribou*, only 101 survived the sinking. Of the 46-man crew, mostly Newfoundlanders, only 15 remained. The press reported that "many families were wiped out."

Captain Taverner and his two sons, Stanley and Harold, who served as first and third officers, respectively, perished along with five members of the Tappers family, four members of the Toppers family, three members of the Allens family and two members of the Skinner family. It was reported that a funeral held for six of the victims had a two-kilometre procession of mourners following the bodies to the grave site.

The German U-69 submarine met its fate the following February when it was destroyed by the HMS *Viscount* east of Newfoundland.

The attack made international headlines, shocking the world with the brutality of the Nazis' attack on civilian targets. The sinking of the *Caribou* is considered by many historians to be the war's most significant sinking in Canadian patrolled waters, as it clarified to Newfoundlanders and Canadians that the war had arrived on their home front, and it demonstrated how depraved the Nazi regime really was.

October 14, 1942, was indeed another sad chapter in the story of Newfoundland and Labrador.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Rosemarie Shephard. She is the guest of the Honourable Senator Bovey.

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

Hon. Senators: Hear, hear!

DONNA STRICKLAND

CONGRATULATIONS ON NOBEL PRIZE IN PHYSICS

Hon. Ratna Omidvar: Honourable senators, I rise today to celebrate Dr. Donna Strickland, a Canadian physicist and associate professor at the University of Waterloo, Ontario, who was recently awarded the Nobel Prize in Physics for her work with lasers.

She is just the third woman in history to have been awarded this prize in physics and joins 22 other Canadians who are Nobel laureates who call Canada home, including Frederick Banting and Alice Munro.

Dr. Strickland's winning research stems from her doctoral thesis in 1985. She and her co-winner, Dr. Gérard Mourou of France, succeeded in creating ultra-short high-intensity laser pulses known today as chirped pulse amplification. As you can probably guess, I have very little understanding of the medical sciences, but I am married to an engineer who explained to me that Dr. Strickland's work and its application has led to revolutions in surgery.

I have been on the surgeon's table more times than I wish, and I know the difference between invasive surgery, on the one hand, and laser surgery, on the other. Given our average age here in the chamber, I imagine we want to be very grateful to her and in fact very proud of her.

• (1500)

Dr. Strickland has been largely unknown to date, and it is not surprising to discover that she is a modest and humble person. There is very little you can find about her on the Net, although I suspect this will now change.

During her press conference, Dr. Strickland asked us to focus on her female colleagues and said, "We need to celebrate women physicists because we're out there." And we need to encourage them. Currently, four of five seats in a STEM university program are filled by men. Role models matter. Now with Dr. Strickland as a Nobel laureate, I am hoping that we will see these numbers shift.

One day soon, I hope we will be able to honour Dr. Strickland in person. Until then, please join me in sending our congratulations to an extraordinary woman and an extraordinary Canadian. May she inspire wonder and curiosity in all of us.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Dr. Peter Moosbrogger. He is the guest of the Honourable Senator Ravalia.

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

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

STUDY ON NEW AND EMERGING ISSUES FOR CANADIAN IMPORTERS AND EXPORTERS WITH RESPECT TO COMPETITIVENESS OF CANADIAN BUSINESSES IN NORTH AMERICAN AND GLOBAL MARKETS

TWENTY-FOURTH REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE TABLED

Hon. Douglas Black: Honourable senators, I have the honour to table, in both official languages, the twenty-fourth report of the Standing Senate Committee on Banking, Trade and Commerce entitled *Canada: Still open for business?*

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

CANADA-MADAGASCAR TAX CONVENTION BILL, 2018

FIRST READING

Hon. Peter Harder (Government Representative in the Senate) introduced Bill S-6, An Act to implement the Convention between Canada and the Republic of Madagascar for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

(Bill read first time.)

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

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

[*Translation*]

OFFICIAL LANGUAGES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO DEPOSIT REPORT ON STUDY OF CANADIANS' VIEWS ABOUT MODERNIZING THE OFFICIAL LANGUAGES ACT WITH CLERK DURING ADJOURNMENT OF THE SENATE

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

> That the Standing Senate Committee on Official Languages be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate, no later than October 31, 2018, an interim report on modernizing the Official Languages Act: the views of official language minority communities, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Senate.

[*English*]

BANKING, TRADE AND COMMERCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO DEPOSIT REPORT ON STUDY OF ISSUES AND CONCERNS PERTAINING TO CYBER SECURITY AND CYBER FRAUD WITH CLERK DURING ADJOURNMENT OF THE SENATE

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

> That the Standing Senate Committee on Banking, Trade and Commerce be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate, between October 26 and November 16, 2018, a report relating to its study on issues and concerns pertaining to cyber security and cyber fraud, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Senate.

[*Translation*]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

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

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

> That the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to meet at 5 p.m. on Tuesday, October 23, 2018, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

[*English*]

HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES RELATING TO THE HUMAN RIGHTS OF PRISONERS IN THE CORRECTIONAL SYSTEM

Hon. Wanda Elaine Thomas Bernard: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That, notwithstanding the order of the Senate adopted on Thursday, December 15, 2016, the date for the final report of the Standing Senate Committee on Human Rights in relation to its study on prisoners in the correctional system be extended from October 31, 2018 to September 30, 2019.

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Diane F. Griffin: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(a), I move:

> That the Standing Senate Committee on Agriculture and Forestry have the power to meet on Tuesday, October 16, 2018, at 6 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

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

Hon. Senators: Agreed.

The Hon. the Speaker: Accordingly, it is moved by the Honourable Senator Griffin — may I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: Anything on debate, Senator Griffin?

Senator Griffin: As you know, Tuesday can be a difficult day for Senate committees that have meetings, and we're in the midst of a very important study now that we're hoping to get to the Senate by the date that was established. This is related to value-added agriculture. In terms of the recent draft trade agreement, I think it's particularly imperative that we hear the witnesses we have scheduled.

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

Hon. Senators: Agreed.

(Motion agreed to.)

THE UNITED CHURCH OF CANADA

PRIVATE BILL TO AMEND—PETITION TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table a petition from the United Church of Canada, of the City of Toronto, in the Province of Ontario; praying for the passage of a private Act to amend The United Church of Canada Act so that the corporation may change its governance structure in accordance with the restructuring motion adopted by The United Church of Canada's 42nd General Council on August 14, 2015, and the results of the remit process undertaken thereafter, as confirmed by The United Church of Canada's 43rd General Council on July 22, 2018.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, pursuant to the motion adopted in this chamber on Thursday, October 4, 2018, Question Period will take place at 3:30 p.m.

ORDERS OF THE DAY

CRIMINAL CODE
DEPARTMENT OF JUSTICE ACT

BILL TO AMEND—THIRD READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Pratte, for the third reading of Bill C-51, An Act to amend the Criminal Code and the Department of Justice Act and to make consequential amendments to another Act.

Hon. Kim Pate: Honourable senators, I rise today to move an amendment to Bill C-51. This amendment responds to concerns raised by numerous witnesses who appeared at committee both here and in the other place. These included prominent women's groups, those who work directly with and on behalf of victimized women who have been sexually assaulted, as well as Canada's leading experts on the law of sexual assault. There was considerable consensus among these witnesses that while many of the bill's provisions are welcome, the changes it makes regarding incapacity to give consent to sex are problematic.

• (1510)

The provisions at issue in clauses 10 and 19 of the bill set out that no consent is obtained where an individual is unconscious or incapable of consenting to the activity for any other reason. Witnesses testified that incorporating into the Criminal Code a provision explaining that an unconscious person cannot consent to sex and making that provision the only example of what constitutes incapacity to consent is likely to encourage defence counsel to argue, and some judges to accept, that Parliament intends to draw the line for incapacity and capacity to consent at unconsciousness and similar states.

That, however, is not and should not be the law. Judges do not struggle with the question of whether women can consent to sex when they are unconscious. Witnesses familiar with decisions being made across the country assured us that judges have consistently applied that very basic and uncontroversial principle.

What they do struggle with is the level of intoxication short of unconsciousness at which a person becomes incapable of consenting. To give just one example, the judge in Nova Scotia's *Al-Rawi* case notoriously held that a severely intoxicated woman on the very brink of unconsciousness was still capable of consenting to sex, in that case with a taxi driver who had picked her up minutes before and whom the police discovered engaging in a sex act with her of which she had no recollection.

As Rona Ambrose noted when discussing Bill C-377 regarding judicial education about sexual assault law, in *Al-Rawi* "incredibly, the judge ruled, 'Clearly a drunk can consent'."

In addition to the injustices done to the woman who heard the court dismiss her experience in this way, Ms. Ambrose also drew attention to the costs for other women and for the functioning of the justice system of "basic errors or, even worse, painful comments that make victims think twice of ever pursuing justice."

While it is true that people can consent to sex when they've been drinking, it is not true that they can consent to any particular act along the continuum of sexual activities at any or every stage of intoxication. In this respect, some judges do not have a good record of determining whether consent has occurred in a way that both respects a woman's right to be secure against sexual violence and/or avoids employing rape myths in their approach to their interpretation of incapacity.

Indeed, as we were reminded when the Supreme Court of Canada heard the *Barton* case last week, the justice system remains infused with racist and misogynistic biases and assumptions that far too often fail women, particularly Indigenous and other racialized women. The Supreme Court will be determining whether there should be a retrial of Bradley Barton, who was acquitted of killing Cindy Gladue, an

Indigenous woman whom he said he had offered to pay for sex while she was extremely intoxicated. Mr. Barton was acquitted by a jury after arguing that Ms. Gladue had consented to sexual activities so violent that Ms. Gladue bled to death from an 11-centimetre wound in her vaginal wall.

Since Mr. Barton's case was decided by a jury, the details regarding whether Ms. Gladue was found incapable of consenting are not known. However, following Mr. Barton's acquittal, the Alberta Court of Appeal found that the trial judge's instructions to the jury regarding how they ought to apply the law of sexual assault globally were so flawed as to require a retrial.

On the issue of capacity in particular, the court noted with respect to jury instructions on *mens rea* that:

> . . . the issue was whether Gladue had the capacity to consent given the degree of her intoxication. Accordingly, the instruction should have expressly focussed on whether Barton knew that Gladue was not consenting validly given her degree of intoxication.

As emphasized to the court by the Women's Equality and Liberation Coalition, an intervener group of organizations with front-line expertise concerning sexual exploitation of women:

> This case . . . requires the Court to confront directly the sexualized racism and sexualized colonialism that can distort the criminal justice process through the discriminatory myths that Indigenous women invite, enjoy and deserve the harms that men inflict on them, and that construct Indigenous women as available for men's sexual use.

These same myths repeatedly arise in cases of incapacity to consent where harmful and reprehensible practices of effectively holding women responsible — whether because of their choice to drink alcohol, their choice to dress in a certain manner, because of their race or their socio-economic circumstances — for violence that others have inflicted on them.

While the issue is certainly an element of the *Barton* case, the Supreme Court of Canada has not yet been asked to clarify the legal test for incapacity to consent. Some courts have adopted the test proposed in this amendment. Others have applied only parts of it. Others, troublingly, have held that an intoxicated complainant can give valid consent unless she is "insensate" or in a state of automatism.

It is virtually inevitable that the current provisions with respect to incapacity in Bill C-51 will result in further inconsistent interpretations. As they are written, they amount to little more than a tautology: They provide that a complainant cannot consent if the complainant is incapable of consenting. Worse still, by emphasizing unconsciousness and remaining silent about the states of incapacity falling short of unconsciousness, the current provisions may serve to perpetuate the pernicious myth that a woman's decision to drink can substitute for consent to sex. Judges have applied higher thresholds for incapacity when they are advised or have otherwise determined that the complainants themselves were voluntarily intoxicated.

Instead of clarifying the legal test for incapacity as it stands, Bill C-51 simply adds that an unconscious person is incapable of consenting. With respect, this addition solves a problem we do not have and risks making worse the problems that we do have. We have the opportunity to try to correct this for the sake of women who will be victimized and find themselves before the courts.

The proposed amendment deletes the reference to "unconsciousness" in this bill's definition of incapacity to consent on the grounds that there is no dispute in law that an unconscious person cannot consent. Rather, this paragraph may misleadingly suggest that unconsciousness, whether caused by sleep, brain injury, mental incapacity or intoxication, is the threshold for incapacity, a standard that offers no protection for women who are debilitated by the effects of alcohol or drugs.

In the wake of decisions such as *Al-Rawi*, where a trial judge erroneously found that an extremely intoxicated complainant had capacity to consent merely because she was not unconscious, and *Barton*, where serious concerns were raised about the application of sexual assault law where a complainant was intoxicated, this amendment instead provides guidance to judges by offering three factors, among others, that ought to be considered when determining incapacity to consent in situations falling short of unconsciousness: one, the nature of the sexual activity; two, the risks and benefits involved in the attendant circumstances; and three, the ability to say "no," as well as the capacity to communicate consent by words or conduct.

It also makes it clear that evidence that a person has had consensual sex at some other time cannot be used to prove that they have the capacity to consent to the specific sexual activity at issue.

At committee, concerns were raised by representatives of the Department of Justice that adding factors to this provision would result in more complex and harsher cross-examination of complainants during trials. This was not an issue the experts who appeared before the committee had addressed in their testimony, and when I consulted them about this concern, they clarified that they had not done so because women are already, usually, extensively cross-examined about the types of issues raised by these factors, and they would welcome judges being directed to what is most relevant.

Concerns were also raised that naming three factors in the legislation may direct judges to focus unduly on those factors to the exclusion of others that may be relevant, despite a clear reference in the amendment that inquiries into consent include, but are not limited to, these factors. Assuming that judges will place extra weight on the factors or examples included in the legislative provision, the question, honourable senators, becomes whether the guidance the Criminal Code offers regarding incapacity to consent ought to be restricted to the example of unconsciousness, as Bill C-51 currently provides.

• (1520)

Unconsciousness is an example of incapacity that both is uncontroversial and risks reinforcing sexist misconceptions that drunks can consent, as we heard in the *Al-Rawi* case.

This alternative proposal is that the Criminal Code should instead refer to the three factors in this amendment, ones that case law indicates are still overlooked far too often and ones that a number of experts regarding sexual assault law have identified as best placed to assist judges and lawyers in unpacking and counteracting sexist stereotypes and biases.

This amendment provides an opportunity to assist the government in its laudable goal of updating the law of sexual assault to provide better protection for women who become victims of sexual violence. In fact, women are particularly vulnerable to sexual assault when their faculties are impaired by drugs or alcohol.

There is a pressing need to provide legislative guidance to judges in this area of the law. The judges and lawyers of today have grown up with the discriminatory stereotypes about women who are victims of sexual violence. We must not, as legislators, leave the definition of "incapacity" to be worked out slowly, inconsistently and unpredictably in the midst of these stereotypes and prejudices.

We must take the opportunity to provide courts with the guidance they need, and we must take care to avoid sending them the message that consciousness alone is determinative of the capacity to consent.

MOTION IN AMENDMENT

Hon. Kim Pate: Therefore, honourable senators, in amendment, I move:

That Bill C-51 be not now read a third time, but that it be amended

(*a*) in clause 10, on page 5,

(i) by replacing lines 17 to 20 with the following:

"**(b)** the complainant is incapable of consenting to the activity in question for any reason, including, but not limited to, the fact that they are

(i) unable to understand the nature, circumstances, risks and consequences of the sexual activity in question,

(ii) unable to understand that they have the choice to engage in the sexual activity in question or not, or

(iii) unable to affirmatively express agreement to the sexual activity in question by words or by active conduct;", and

(ii) by adding the following after line 20:

"**(2.2) Section 153.1 of the Act is amended by adding the following after subsection (3):**

(3.1) For greater certainty, capacity to consent at the time of the sexual activity that forms the subject-matter of the charge cannot be inferred from evidence on capacity to consent at the time of another sexual activity."; and

(*b*) in clause 19, on page 9,

(i) by replacing lines 20 to 23 with the following:

"**(b)** the complainant is incapable of consenting to the activity in question for any reason, including, but not limited to, the fact that they are

(i) unable to understand the nature, circumstances, risks and consequences of the sexual activity in question,

(ii) unable to understand that they have the choice to engage in the sexual activity in question or not, or

(iii) unable to affirmatively express agreement to the sexual activity in question by words or by active conduct;", and

(ii) by adding the following after line 23:

"**(2.2) Section 273.1 of the Act is amended by adding the following after subsection (2):**

(2.1) For greater certainty, capacity to consent at the time of the sexual activity that forms the subject-matter of the charge cannot be inferred from evidence on capacity to consent at the time of another sexual activity.".

The Hon. the Speaker: In amendment, it was moved by the Honourable Senator Pate, seconded by the Honourable Senator Deacon (*Ontario*), that the bill be not now read a third time, but that it be amended — may I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: On debate, Senator Harder.

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I rise to address the amendment to Bill C-51 proposed by our honourable colleague Senator Pate.

First, I would like to thank the members of the Legal and Constitutional Affairs Committee for their thorough and in-depth study of this bill, and also thank the bill's sponsor, Senator Sinclair, for his leadership and support of this legislation and his excellent speech in this chamber at third reading just before our break.

As senators are aware from the proceedings at the Legal Affairs Committee, where this proposal was already brought forward, the government does not support this proposed amendment out of concern for the unintended consequences of the potentially codified language.

I commend the committee for its quality of deliberation on this proposal. While I myself am not a lawyer, I would commend the record of those proceedings in committee to law students across Canada for a fascinating legal debate on statutory philosophy.

In terms of process, I would suggest that amendments of this sort — precise changes to a complex area of criminal law — are best examined at committee rather than on the floor at third reading. With this proposal, the committee had the benefit of hearing from witnesses and Department of Justice officials on the specifics, and I do not think we can hope to replicate that process here in this chamber in debating this amendment.

For context, Bill C-51 would codify one of the principles articulated by the Supreme Court of Canada in its 2011 *J.A.* decision, namely, that an unconscious person cannot give valid consent to sexual activity.

In a separate paragraph, Bill C-51 expressly states that no consent is obtained if the complainant is incapable of consenting to the sexual activity for any reason other than unconsciousness. This language clearly acknowledges that there are many possible reasons that a person may be incapable of consenting to sexual activity, despite being conscious. As the Minister of Justice, the Honourable Jody Wilson-Raybould, explained in her appearance at the committee:

> We have put this into the legislation to make it clear that there are other circumstances and situations where an individual has not provided consent beyond unconsciousness. These considerations will need to take into account a broader circumstance in terms of where an individual is incapable of providing that consent by way of impairment or other situations and circumstances an individual might find themselves in.

And the minister indicated the following:

> In terms of broader tests or individual circumstances for a judge to consider, certainly there is an opportunity to look at existing case law that considers various circumstances judges and lawyers would consider in these cases.

Honourable senators, some witnesses at the Legal Committee expressed the concern that a codification of this principle from *J.A.* is unnecessary and that what Canadian courts need is guidance on how to determine when a complainant is incapable of consenting and when she is still conscious but, for instance, heavily intoxicated. Senator Pate's amendment seeks to address this concern, and this is indeed a laudable objective. In that sense, with respect to public policy objectives, I think the government and Senator Pate share the same goal. And as noted, when this amendment was presented at committee and debated, it resulted in a fulsome and fruitful discussion amongst all members of the committee and the Department of Justice lawyers.

However, the debate highlighted important concerns with the amendment. While it appears helpful to create a test that would guide courts in determining when a conscious complainant is incapable of consenting to sexual activity, it may in fact make it more confusing for courts to ascertain what evidence is relevant.

This is especially the case with regard to incapacity to consent to sexual activity. While the test may need to be one that focuses on the complainant's state of mind at the time of the alleged offence, as my colleague's amendment proposes, the relevant evidence is often circumstantial and external to the complainant's mental processes. It is often from this type of evidence that courts are able to make inferences about the complainant's capacity.

This was precisely the issue in the *Al-Rawi* case, recently overturned by the Nova Scotia Court of Appeal because the trial judge failed to consider relevant circumstantial evidence that could have permitted an inference about the complainant's capacity to consent to sexual activity.

Evidence about whether the complainant was able to walk, to talk or to hold her head up is particularly important when the individual does not remember the events. This amendment would be of no assistance in such cases and may, in fact, inadvertently distract courts from the importance of evidence about outward manifestations of incapacity.

Furthermore, creating a legal test of incapacity without taking into account broader considerations and consultation may have unforeseen consequences, particularly because, unlike unconsciousness, there is no definitive articulation from the Supreme Court of Canada of a legal test for incapacity to consent to sexual activity. While Parliament can certainly legislate such a test, this is not what Bill C-51 seeks to do, and it should not be done hastily.

The amendments proposed by Bill C-51 codify that an unconscious person cannot consent to sexual activity that occurs while she or he is unconscious, and they also highlight that a person may be incapable of consenting for many other reasons not involving unconsciousness. It is the government's view that the current drafting of Bill C-51 is purposefully —

• (1530)

BUSINESS OF THE SENATE

The Hon. the Speaker: Senator Harder, my apologies for interrupting you, but it is now 3:30 p.m. and by order of the chamber we must proceed to Question Period. Of course, you will be given the remainder of your time following Question Period.

[*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 Marie-P. Charette-Poulin.

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

Hon. Senators: Hear, hear!

[*English*]

QUESTION PERIOD

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, today we have with us for Question Period, the Honourable Amarjeet Sohi, P.C., M.P., Minister of Natural Resources.

On behalf of all senators, welcome, minister.

Pursuant to the order adopted by the Senate on December 10, 2015, to receive a Minister of the Crown, the Honourable Amarjeet Sohi, Minister of Natural Resources, appeared before honourable senators during Question Period.

MINISTRY OF NATURAL RESOURCES

TRANS MOUNTAIN PIPELINE

Hon. Larry W. Smith (Leader of the Opposition): Good afternoon, minister. My question for you today concerns Trans Mountain.

In April of this year, the Government of Canada responded to concerns raised by the Government of British Columbia and by opponents of this project about the impact of possible spills of diluted bitumen from tankers. The government's response noted that B.C. had not taken into account the proponent's safety regimes or the scientific expertise on diluted bitumen.

The response noted that significant research has concluded that diluted bitumen falls within the range of conventional oil and therefore conventional methods have been found to be effective in cleanups.

Given the importance of Trans Mountain to your ministry and province, I expect you have been briefed on the science behind the federal response to B.C.'s concerns. Could you please share with us your thoughts regarding the response of the Government of Canada with respect to Trans Mountain and diluted bitumen?

Hon. Amarjeet Sohi, P.C., M.P., Minister of Natural Resources: First, honourable senator, if you allow me to thank all of you for giving me the opportunity to be here once again. This is my fourth visit to answer questions from honourable senators. I feel as though one day I'll probably become an honourary member of this house.

Senator Harder: You have to apply.

Mr. Sohi: It's nice to be here.

The investment in the building of the Trans Mountain pipeline expansion is very important for our government. That's why we gave initial approval to this project. As has been identified by the Federal Court of Appeal, one of the deficiencies that should have been considered was the review of the marine shipping on the marine environment, and factoring into that a decision on environmental science around spills and response to spills.

Unfortunately, that was excluded from the review. We have instructed the NEB to undertake the review over the next 22 weeks. Part of that will include an analysis based on the scientific evidence prepared by the NEB on the spill. We have also put forward a $1.5-billion Oceans Protection Plan to ensure that coastal communities are protected, that we have a more rapid response available in the event of an unlikely spill that may happen, and how we are putting forward a plan to protect the Southern Resident Killer Whales.

We await the review from the National Energy Board, and their new recommendation to cabinet, which will also consider the scientific evidence, honourable senator, that you have talked about, and make a decision based on the various points of view that the NEB is going to listen to over the next 22 weeks.

Senator Smith: Thank you for the answer. With the response you have given, it seems if the government said at one point in time that they had scientific evidence, which showed there was not necessarily a problem with bitumen in the water and there were ways of cleaning or extracting the oil, and then there is another project to review the situation again, how does that play into the tanker ban in British Columbia in terms of the northwest coast? It seems confusing. A few months ago, the government said, "The diluted bitumen falls within the range of conventional oil, therefore conventional methods have been found effective in cleanups."

And now another study is taking place. How does that impact the tanker ban? Where is this going? Are we going to spend more months and time to get another answer or is the original answer incorrect? How does this fall into play? How does that affect the tanker ban? Obviously, getting our product out of Canada into foreign markets is the objective of business.

Mr. Sohi: Honourable senator, first, there is no tanker ban in relation to the expansion of the existing Trans Mountain pipeline expansion. The tanker ban you're referring to is related to the Northern Gateway pipeline that would have gone to Kitimat. There is lack of infrastructure required in order to respond to a potential spill in that part of British Columbia. It does not exist. That's why the ban on the bitumen shipment is in effect. However, that does not mean refined oil and natural gas cannot be shipped from that part of British Columbia as part of

something that I am really proud of, and our government is really proud of, which is the recent announcement of LNG Canada to invest $40 billion in developing natural gas and supplying that gas to the world. This will reduce the world's impact on greenhouse gas emissions.

We always look for opportunities and we will continue to explore those opportunities.

CARBON PRICING

Hon. Richard Neufeld: Minister, my question focuses on natural gas, which is used by 50 per cent of Canadian homes and thousands of businesses across the country as their main heating fuel.

Natural gas is being sold at near-record low prices. Obviously this is great news for Fred and Martha, your everyday Canadian consumers. However, as you know, my province of British Columbia also has the highest carbon pricing rate in Canada, at $35 a tonne. Recently it was reported that some ratepayers in B.C. are paying more in carbon fees than on the actual price of natural gas. That's like buying a $2 chocolate bar and paying more than $2 in taxes.

Minister, what will your government do to help Fred and Martha keep their homes and workplaces heated, when your government mandated a price on carbon will reach $50 a tonne in 2022? How much deeper do you plan on digging into their pockets?

Hon. Amarjeet Sohi, P.C., M.P., Minister of Natural Resources: Thank you for that question, honourable senator. We all know that climate change is real. We all know the damage that climate change is doing to coastal communities, the damage being done to forests, to the natural environment, and the cost related to all those things is billions and billions of dollars. So it would be irresponsible of any government to ignore those costs and not take action on climate change.

That is why we are putting forward a pan-Canadian framework that gives flexibility to provinces to design their own price on pollution. British Columbia has done that even prior to the federal government having that requirement put in place. And British Columbia's economy is doing really well. They have used their revenue from the price on pollution to reduce income tax.

• (1540)

In the case of my province of Alberta, they are using the revenue from pricing pollution to provide subsidy for low-income households and households making up to $94,000 of annual income. So there are ways to reduce the impact related to affordability or pricing pollution on low-income families and middle-income families, and every province is flexible in order to do so. That is why we have made a commitment that we will not keep the revenue generated by pricing pollution, and all the revenue needs to go to the provinces. If in some cases the federal backstop kicks in, all the revenue will be transferred to citizens of those provinces, if we have to go that route.

STEEL AND ALUMINUM TARIFFS

Hon. Joseph A. Day (Leader of the Senate Liberals): Minister, welcome. I think the fact that you're dealing with such an important portfolio reflects the fact that we like to have you back here as often as possible to talk about a lot of the issues that have developed.

There is a lot that I could ask you about. I typically would ask about the Energy East pipeline and why not a pipeline all across Canada for oil, because it has been demonstrated with our trading partners to the south that there is always danger in relying on established ways of doing things.

I want to specifically ask about the status of the tariffs imposed on aluminum and steel, because even though the U.S.-Mexico-Canada Agreement has been announced in principle, we haven't heard what is happening with respect to tariffs.

My constituency is in New Brunswick. New Brunswick is the most dependent province in all of Canada on foreign trade, and a big part of that is oil and gas coming out of the refinery. We know that the refinery is going through difficult times right now, just to mention that as an aside. They haven't been able to get to some of the area within the refinery. It is still so hot after all those days of cooling down.

There has been traditionally in New Brunswick the ability to avoid the softwood lumber tariff. Millions of dollars have been spent going before tribunals in the United States to establish that. Can you tell me and assure the people of New Brunswick that there is work being done with respect to that issue as well?

Hon. Amarjeet Sohi, P.C., M.P., Minister of Natural Resources: Thank you for that question, honourable senator. The conclusion of the negotiations related to U.S.-Mexico-Canada Agreement is good news for Canadians. It's particularly good news for the energy sector because the unfair levies that were charged to that sector, costing close to $60 million annually, have been removed. That's good news.

The other good news is that we have been able to preserve a side agreement with the U.S. on energy, at the same time embedding energy into the new agreement, which means it opens up Mexico's market to Canada's energy and energy expertise. So that is good news.

We have also been able to preserve Chapter 19, which is very important for softwood lumber and for making sure that we have a dispute mechanism in place that allows an impartial panel to make a determination as to whether levies and tariffs are fair. The softwood lumber industry has won every case because of the impartial tribunal being in place, and we will continue to fight for our industry.

On the issue of aluminum and steel tariffs, they are very unfortunate. They are not warranted. We as a country are not a risk to the U.S., so it's very unreasonable on the part of the U.S. to impose those tariffs. We have responded — unfortunately we had to — in retaliatory dollar-for-dollar tariffs. Our hope is that these tariffs will be removed and that we will be able to continue the free flow of products between both countries.

The demands being asked by the U.S. are very unreasonable. Our industry will be damaged if we agree to the demands they are imposing on us. We will continue to defend our industry. We will continue to defend our workers. We will make sure that whatever deal we are able to secure is fair for Canadian business and for Canadian workers.

[*Translation*]

IMPACT ASSESSMENT BILL

Hon. Marilou McPhedran: Thank you for being here with us today, minister. I have a question on a specific aspect of Bill C-69.

[*English*]

Minister, Bill C-69 stipulates that gender-based analysis plus must be applied to impact assessment along with cumulative effects and changes, positive and negative, to help social or economic conditions caused by a designated project.

Minister, this aspect of the bill has not been discussed much, but my question goes to assessing positive and negative consequences and how project proponents can be encouraged to be positive about the opportunities that could be facilitated under the bill.

On the positive side, do you think daycare services will be provided to enable women to be hired so they, their families and their communities can share in a project's economic benefits?

On the negative side, research has shown increased monetized sexual exploitation of women and youth in communities near to some extraction projects, with no increase in resources to those communities to help those who are being sexually exploited or to stop the exploitation connected to the project.

Minister, how do you answer those critics who say GBA+ will cause unnecessary delays or even stop projects from being approved?

Hon. Amarjeet Sohi, P.C., M.P., Minister of Natural Resources: Thank you, honourable senator. I think a large number of private sector companies that engage in the review process actually do undertake gender-based analysis on many of those projects, which is a good thing because they are able to respond to the concerns of the communities. When you have an influx of a large number of workers in remote areas, there is an impact on the communities. How do the communities respond and how do companies assist communities in responding to those concerns? It is a good practice that many oil and gas and energy sector companies already undertake.

We have emphasized quite a bit that the economy needs to work for everyone. We are focused on building inclusive growth that allows opportunities for everyone. So if we have 50 per cent of our population whose talents and expertise are not fully utilized, why would we not explore opportunities for them to actually take on opportunities in that sector?

I was in Iqaluit a couple of months ago and had a chance to meet a young Indigenous woman who started in the mining sector as a truck driver. She was the only female driver when she started. Now they have 30 female operators working in that company, lifting those women out of poverty, helping those families have a good quality of life and high-wage jobs.

I think that when we look at gender-based analysis, it also assists companies to actually score better in order to demonstrate the action they are taking, so we see the positives of gender-based analysis.

Another thing I want to add is that gender-based analysis is already done at the cabinet table. When projects get approved, gender-based analysis is applied, but it is applied at the cabinet. Nobody knows what the criteria were. What we want to do is bring it out in public.

• (1550)

We want the public to see the benefit of the gender-based analysis, and how that actually allows good projects to move forward while at the same time creating opportunities for women to participate in the workforce and reduce the impact of those effects on communities close to those projects.

CLIMATE CHANGE ADAPTATION INITIATIVES

Hon. Diane F. Griffin: Welcome, minister. Thank you for being here today. The most recent Intergovernmental Panel on Climate Change report detailed the impacts of global warming of 1.5 degrees centigrade above pre-industrial levels. According to the report, high-latitude tundra and the boreal forest ecosystem are particularly at risk of climate change-induced degradation and loss. Continued warming puts Canadian infrastructure and ecosystems at risk. Melting permafrost in the North, in high northern latitudes, will negatively impact natural resource development projects and infrastructure. Warming will increase the occurrence of extreme weather events, will have an impact on species distribution and the diversity of ecosystems, and will affect Canada's species at risk and food supply.

Since I am from Prince Edward Island, a particular concern for me is that rising sea levels will cause coastal erosion.

So what are Natural Resources Canada and the Canadian Forest Service doing to monitor and to mitigate impacts related to climate change? By that I mean beyond those measures already outlined in the Auditor General's report to establish an adaptation platform for natural resource sector stakeholders and providing land-use expertise via the Climate Change Geoscience Program.

In other words, beyond those things, what is your department doing?

Hon. Amarjeet Sohi, P.C., M.P., Minister of Natural Resources: Thank you for that question, honourable senator. When I was at my previous ministry at Infrastructure Canada, we were able to bring a new policy related to applying a climate lens to all the infrastructure that we fund to understand how climate backs infrastructure and what actions we need to take to make

sure infrastructure can actually withstand the impact of climate change. So that assessment will be done on every project that we fund over a value of $10 million.

I met with my counterparts, the provincial and territorial forestry ministers, in Halifax last month. This has been put on the agenda now. We have created a DM-level committee to understand the impact of climate on the forestry sector, and I can definitely report back to you on the outcome of those discussions.

As I said earlier, we need to take it seriously. We cannot ignore the impact that climate change is having on all aspects of our economy, from rising sea levels, which are having a huge impact on coastal communities, to forest fires, droughts, tornadoes, flash flooding and all those things. Those are serious issues. That's why we have put the framework in place, not only putting a price on pollution but also bringing in more regulation and making sure the assessment we mentioned earlier is looking at the impact of those things.

On the specifics of the things we are doing, I will take note of your question and make sure that we provide a response.

ENERGY EAST PIPELINE

Hon. Percy Mockler: Minister, just to follow up on my colleague Senator Day, my question is about Energy East. It is imperative that we all understand what is at stake with Energy East. At the end of last week, the price differential between Western Canadian Select and West Texas Intermediate oil was US$48.50 per barrel. Tim McMillan, who heads up the Canadian Association of Petroleum Producers, called this a crisis.

Earlier this year, Scotiabank estimated that $15.6 billion was being left on the table annually because of this discount. Minister, without any doubt among Atlantic Canadians, we know your government changed the environmental rules midstream on Energy East. We also know that led directly to its cancellation by the developer. We also know the actions of both the U.S. and Saudi Arabia point to the need for Energy East.

Minister, will your government support a new application for this pipeline so that we can create jobs in Atlantic Canada?

Some Hon. Senators: Hear, hear!

Hon. Amarjeet Sohi, P.C., M.P., Minister of Natural Resources: Thank you for the question, honourable senator. We welcome any company who wants to build a pipeline to the east. We welcome that investment, and they will be assessed under the review process that other projects have been assessed under or the new assessment regime that will be put in place.

As an Albertan, I can tell you how frustrating it is that we have other oil landlocked for decades and that we have not been able to build a single pipeline to non-U.S. markets. Honourable senator, 99 per cent of Alberta's oil goes to the United States. That has been the case for the last number of decades. We are trying to change that. That is why we gave approval to the Trans Mountain pipeline expansion; that is why I'm working diligently and very hard to make sure that we bring it back on track in the right way — responding to the environmental issues that have been identified by the court and at the same time making sure that we are engaging in a meaningful, two-way, responsible, serious dialogue with Indigenous people to listen to their concerns and respond to their concerns, and offer accommodation where accommodation is possible.

We have failed as a country by not getting our resources to the global markets. Who is hurting? Workers are hurting. Our communities are hurting. There should be a non-partisan approach to this. That's exactly what we are trying to do by bringing Bill C-69, because Bill C-69 allows us to pay proper attention to the environment. It allows us to have a good framework in place that allows meaningful consultation with Indigenous peoples, and it allows good projects to move forward quickly with shorter timelines and with a rigorous one-project, one-evaluation process in place. That's what we are focused on.

We have lost two cases to the Federal Court. The Northern Gateway was quashed. The Trans Mountain pipeline expansion was quashed. We cannot continue to ignore the environment, and we cannot continue to ignore our obligations to Indigenous peoples. We need to figure those things out, and once we do that, it will give us social licence, give us a path forward to make sure we are building pipelines to expand to non-U.S. global markets.

IMPACT ASSESSMENT BILL

Hon. Denise Batters: Minister, just when it seemed like your anti-pipeline Bill C-69 couldn't have any more problems, here is another one. It intrudes on provincial jurisdiction and violates our Constitution's division of powers. How many jurisdictional court battles does your government want with Canada's provinces on Bill C-69, on the carbon tax and on banning marijuana home cultivation? The Trudeau government keeps shoving its way into matters of provincial jurisdiction.

• (1600)

And minister, in the Trudeau cabinet, as you stated, you are the only minister at the table from Alberta. You are supposed to stand up for Alberta. And as Minister of Natural Resources, you are supposed to stand up for Canada's energy industry, which continues to be under major strain.

Minister, this isn't a partisan issue. Even the NDP Premier of Alberta wants Bill C-69 killed. At the House of Commons Environment Committee, your own government brought forward 150 amendments, an unheard-of number. Clearly, this bill is beyond repair. You tried, you failed. When will you stand up for your own home province and for Canada's energy industry and shelve this unfixable Bill C-69?

Hon. Amarjeet Sohi, P.C., M.P., Minister of Natural Resources: Thank you, honourable senator, for that question. What I can say is that the current system that we have is not working. It's broken, and we have seen the results of that by having two approved pipelines overturned by the Federal Court.

So we can go back and forth and say this should be done and that should be done, but what I'm focused on is my responsibility to make sure we are putting the right framework in place so that energy projects such as the one we talked about earlier can move forward in the right way and that they can actually get built instead of being stalled or overturned.

I am very proud of what we have achieved as a government. We were the first government, when we came into office, to extend the EI benefits to every energy worker who was laid off in 2014 and 2015. That's close to $400 million of investment in Canada's workers. We approved, or got going, the largest private sector investment of $40 billion in LNG Canada.

Senator Neufeld: That was done before you came into government.

Mr. Sohi: We have invested in the renewables sector and infrastructure. I'll give you an example. If you want to talk about numbers, senator, I can tell you that we have approved $48 billion of infrastructure investments in partnership with provinces and municipalities over the last three years, which is three times more than was done by the previous Harper government. If you want to talk about numbers, senators, those are the numbers that I would like to share with you.

Senator Neufeld: Tell us what makes up that $48 billion.

Senator Tkachuk: I think we need to get rid of this. I don't know why we have this.

CLIMATE CHANGE ADAPTATION INITIATIVES

Hon. Rosa Galvez: Thank you, Minister Sohi, for being here. I like hearing numbers. As many other responsible legislators, I'm troubled by the recently released IPCC special report on global warming of 1.5 degrees. The report details the urgency to reduce greenhouse gas emissions in order to mitigate climate-related disasters that are already occurring — and there will be more to come.

As an example, Toronto is predicted to have 100 days per year of heat waves. P.E.I., where my colleague Senator Griffin is from, is losing 50 centimetres of coastline per year. High tides are threatening the low-lying Chignecto Isthmus connecting Nova Scotia and New Brunswick. The water levels in the Gulf of St. Lawrence are predicted to rise between 50 centimetres and 3 metres by 2100. One can only imagine what will happen with the cities of Québec, Lévis and Montreal.

The government has committed to fighting climate change by putting a price on carbon. This is in agreement with a recommendation of the economist and Nobel Laureate William Nordhaus, who urges government to integrate climate change into a new economic model.

However, your government recently purchased a pipeline that will increase greenhouse gas emissions in Canada. I struggle to understand how this action will, in fact, allow Canada to meet its 2030 emission reduction targets.

Minister, please, detail what analysis your department has conducted to establish that the Trans Mountain pipeline will not further contribute to climate change with any numbers showing how the economic benefits of the pipeline will exceed the cost of climate change mitigation, particularly now that, as my colleague said, the price of dilbit is less than US$40.

Hon. Amarjeet Sohi, P.C., M.P., Minister of Natural Resources: Thank you for your question, honourable senator.

I would like to first emphasize the commitment that our government has made to deal with climate change by being a leader on the Pan-Canadian Framework on Clean Growth and Climate Change while also committing ourselves to meeting the Paris targets. We are committed to doing so, and we are on the path forward to do so. Emissions are actually decreasing in Canada.

On your specific question related to the Trans Mountain pipeline expansion, I hope you are aware that the Province of Alberta has put a hard cap on how many emissions can be created by developing oil sands, and that hard cap remains in place. The approval of the Trans Mountain pipeline expansion remains within that hard cap. It is not increasing the amount of emissions beyond the hard cap that is part of Alberta's plan to deal with climate change.

Alberta has also put a price on pollution, they are developing many other regulations dealing with the environment and they have made a decision — and as a government, we have done so as well — to phase out coal-fired electricity generation.

There are a number of steps being taken in order to make sure that we are taking action on climate change. At the same time, we have a responsibility to look after the economy. We have a responsibility to make sure that hard-working Albertans who rely on the energy sector for jobs can make sure their families have opportunities and that they can put their children through school and through university so they can succeed. Those families rely on the energy sector. They deserve jobs, like any other Canadian. That is why we want to make sure that we take action on climate change and, at the same time, help grow an economy that works for everyone, including Albertans.

IMPACT ASSESSMENT BILL

Hon. Paula Simons: I've been asking this minister tough questions for a long time, since back in his days on Edmonton City Council while I was a city hall columnist for the *Edmonton Journal*, and I'm delighted to ask him my first question here today.

The minister knows that many people in Alberta are very concerned about some of the language of Bill C-69 and a lack of what's perceived as clarity, specifically about the issues of downstream emissions and about what defines the duty to consult — whether consultation has an end point or whether consultation is always open and, hence, potentially never-ending.

I'm wondering, Mr. Minister, if you could explain to honourable senators what precisely Bill C-69 does say about downstream emissions — a question which many people have found difficult to glean from the text of the bill itself — and what you say to people who are raising concerns that the duty to consult is so open-ended that it may mean that we never see a project approved.

Hon. Amarjeet Sohi, P.C., M.P., Minister of Natural Resources: Thank you, honourable senator, for that question. To begin, I want to convey my congratulations to all of the new senators who were recently appointed. Congratulations and good luck in your deliberations and your work.

On the issue of downstream emissions being part of the assessment, downstream emissions have never been part of any energy project assessments and they will not be part of any energy assessments. There's no mention of downstream emissions in Bill C-69, so I think that's very clear.

On the issue of whether consultation with Indigenous peoples is open-ended, no, it's not open-ended, but I think we need to make sure that, as we engage with the Indigenous peoples, we are engaging in good faith. Having an artificial deadline does not create that good faith.

• (1610)

When we look at how much time it took to conclude consultation during the last session, it took seven months. But we are not starting from scratch. We have a lot of information that was gathered. We are relying on information from the Trans Mountain pipeline expansion assessment now that government has invested in that project, but we are going to engage in a meaningful conversation, in a two-way dialogue, and we're going to work really hard to make sure that we are offering accommodations to Indigenous concerns where accommodation is possible. Where accommodation is not possible, we're going to justify why the accommodation is not possible and we're going to document why the accommodation is not possible. It's not open-ended.

Yes, it will conclude. We also respect the fact that there will be groups out there — Indigenous groups or non-Indigenous groups — who will not agree with this project, and that's fine. That's their right to do so, but that does not mean they have a veto over this project.

We're going to conclude our consultations in an efficient, focused way, and the court has given us a path forward in order to do so.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, the time for Question Period has expired. I'm sure you will want to join me in thanking Minister Sohi for being back with us today. Thank you, minister.

Hon. Senators: Hear, hear!

[*Translation*]

ORDERS OF THE DAY

COMPREHENSIVE AND PROGRESSIVE AGREEMENT FOR TRANS-PACIFIC PARTNERSHIP IMPLEMENTATION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-79, An Act to implement the Comprehensive and Progressive Agreement for Trans-Pacific Partnership between Canada, Australia, Brunei, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam.

(Bill read first time.)

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

(On motion of Senator Harder, bill placed on the Orders of the Day for second reading at the next sitting of the Senate.)

[*English*]

CRIMINAL CODE
DEPARTMENT OF JUSTICE ACT

BILL TO AMEND—THIRD READING—MOTION IN AMENDMENT—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Pratte, for the third reading of Bill C-51, An Act to amend the Criminal Code and the Department of Justice Act and to make consequential amendments to another Act.

And on the motion in amendment of the Honourable Senator Pate, seconded by the Honourable Senator Deacon (*Ontario*):

That Bill C-51 be not now read a third time, but that it be amended

(*a*) in clause 10, on page 5,

(i) by replacing lines 17 to 20 with the following:

"**(b)** the complainant is incapable of consenting to the activity in question for any reason, including, but not limited to, the fact that they are

(i) unable to understand the nature, circumstances, risks and consequences of the sexual activity in question,

(ii) unable to understand that they have the choice to engage in the sexual activity in question or not, or

(iii) unable to affirmatively express agreement to the sexual activity in question by words or by active conduct;", and

(ii) by adding the following after line 20:

"**(2.2) Section 153.1 of the Act is amended by adding the following after subsection (3):**

(3.1) For greater certainty, capacity to consent at the time of the sexual activity that forms the subject-matter of the charge cannot be inferred from evidence on capacity to consent at the time of another sexual activity."; and

(*b*) in clause 19, on page 9,

(i) by replacing lines 20 to 23 with the following:

"**(b)** the complainant is incapable of consenting to the activity in question for any reason, including, but not limited to, the fact that they are

(i) unable to understand the nature, circumstances, risks and consequences of the sexual activity in question,

(ii) unable to understand that they have the choice to engage in the sexual activity in question or not, or

(iii) unable to affirmatively express agreement to the sexual activity in question by words or by active conduct;", and

(ii) by adding the following after line 23:

"**(2.2) Section 273.1 of the Act is amended by adding the following after subsection (2):**

(2.1) For greater certainty, capacity to consent at the time of the sexual activity that forms the subject-matter of the charge cannot be inferred from evidence on capacity to consent at the time of another sexual activity.".

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, let me conclude in the next tough couple of minutes.

Again, it is the government's view that the current drafting of Bill C-51 is purposefully broad so as to allow a court to take into account any reason that may lead to a complainant being incapable of consenting, not only intoxication. I commend Senator Pate for the thoughtful amendment that she has put forward. Given the rich debate at committee, I believe she has identified an important issue that merits further independent study. We do not currently have the benefit of that broader study and debate, and until we do and can assure ourselves that there will be not an unintended negative consequence of legislating such an approach, I believe that Bill C-51, in its present form, provides clear direction to courts to consider any and all reasons why a person may be incapable of consenting.

For these reasons, the government does not support the amendment, and I hope this chamber will support the bill in its current form, as the government has provided a specific and reasonable rationale. I would further note that if the Senate adopts this amendment, it will regrettably further delay the implementation of this important bill.

Hon. Kim Pate: Would you take a question, Senator Harder?

Senator Harder: Sure.

Senator Pate: Thank you very much.

I agree that the minister, the government, you, Senator Sinclair and I share the desire to see Bill C-51 implemented as soon as possible and, most importantly, that we seek to see an improvement and clarity to the law with respect to capacity to consent.

I disagree, however, that Bill C-51, as written, actually clarifies the law in that direction. I'd like to draw your attention to and ask if you're aware that when the bill was before committee and Professor Craig was asked about the codification of the Supreme Court decision *R. v. J.A.*, she said very clearly that in fact the bill as it stands would not codify *J.A.* and may erode *J.A.* because *J.A.* was about advanced consent to sexual activity that would have occurred once someone was unconscious. Similarly, the Women's Legal Education and Action Fund identified that the outcome of Chief Justice McLachlin's decision in *J.A.* was much more nuanced and that it and other case law required that there be a more nuanced analysis of consent. But the question really focused in *J.A.* on whether someone can provide consent in advance of becoming unconscious.

The court found that, in fact, consent must be contemporaneous with the sexual activity because everyone has a right to retract consent. Therefore, you have to be conscious of the duration of the sexual consent, and they therefore proposed a

more nuanced and robust definition of capacity to consent in keeping with what the Supreme Court of Canada in *J.A.*and what has been reflected in numerous other cases. I'm curious if you were aware of those issues being raised at the time we were discussing this.

Senator Mockler: Good question.

Senator Harder: Again, I thank the honourable senator for her question. I do not have the benefit of the legal training that she, the sponsor of the bill and other members of the committee enjoy. We are getting into the kind of debate that I personally believe is best placed in the committee, where the detailed witnesses are brought forward. It's not at all unusual that people quote witnesses who support the positions they might hold. I would simply repeat for the benefit of all senators that this debate in the committee was first class. This is not a hundred per cent to zero kind of argument. It was a balanced and nuanced legal discussion.

I personally believe that weight should be given to Jody Wilson-Raybould, as the Minister of Justice, and her officials who have clearly articulated their concerns about the unintended consequences of this bill. They have given this matter a great deal of consideration, and their statements and appearances before the committee were, in my mind, very powerful.

(On motion of Senator Mercer, debate adjourned.)

NATIONAL SECURITY BILL, 2017

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Gold, seconded by the Honourable Senator Moncion, for the second reading of Bill C-59, An Act respecting national security matters.

Hon. Carolyn Stewart Olsen: Honourable senators, I rise today to speak to Bill C-59, An Act respecting national security matters.

Today we are at second reading, the principled consideration of a piece of legislation. I will be up front about my opposition to this bill.

I've reviewed the bill before us, and what I see is a reflection of the flawed ideology of Canada's present government and a pattern that has emerged with this government in the exercise of ministerial responsibility.

Normally, I would try to summarize the bill and identify the parts to which I will be directing my criticism, but this omnibus bill is so lengthy and complex that I will move directly to what I would particularly like to speak about.

Bill C-59 purports to create new agencies to modernize our security apparatus and establish new avenues for accountability and review. This bill is a great academic exercise if we want to rehash the litany of grievances raised by critics of the previous government's Bill C-51, but what we really need are the tools that address our very real problems.

• (1620)

Senators, there are people in this world who are evil. There is evil, and I believe in the concept of evil. These people want to create mayhem and slaughter, and to foment chaos and undermine our democracy. Those of us who were here in October 2014 understand this as well as anyone. We were here in the government caucus room adjacent to the Hall of Honour as a terrorist charged into Centre Block with a rifle he had just used to murder a Canadian soldier and wound a security officer. Bullets flew down the hall, and the Prime Minister of Canada and the ministers of Canada were behind a wooden doorway, no guards inside to protect them.

This is the world we live in, senators, and it is the world we must legislate for. Our problems aren't an abstraction that lives on a different plane of existence. They exist very close to us — closer than we know.

A Canadian who adopted the *nom de guerre* "Abu Huzaifa al-Kanadi" bragged to *The New York Times* about his time spent as an ISIS terrorist. Huzaifa went to Syria, participated in war crimes and came back to Canada to roam the streets of Toronto. We only know about this man because he spoke publicly about what he did.

Bill C-59 is an example of a failure on an ideological level to understand this. Specifically, the bill before us replaces the language criminalizing advocating for terrorist offences with a much more limited power. Terrorist propaganda is an integral part of the path of radicalization for aspiring terrorists, and terrorist groups know that. The production quality of the videos and e-publications produced by various terrorist organizations is of a professional level. As the RCMP notes:

> This process of radicalization of a vulnerable individual causes an ideological change which, through progressive evolution combined with group effect, can legitimate the use of violence.

Adding advocacy for terrorist organizations to our Criminal Code via Bill C-51 was an important tool for law enforcement agencies that were struggling with how to prevent terrorism, even as they saw radicalization progressing.

Senators, the people who protect us struggle with a central question. If we know someone has been radicalized or is progressing down that road, and we can see with a degree of certainty that they are likely to act on these beliefs, how do we prevent them from acting before it's too late? This may sound like a simple question, but when our National Defence Committee did its study on terrorism in Canada, this came up again and again.

Having repugnant views is not a crime in our society. The Charter protects your free-speech right to believe any form of genocidal filth that depravity can conjure. The police can't arrest you if you haven't committed a criminal offence or aren't clearly preparing to do so.

As the RCMP notes in its 2016 *Terrorism and Violent Extremism Awareness Guide*:

> Radical thinking is not a crime in itself. Sympathizing with radical thinking does not necessarily lead to violence or terrorist action. However, radical thinking becomes a threat to national security when it leads an individual to espouse or engage in violence as a means of achieving political, ideological or religious goals.

Bill C-59 adjusts another tool enhanced by Bill C-51. The bill before us adds more red tape to the peace bond process. Previous CSIS directors noted in other years how onerous some of these processes can be. One director was surprised to note that most applications made to Federal Court by CSIS run up to 150 pages or more.

Senators, peace bonds are a critical tool used extensively by law enforcement officers for dealing with identified radicals. Criminalizing advocating for terrorism and providing easy access to a pre-detention tool like peace bonds is an elegant solution that allows law enforcement to make the distinction between vile ideas and actionable threats of violence or between imprisonment and reasonable limits on freedom of movement.

Before these measures were enacted, law enforcement had to establish an imminent threat before they could take decisive action. Proponents of this bill suggest these additional requirements improve our security apparatus, but again, we must think of the central question we had to solve when this chamber enacted Bill C-51.

Law enforcement needs easier access to tools, and while Bill C-59 does not eliminate the tool, it makes them harder to access. In my view, curtailing our security agencies' ability to do their job is not an improvement.

I'm not suggesting there isn't room for change. Many things could and should be done to assist Canadian law enforcement. As Professors Carvin, Forcese and Roach note in an opinion piece in *The Globe and Mail*:

> At present, Canada uses a siloed approach of separate investigations that was heavily criticized by the Air India Commission as not necessarily serving the public interest.

As you are aware, senators, the Air India attack was the largest terrorist event on Canadian soil, and remains so. It's puzzling why, years after the conclusion of Justice Major's commission of inquiry, the government has yet to act on key insights from this report.

Bill C-59 addresses silos in its overhaul of review and oversight, which is, again, a great academic exercise, but in practical terms, this does little to increase the safety and security of Canadians.

As Forcese and Roach note in a separate article:

> The single largest barrier to more seamless interagency anti-terrorism have been self-imposed strictures on CSIS sharing information with the RCMP . . . .

These professors who supported this bill make the point that Bill C-59 does nothing to address this massive issue.

Returning to my initial statement on the exercise of ministerial responsibility, I view the sudden growth of the new bureaucratic bodies as an encroachment on the constitutional role of the minister as the responsible agent for government decision making. It should come as no surprise that I have consistently made this point over the years. Our elected representatives bear the responsibility for the choices they make. Bureaucratic bodies are the keepers of the process, but at the end of the chain, there must always be a minister ready to stand and defend his or her successes and failures.

In previous debates, I have made this point in my defence of operational review over the creation of these new oversight bodies. Moving decision making further and further from the minister creates a political shield for them to defer responsibility.

This concern is most apparent in Bill C-59's creation of the newly minted intelligence commissioner. The powers allotted to this new role are extensive. The intelligence commissioner would be fully independent of the government and the Communications Security Establishment. The government would have the power to assess the reasonability, necessity and proportionality of issuing foreign intelligence or cybersecurity authorization. These powers extend to giving the commissioner the power to assess authorization based on the commissioner's perception of the reasonableness of ministerial conclusions.

In effect, this looks like we are voting to create a bureaucratic creature with the ability to veto the decisions made by elected representatives.

Richard Fadden, formerly the Director of CSIS and the National Security Advisor to Prime Minister Stephen Harper, made these points before the House of Commons Standing Committee on Public Safety and National Security in February:

> The bill proposes to give the commissioner final say about a number of CSEC and CSIS activities, which in my view should be the responsibility of ministers of the crown and not that of an appointed official.
>
> . . . will make it too easy for the minister of the day to escape accountability.

Ministerial accountability is the accountability that matters the most to most senators. The government of the day must wear the decisions it makes.

• (1630)

Bill C-59 does a lot of things, but I am not confident that many of them do anything that will make Canadians safer or make the government more responsible for what it does.

So, in principle, I will oppose this bill, and I urge my colleagues to do the same. Thank you, honourable senators.

(On motion of Senator Martin, debate adjourned.)

FEDERAL PUBLIC SECTOR LABOUR RELATIONS ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Bellemare, seconded by the Honourable Senator Harder, P.C., for the second reading of Bill C-62, An Act to amend the Federal Public Sector Labour Relations Act and other Acts.

Hon. Patricia Bovey (The Hon. the Acting Speaker): Are senators ready for the question?

Hon. Senators: Question.

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

Hon. Senators: Agreed.

Some Hon. Senators: On division.

(Motion agreed to and bill read second time, on division.)

REFERRED TO COMMITTEE

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

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

[*Translation*]

BILL TO AMEND CERTAIN ACTS AND REGULATIONS IN RELATION TO FIREARMS

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Pratte, seconded by the Honourable Senator Coyle, for the second reading of Bill C-71, An Act to amend certain Acts and Regulations in relation to firearms.

Hon. Pierre J. Dalphond: Honourable senators, I rise today to encourage you to adopt Bill C-71, An Act to amend certain Acts and Regulations in relation to firearms, at second reading. Once that happens, we can refer it to the Legal and Constitutional Affairs Committee, which will thoroughly study its provisions in light of the many comments we have received, including a little book called *Stop C-71*, and the witnesses we will be hearing from.

My contribution, which I hope will be useful to the debate, pertains to a number of general legal principles as well as specific elements that I believe the Legal Affairs Committee should consider.

In the Supreme Court of Canada's 2000 reference on the first act governing firearms possession in Canada, the 1995 act, the justices unanimously concluded that the act, whose purpose was protecting public safety, constituted valid criminal law.

[*English*]

The Supreme Court stated in the reference case that guns pose a pressing safety risk in many, if not all, of their uses. The court noted that firearms are often used as weapons in violent crime, including domestic violence. They are also used to commit suicide. Finally, their misuse, for example, by a child, may cause severe harm and even accidental death.

In the reference case, the Supreme Court also said:

> Guns cannot be divided neatly into two categories — those that are dangerous and those that are not dangerous. All guns are capable of being used in crime. All guns are capable of killing and maiming. It follows that all guns pose a threat to public safety. As such, their control falls within the criminal law power.

Thus, Parliament has sought to combat that danger by adopting over the years provisions regarding the possession, use, sale, transfer, transportation and storage of firearms.

[*Translation*]

In fact, gun control is a matter of criminal law that precedes the Criminal Code. Prior to 1892, over 150 years ago, justices of the peace had the authority to impose a jail term on anyone carrying a handgun, if the person did not have reasonable cause to fear assault against life or property. That is the first legal principle.

The second legal principle is that Canadians do not have the constitutional right to bear arms, unlike what was decided in the United States based on a certain interpretation of the second amendment of the United States Constitution. In fact, the right to bear arms was recognized by the United States Supreme Court in *District of Columbia v. Heller* in 2008.

However, the situation is very different here in Canada. In 2005, in *R. v. Wiles*, the Supreme Court of Canada stated:

> Possession and use of firearms is a heavily regulated privilege . . . .

Many of those who write us letters that perhaps rely too heavily on information pertaining to the United States and who claim to have the right to own or use a firearm need to be reminded of that important point.

One possible exception may be necessary for members of First Nations, who have entered into treaties recognizing their rights in this area, which are protected under section 35 of the Constitution Act, 1982, 100 years later. It is important to note that Bill C-71 does not amend subsection 3 of section 2 of the current legislation, which reads as follows:

> **(3)** For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982*.

In other words, the constitutional rights of indigenous peoples should not be affected by the passage of this bill.

Let me now turn to the the key amendments brought forward in Bill C-71. They can be summarized as follows: amend certain eligibility criteria for holding a licence; require that firearms be transferred to individuals in possession of a firearms licence; remove certain automatic authorizations to transport prohibited and restricted firearms; prohibit two categories of semi-automatic weapons.

[*English*]

My review of the proposed amendments contained in Bill C-71 convinces me that the bill in "pith and substance" is directed to regulating access to firearms through restrictions, prohibitions and penalties. This brings it under the federal criminal law power.

[*Translation*]

I also would like to point out that the bill does not attempt to bring back a Canadian gun registry. On the contrary, an amendment moved by Conservative MP Pierre Paul-Hus in committee and adopted in the House of Commons adds the following text to section 2 of the bill:

> For greater certainty, nothing in this Act shall be construed so as to permit or require the registration of non-restricted firearms.

This amendment confirms that Bill C-71 does not allow for the creation of a backdoor gun registry, even in a very roundabout way.

[*English*]

In brief, the bill seems to pass muster regarding its constitutional validity and does not allow for the creation by the government of a gun registry. But it remains that it is up to Parliament, and not to the courts, to determine whether more gun control is good or bad, whether the bill is fair or unfair to current gun owners, or whether it will be effective or ineffective in reducing the various harms that may be caused by the misuse of firearms.

Therefore, I propose that we send, as soon as possible, this bill to the Legal and Constitutional Affairs Committee for a thorough review and analysis.

[*Translation*]

As part of this analysis, I would suggest that the committee seek to answer the following questions, among other: What issues does the bill seek to resolve? What facts is the government relying on? Who will be affected by this bill? What are the anticipated benefits of the proposed measures? How will these measures affect legal gun owners? How will these measures affect Indigenous peoples? Is there a balance between the anticipated benefits and the obligations? How much will these measures cost Canadian taxpayers and gun owners?

• (1640)

In conclusion, I think that we still have a lot of work to do, and it would be a shame to defer the vote at second reading, preventing us from hearing as soon as possible from those who are determined to testify during the committee's clause-by-clause consideration and who want to help us answer the questions I just asked, and also from amending the bill, if need be. Thank you.

[*English*]

Hon. Tony Dean: Will the honourable senator take a question, please?

Senator Dalphond: Yes, please.

Senator Dean: Thank you very much for your statement and for helping us and guiding us with the suggestion of a number of questions to ask as we go through the process.

I want to return to the registry. I'm still getting mail — I'm sure many of us are — suggesting that this isn't really the end of the long-gun registry. You have spoken to the amendment — I'm not going to repeat it — but I do have a couple of additional questions related to the amendment that was passed unanimously in the House of Commons.

Given your judicial experience, honourable senator, would you agree that the amendment is an added layer of security for those concerned about the long-gun registry and that the intention of Parliament is explicit that the Firearms Act is not to contain a registry?

If a court was seized with this question involving backdoor registration of a non-restricted firearm, would it have regard to the new paragraph that has been placed into the interpretation section? Can you tell us about the significance of the interpretation section? Does it mean that the entire act is covered by that?

Senator Dalphond: Thank you, honourable senator, for this question.

Section 2 is called "Interpretation" and "Definitions." This section is very important; it governs the interpretation of the rest of the legislation.

Even if it wasn't so clear, the Interpretation Act does provide that the interpretation provisions apply to the whole act unless there is specific language to discard that provision.

Clearly, if a registry was to be set up, the government would have to try to implement it. That would be against what the bill stands for; the bill prevents that.

There is another principle in law that says you cannot do indirectly what you cannot do directly. An indirect register is also prohibited by the text of the legislation, if adopted. I hope that answers the question. Thank you.

[*Translation*]

Hon. André Pratte: Would the senator take a question?

As you said, the existing Firearms Act includes a provision that protects section 35 Indigenous rights. I'm sure you're aware that certain Indigenous groups have concerns about Bill C-71 and would like it to include a non-derogation clause.

In your opinion, would adding a non-derogation clause to the bill result in better protection for hunting rights in particular? Or do you think the provision in the Firearms Act is sufficient?

Senator Dalphond: Thank you for your question, Senator Pratte. It must be understood that Bill C-71 makes some amendments to the current act and therefore only changes certain provisions of the act. The end result will be an amended act, and the new subsection 2(3) will guarantee respect for the aboriginal rights of our First Nations and Indigenous peoples. It states that the act does not affect their section 35 rights. This provision will still be there and should meet the objective set out in the brief submitted by the Assembly of First Nations, which suggests that this principle be set out in two specific places in the act. In my opinion, the bill would be poorly drafted if what is already in the section on interpretation were repeated in the text.

That said, I did not have the opportunity to hear the First Nations representatives explain to the Legal Affairs Committee what issues they have with the act or expect to have with the amendments, if they are adopted. If necessary, some clarifications may need to be made in the application of the text. However, with respect to the general principle that the constitutional rights of Indigenous people should not be affected, that is already in the legislation.

[*English*]

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senator, many of the tragic incidents have happened because of criminals who have not registered their firearms and have obtained them illegally. We all agree we need to protect Canadians, and that's what we do need to address.

I am not personally someone who owns firearms or has tested them out, but I am aware of the increasing gang activity and violence surrounding that.

In your speech today, you spoke about how all guns can kill, and you mentioned the violence we are trying to address; yet this legislation seems to address restricting and regulating the legal firearm owners who already are very restricted.

I'm trying to draw that distinction. Can you explain why there aren't any provisions in this legislation that address either the criminal use of firearms or the problem of gun and gang violence?

Senator Dalphond: I suspect the question should be directed to the Government Representative to explain why the government chose that approach instead of another approach. That being said, I have listed the questions that I think are relevant here. What are the goals or the objectives of the government with this legislation? How will this legislation achieve that goal?

I understand, from the minister's comments that I read in the transcript, that the ultimate goal is to ensure more public safety. This is certainly a valuable goal.

Will the proposed amendments achieve that? That's why we would like to hear witnesses from the government, the RCMP and other people who will explain how these amendments will have a direct or incidental effect in reducing access to arms and preventing bad people from getting access to arms that could be used in an improper way to commit crimes or kill people. So these are links that have to be made and demonstrated and shown. This is the purpose of careful study at the committee level.

I'm anxious to participate in that because I have received many emails and letters — and I'm sure all of you have been receiving the same letters — where people say, "No, that won't have an impact on crime reduction; this will be a severe burden for me." I would like to hear from them what that burden would be. I would like to hear from the government what the impact will be on reducing. If it does reduce crime by 1 per cent, or if it prevented one murder per year, maybe this is a valid objective.

Maybe there are other things that could be more effective, but I'm not drafting the policy. I'm looking at it to understand what the goal is and what the means are, and whether there is a link between the goals and the means. Thank you.

(On motion of Senator Martin, debate adjourned.)

BUDGET 2018

INQUIRY—DEBATE ADJOURNED

Hon. André Pratte rose pursuant to notice of Senator Harder on February 28, 2018:

> That he will call the attention of the Senate to the budget entitled *Equality + Growth: A Strong Middle Class*, tabled in the House of Commons on February 27, 2018, by the Minister of Finance, the Honourable Bill Morneau, P.C., M.P., and in the Senate on February 28, 2018.

He said: Honourable senators, Budget 2018 announced a $50 million fund to help support local journalism in underserved communities. The budget also announced that the government would be "exploring new models that enable private giving and philanthropic support for trusted professional, non-profit journalism and local news."

• (1650)

Since the budget was tabled, the headwinds facing traditional media — in particular newspapers — have only grown stronger. Even news organizations that have completely transformed their business model in order to adapt to the new reality find themselves in financial difficulty.

My former newspaper, *La Presse* of Montreal, is a prime example. *La Presse* became one of the first if not the first major city newspaper in the world to completely abandon its print edition in favour of a groundbreaking free tablet edition. Readers have followed. The most recent numbers that I've seen show that readership has actually increased since this revolutionary change was brought forward.

There are, however, two problems — problems that all newspapers in Canada face and, indeed, that all newspapers in the developed world face. One, readers do not want to pay for their news anymore, even a very modest amount. They are convinced that they can access quality news and opinions free of charge somewhere on the Web. In the long term, of course, this is an illusion.

Two, advertisers have concluded that they can reach a much larger, better-targeted audience at lesser cost through Google and Facebook than they can via traditional media. Consequently, most news organizations are confronting not one but two simultaneous crises: Revenues from both their readers and advertisers are falling. The consequences are devastating.

The situation is so dire that last spring Power Corporation, which had owned *La Presse* for 50 years, decided to transfer the asset to a non-profit organization so that the newspaper would be in a position to receive the government's help and solicit donations.

Now I know first-hand that this was an extraordinarily difficult decision for the Desmarais family, but they knew that even a public company as prosperous as Power Corporation could not afford to lose millions every year to maintain *La Presse*. Shareholders would have none of it.

The newspaper's management, whose skill is beyond dispute, had tried everything. Government help, they concluded, was necessary. And the Desmarais family understood this would not happen as long as *La Presse* was owned by a wealthy family.

Information is a public good. Citizens cannot play their fundamental role in democracy if they don't know what government institutions are doing. They cannot be good consumers or shareholders if no one informs them of the activities of the private sector. The media help us make sense of the world we live in, of what is happening in our city, in our country and on our planet. On this basis, we can share information. We can debate, take a stand, participate, buy, invest and vote.

Because quality information underpins democracy, it is the government's responsibility to intervene when the news media's economic viability is threatened. It must find a way of coming to news organizations' help without endangering their independence.

Ottawa cannot turn a blind eye to the media's difficulties unless it is indifferent to the health of our democratic system. Now $50 million to help local journalism is a good start, but it's not even close to what the current situation requires.

Both direct help to news organizations and a change in the Income Tax Act are necessary. The latter is required so that media organizations who choose the non-profit route can receive a non-charitable status and issue tax receipts to donors. Now I'm hopeful that the government will follow through on its commitment to help traditional news organizations, allowing them to avoid damaging downsizing, if not closure.

[*Translation*]

Not only are the media under economic attack in all parts of the globe, including the western hemisphere, but they are also being subjected to unprecedented attacks from political powers who cannot accept that their actions are being made public, commented on and observed by independent authorities.

According to Reporters Without Borders, since the beginning of this year, 56 journalists have been killed around the world in the course of their duties. Some were killed in war zones, but others were killed by clandestine groups that we can assume are often working for governments. This number obviously doesn't include the very recent disappearance of Saudi journalist Jamal Khashoggi, who is believed to have been killed at the Saudi consulate in Istanbul, Turkey.

Honourable senators, it is rather ironic to hear the Trump and Erdogan governments bemoaning the fate of Mr. Khashoggi. Turkey ranks one hundred and fifty-seventh out of 180 countries in the World Press Freedom Index published by Reporters Without Borders. Following a coup in 2016, President Erdogan's regime shut down many media outlets and had hundreds of journalists arrested, detained or fired.

As for President Trump, he may not be on par with the Turkish and Saudi governments when it comes to violating freedom of the press, but his unrelenting campaign against fake news has already done considerable damage to the media.

[*English*]

The American president has succeeded in diminishing the credibility of the traditional news media in the eyes of a large part of the U.S. public. Many of Mr. Trump's followers choose to believe the media outlets that report what they want to hear. To many of them, a tweet, which suits their world view, is as reliable as the news coming from long-trusted news organizations. A post

on Facebook or an angry comment on Fox News is as credible as an investigative piece in *The Washington Post* or *The New York Times*.

Honourable senators, this is dangerous for democracy. It fuels Americans' distrust towards their institutions. It feeds narrow-mindedness and opens the door wide to propaganda. Who knows where it will lead?

I have no difficulty imagining "fake news" could become the scapegoat for an unsuccessful election, a false pretense for an attempt to stay in power. In such a scenario, are we absolutely certain that this anti-media stance would not succeed? I don't think we can be.

Neither can we be confident that Canada is immune from such actions from our leaders. Some day, someone will conclude that campaigns against the media, like the ones we see our neighbours to the south experiencing, are a good recipe to achieve power. We, as citizens and as politicians, should not allow this to happen. But will we dare stand up and oppose such tactics, especially if they stem from the party or the group that we support? The actions — or rather the inaction — of Republican politicians should give us pause.

Hopefully, we can count on governments to help the traditional media survive in these new economic and technological times. However, the state will not protect the freedom of the press from the abuse of power. We, the people, can only count on our own vigilance for this.

I understand why oftentimes we politicians are critical of the media. It is certainly true that journalists have some shortcomings, but we should never forget the essential role that they play, even with their weaknesses.

Daoud Kuttab, a Palestinian journalist who knew Mr. Khashoggi well, writes in today's *Globe and Mail*:

> Independent journalists have one goal: to find the truth and share it widely. When governments can repress those journalists with impunity, and when others compromise their supposed commitment to basic human rights for political or partisan goals, the truth remains hidden, with serious consequences.

Honourable senators, I implore you to always remember that whether they're coming from dictatorial regimes or elected officials, attacks on the media are not attacks against individual reporters or news organizations but attacks on democracy.

So when a respected institution like Toronto's Canadian Club uninvites reporters from an event starring a former prime minister, I am saddened and concerned. I cannot forget that during that prime minister's reign, a period marked by the government's hostility towards the media, very few Canadians spoke for the freedom of the press except journalists themselves. But freedom of the press is not an important principle for reporters' sake.

• (1700)

First and foremost, it matters for citizens. We as citizens should be the first to demand and defend the principle.

Last Friday, after campaigning for weeks against fake news and calling the media trash, leading Brazilian presidential candidate, Jair Bolsonaro, vowed to uphold the freedom of the press if he was elected. But the way Bolsonaro framed his commitment is revealing: "When they cover the facts, without political activism and partiality, the media fulfil the valuable role of informing people."

No, honourable senators, the media plays a vital role, period, and people in power are the worst possible judges to determine whether journalists are activists or partial. Freedom of the press fosters diversity, and diversity is the only democratic cure for bias and shoddy work if and when it happens.

[*Translation*]

If a major newspaper like *La Presse* loses much of its staff because of the new economic situation, and if one day its credibility is undermined by vicious attacks from the powers that be, our democracy will be weakened in its sphere of influence.

[*English*]

Each time a community loses a newspaper for economic reasons, it not only loses a credible source of information but a safeguard against the abuse of political and economic power. If, on top of that, the remaining news organizations are weakened by constant attacks on their credibility, democracy itself will suffer.

We may not be there yet in Canada, but I'm concerned that the age of fake news may come here too, and the question is, if and when it does, will we have the clear sightedness and the courage to fight it? Sadly, I'm not certain that we will. Thank you.

The Hon. the Speaker: Senator Omidvar, a question?

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

Senator Pratte: Of course.

Senator Omidvar: Senator Pratte, I can't argue for the need for a free and unfettered press as a foundation for our democracy. My question relates to the structural choice that the government is putting forward, structuring for-profit organizations as not-for-profit, and basically admitting that in this new context there are certain businesses that simply will not survive as businesses, and therefore, they need to find another structure.

Those of us on the Charities Committee are so steeped in what is happening in the world of not-for-profits and charities that I'm very aware of the competition for the charitable dollar. I'm wondering if this is a trend that we see where more and more for-profit businesses will ask the government to choose a structure for them. Let's think of farmers' markets or Trans Mountain maybe, as well.

I'm wondering about the stress that the choice of a new corporate structure puts on a sector that those of us on the Charities Committee know is under significant stress already, or is this just the brave new world?

Senator Pratte: Thank you. That's a difficult question. The first thing I think we have to realize is that the time of news organizations as profit-making enterprises or machines — which they were for a long time — is over. Therefore, putting the words "non-profit" and "newspaper" together, I think, will become a trend because that's the reality. Newspapers today do not make a profit. They lose a lot of money and eventually the private sector will stop supporting them because it's not a money-making enterprise.

So what are the solutions? Well, direct help from the government is a possibility, but if you do that in too large a fashion or too extensively, then the problem of news organizations' independence comes into play. That's why the idea of charitable organizations came up. The experience that we have in England for *The Guardian*, for instance, or in the U.S. with the *Philadelphia Inquirer* is that it works. I don't believe it has hurt the rest of the charitable sector, because there are people for whom news and democracy are extremely important and they're willing to invest their money in that particular field.

The Hon. the Speaker: Senator Mockler, did you have a question? I'm sorry, Senator Pratte's time has expired but another senator wants to ask a question. Are you asking for five minutes to answer a question, Senator Pratte?

Senator Pratte: Yes.

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

Hon. Senators: Agreed.

[*Translation*]

Hon. Percy Mockler: I would like to start by congratulating you, Senator Pratte, on your approach to this very critical situation. I know this matter is of great concern to all senators, but it is especially important to my colleague Senator Cormier from New Brunswick, and I congratulate him on his efforts to delve into this alarming issue as Chair of the Standing Senate Committee on Official Languages.

Senator Pratte, I want to congratulate you because you have really shown us that we must not trust fake news.

I would like further clarification on the $50-million program. Based on your experience in journalism, how much does the government need to invest over the next few years to safeguard the survival of Canada's two official languages in our daily newspapers?

Senator Pratte: I can't give you a number, since there are a number of potential solutions. However, with respect to the $50 million over five years announced by the government, each major Canadian newspaper loses about that much every year. A $50-million program for local newspapers is certainly useful and appreciated, but it is nowhere near enough to address the underlying problems. When the government is considering an amount, it must be cautious about how the assistance is provided, because the media must not end up beholden to government. There are programs, and we must pay close attention to their criteria to ensure that newspapers have access to enough resources while still remaining independent. This is why the idea of charitable donations is so important. We know that there are people who are prepared to invest considerable amounts of money through charitable donations to help the media provide quality information to the public.

(On motion of Senator Bellemare, debate adjourned.)

[*English*]

ENDING THE CAPTIVITY OF WHALES AND DOLPHINS BILL

BILL TO AMEND—THIRD READING—MOTION IN AMENDMENT—MOTION IN SUBAMENDMENT—VOTE DEFERRED

On the Order:

Resuming debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Gold, for the 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.

And on the motion in amendment of the Honourable Senator Tannas, seconded by the Honourable Senator Batters:

That Bill S-203, as amended, be not now read a third time, but that it be further amended,

(*a*) by adding the following after clause 6 (added by decision of the Senate on April 26, 2018):

"Exemption

7(1) Section 445.2 of the *Criminal Code*, section 28.1 of the *Fisheries Act* and section 7.1 of the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act* do not apply to a person whose name appears in the schedule to this Act.

(2) If the Governor in Council is of the opinion that it is in the public interest, the Governor in Council may, by order, add a name to or delete a name from the schedule.

(3) In determining whether it is in the public interest to add a name to or delete a name from the schedule, the Governor in Council must take into account whether a person

(a) conducts scientific research in respect of cetaceans; or

(b) provides assistance or care to or rehabilitates cetaceans."; and

(*b*) by adding the following schedule to the end of the Bill:

"**SCHEDULE**

(Section 7)

Designated Persons

The Ocean Wise Conservation Association (Vancouver Aquarium)".

And on the subamendment of the Honourable Senator Tkachuk, seconded by the Honourable Senator Andreychuk:

That the motion in amendment moved by the Honourable Senator Tannas be amended, in paragraph (*a*), by replacing subclause 7(2) with the following:

"**(2) On the recommendation of the Minister designated for the purpose of the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act*, the Governor in Council may, by order, add a name to or delete a name from the schedule if the Governor in Council is of the opinion that it is in the public interest to do so.**".

Hon. Murray Sinclair: Your Honour, I call the question on the subamendment.

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

Some Hon. Senators: Question.

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

Some Hon. Senators: Question.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: Is there advice on a vote?

Senator Plett: Deferred until tomorrow at 5:30 p.m.

BAN ON SHARK FIN IMPORTATION BILL

BILL TO AMEND—THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator MacDonald, seconded by the Honourable Senator Tkachuk, for the third reading of Bill S-238, An Act to amend the Fisheries Act and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (importation of shark fins), as amended.

Hon. Patricia Bovey: I'd like to move the adjournment in my name, please.

(On motion of Senator Bovey, debate adjourned.)

• (1710)

[*Translation*]

CANADA REVENUE AGENCY ACT

BILL TO AMEND—THIRTY-THIRD REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the thirty-third report of the Standing Senate Committee on National Finance (*Bill S-243, An Act to amend the Canada Revenue Agency Act (reporting on unpaid income tax), with amendments*), presented in the Senate on October 3, 2018.

Hon. Percy Mockler moved the adoption of the report.

He said: Honourable senators, Bill S-243 was introduced in the Senate on November 22, 2017 by our esteemed colleague Senator Percy Downe. On June 5, 2018, the bill passed second reading stage and that very day was referred to the Standing Senate Committee on National Finance.

The committee devoted four meetings to the bill's study and heard from tax experts, a professor from the University of London, England, lobby groups that advocate in favour of tax fairness, the Canada Revenue Agency, and naturally the sponsor of the bill, Senator Downe.

[*English*]

Honourable senators, your Standing Senate Committee on National Finance amended the bill to require the Canada Revenue Agency to report on the tax gap every three years rather than every year, as the bill originally stated.

Honourable senators, the amendment was made because officials from CRA told us it would be quite demanding for them to report on the tax gap every year, and yearly reporting wouldn't bring many benefits because broad trends in the tax gap are more important than annual fluctuations.

Therefore, the amendments were brought forward by our deputy chair, Senator Pratte, and with your permission, Your Honour, there's no doubt Senator Pratte can provide a few comments as well. On this, I want to say thank you to the Senate Finance Committee for moving forward with Bill S-243. Thank you.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

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

(On motion of Senator Mockler, bill, as amended, placed on the Orders of the Day for third reading at the next sitting of the Senate.)

NATIONAL STRATEGY FOR THE PREVENTION OF DOMESTIC VIOLENCE BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Manning, seconded by the Honourable Senator Smith, for the second reading of Bill S-249, An Act respecting the development of a national strategy for the prevention of domestic violence.

Hon. Kim Pate: Honourable senators, I rise today to speak to Senator Manning's bill, Bill S-249, An Act respecting the development of a national strategy for the prevention of domestic violence.

I want to begin by recognizing Georgina McGrath for her work with Senator Manning on this bill and for her advocacy, both on her own behalf and with the goal of furthering the well-being of all women. I also want to acknowledge Senator Manning for his nearly two years of efforts to respond to the urgent need to address violence against women. Bill S-249 represents a call for senators to join together to take action to end violence against women. I hope this is just one of many opportunities that we will have to work collaboratively with Senator Manning and all of you to address this important issue.

This week we mark YWCA Canada's Week Without Violence, which aims to raise awareness of the violence against women that continues in our communities. As we contemplate Bill S-249, I urge that we remember that Thursday is also Persons Day, a day on which we celebrate the advancement of women's equality and work to keep the pursuit of substantive equality at the centre of strategies for ending discrimination and violence against women.

Bill S-249 focuses our collective intention on the too-often irreversible harm caused by violence. It calls upon the federal government, in consultation with federal ministers and representatives of the provincial and territorial governments — and it is also vital that Indigenous governments be included here — as well as other relevant parties, to develop a national strategy to prevent and address domestic violence.

Relevant parties include women, grassroots feminist rape crisis and women's shelters and other community-based anti-violence workers. Those groups have already proposed steps to address this gendered violence that must not be overlooked or ignored in any government action taken in this respect.

In 1993, the National Action Committee on the Status of Women, the largest national feminist organization of its time, with over 700 affiliated groups, formulated the *99 Federal Steps to End Violence Against Women.* NAC recognized that violence against women is fundamentally and inextricably rooted in women's substantive inequality. Although the strategy recognized that:

> . . . poor women, women with disabilities, women of colour, and [Indigenous] women are more likely to be victims of assault, we seem to have difficulty with seeing the advantage men have over these women and how those legal, social and economic advantages become part of the weaponry of violent attacks. Every kind of entrenched advantage (whether because he is of the dominant race or because he is a professional) is too often used to harm women. No program to end violence against women can be effective if it does not disrupt and transform those power relations towards equality.

I continue to quote.

> Federal government initiatives must reflect the current facts that it is the vulnerability of women and children, particularly [Indigenous] women, women of colour, women trapped in poverty, and women with disabilities that are the definitive factor in preventing this type of crime. Therefore, monies should be allocated directly to ameliorating those conditions. Monies should not be directed to police, jails, deputizing the community, social worker programs, research on vulnerable groups, or new bureaucratic bodies. Those measures do not reduce violent crime.

Nor do they prevent marginalized women from being victimized.

Today, 25 years later, front-line, grassroots organizations still agree that violence against women is fundamentally an issue of equality. The *Blueprint for Canada's National Action Plan on Violence Against Women and Girls*, coordinated by the Canadian Network of Women's Shelters and Transition Houses and released in 2015, states that:

> Violence against women is a form of gender-based discrimination, a manifestation of historical and systemic inequality between men and women, and the most widespread human rights violation in the world. . . . Women's experiences of violence are shaped by multiple

> forms of discrimination and disadvantage, which intersect with race, ethnicity, religion, gender identity, sexual orientation, immigrant and refugee status, age, and disability.

Both in 1993 in *99 Federal Steps* and in 2015, in the *Blueprint for National Action Plan to End Violence Against Women and Girls,* a broad coalition of contributors agreed about the kind of concrete measures that are required to address the disadvantage and inequality that engender domestic violence. The multi-pronged and coordinated approach envisioned by these groups focused first on the material conditions of inequality in women's lives that increase their risk of abuse. They further recognize that preventing and ending violence against women requires equitable access to institutions, resources and the legal tools all of us should have available to protect our rights. And as so many recent situations here and south of the border have reminded us, sexist, racist and class-biased attitudes and stereotypes about women, and men's perceived entitlement to use and abuse them, must also be addressed as a priority.

It follows from the recognition that violence against women cannot be effectively ended by a crime prevention or public health model, that substantive equality requires reducing the costs and barriers associated with leaving abusive relationships.

• (1720)

Senator Manning noted that while those unfamiliar with power dynamics surrounding sexual and physical abuse may wonder why women do not simply leave these abusive partners, financial concerns prevent many from doing so. Over 80 per cent of the costs of intimate partner violence in Canada — an estimated $6 billion per year — are borne by victims themselves in the form of medical attention, hospitalization, lost wages, missed school days, stolen or damaged property and pain and suffering.

As Senator Manning also pointed out in his speech:

> On a single day, 379 women and 215 children are turned away from shelters in Canada . . .

Shelters, transition houses, rape crisis centres and their programs must be an economic priority of the federal government. Women attempting to leave abusive relationships should have the power to do so. Adequate federal funding is required to meet the demand for emergency short-term housing, as well as permanent, affordable long-term accommodations and income support for women and their children.

If leaving an abusive relationship is costly to the abused woman and not to the abuser, then she is further disadvantaged and hindered from leaving. Creating opportunities for women to leave abusive relationships can help to correct this power imbalance toward substantive equality.

Poverty is a devastating and compounding risk factor for women who are already subject to violence at the highest rates. As the Truth and Reconciliation Commission most recently documented, Indigenous women and girls are more likely than other women to experience violence, as well as the risk factors for violence, which include poverty. Substantive equality also requires providing guaranteed livable incomes, not merely the inadequacy and uncertainty of social assistance, to allow women to move out of poverty.

Far too often, the risk factors for victimization go hand-in-hand with the risk factors for criminalization. Ninety-one per cent of Indigenous women and 87 per cent of all women in federal prisons in Canada have histories of physical or sexual abuse. For most, this underlying and unresolved trauma had a significant role to play in their criminalization, whether due to the lack of support from health and social services prior to being in crisis, or as a result of being charged with a crime while defending themselves or their children from an abuser.

Women who are abused are also far too often held responsible for their own victimization, as well as for protecting themselves and their children. In this manner they are effectively hyper-responsibilized. Worse yet, the same criminal justice system that fails to respond to protect them when they were victimized too often springs into action to criminalize them when they use force to repel abusers.

As highlighted by Elizabeth Sheehy in her groundbreaking research and book, *Defending Battered Women on Trial*, those who have nowhere safe to go and no one they can turn to for protection are essentially deputized to protect themselves and then interrogated about why they reacted defensively instead of leaving or seeking help or reporting what was happening to them. No matter how fulsome their explanations may be, they too often also then find themselves charged and criminalized for their use of reactive — and often usually defensive — force.

Senator Manning reminded us of this in his speech when he remarked that:

> There are many reasons why a woman does not get up and leave. . . . perhaps there is nowhere to go or no one to turn to for support and protection. Perhaps those who have been abused believe that, in some strange way, it is their fault. They are led to believe that they may have provoked the abuse and that the stigma related to the abuse may be too much for some people to deal with on their own. There is always the fear that it could happen again, that the law does not protect the innocent . . .

These stark realities underscore the need for measures like guaranteed liveable incomes, health care and housing options and universal child-care, ameliorative approaches that provide increased options for women to leave abusers.

They also indicate that we should be cautious about the policy of mandatory reporting of suspected domestic violence by medical caregivers that Bill S-249 proposes. In considering the effectiveness of such a policy, we have to think about its particular effect on poor women, Indigenous and other racialized women and girls, those who are immigrants or refugees, women with addictions and criminalized women — women who have too often learned from experience that the justice system will be unresponsive when their rights are in need of protection.

We know that, currently, upwards of 70 per cent of incidents of domestic violence go unreported. Many frontline workers fear that placing an obligation on healthcare providers to report suspected abuse to police, rather than leading to more cases being brought to the attention of police, could unintentionally result in fewer women coming forward to get the medical treatment that they need.

Indeed, following a presentation yesterday in St. John's, I had the opportunity to speak with representatives of the Transition House Association of Newfoundland and Labrador, a network of provincially funded women's shelters who highlighted this very concern with Bill S-249. While most appreciative of Senator Manning's efforts and intentions, they are concerned that the mandatory reporting it proposes might well result in the unintended consequence of decreasing the likelihood of abused women seeking medical attention.

In addition to supporting the need to address the substantive inequality of women first and foremost, they also suggested that, instead of requiring medical professionals to report suspicions to police, all medical professionals be required to fully record the extent of injuries, as well as any professional opinions regarding the likely cause of such injuries, including their concerns about domestic violence in patients' medical files. This measure, in their view, coupled with additional information about available supports and exit strategies, would create a record of abuse without forcing the person experiencing violence to engage with law enforcement when such engagement may actually place them at greater risk.

Colleagues, let us take this important opportunity to reflect on how best to support and encourage not only health care providers, but all of us, to advocate for women's access to additional income, housing, feminist anti-violence supports and services and health and mental health services in order to truly address, end and redress violence against women throughout Canada.

Thank you, *meegwetch*.

(On motion of Senator McPhedran, debate adjourned.)

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Pate, seconded by the Honourable Senator Gold, for the second reading of Bill S-251, An Act to amend the Criminal Code (independence of the judiciary) and to make related amendments.

Hon. Tony Dean: Honourable senators, I rise today to speak to Bill S-251, An Act to amend the Criminal Code dealing with the independence of the judiciary and to make related amendments.

I know that I join with other colleagues here in saying that I support the bill. It has been somewhat of a voyage of discovery for me in learning about the issue of mandatory minimum penalties. Senator Pate, I thank you for bringing our attention to the complexities of this issue and for the wealth of information that you have provided to us.

We know that criminalization causes significant social harms to individuals and their families, and as the Law Reform Commission of Canada has pointed out, longer sentences with harsher penalties are not an effective means of preventing crimes. In fact, the evidence suggests that individuals serving custodial sentences that include time in prison are more likely to repeat offend than those serving non-custodial sentences that mandate community-based programs and options.

In Ontario alone, the rate of recidivism within two years of completing a prison sentence of six months or more was 35 per cent between 2014 and 2015. While this rate has been consistently dropping over the last decade, it remains the case that community-based sentences with a focus on intervention and rehabilitation showed a recidivism rate of only 20 per cent in the same year.

Mandatory minimum penalties, or MMPs, limit judges in their ability to be more lenient with sentencing in appropriate cases. They do not allow for community-based sentencing. If an individual is convicted, a mandatory minimum means time in prison, which not only increases the societal and mental risk of harms to the inmate, but is more costly than alternative sentencing that focuses on rehabilitation.

According to Statistics Canada, in 2015-16, the federal government spent $4.6 billion on corrections, with 70 per cent of that going towards incarceration, showing that mandatory minimums in some cases not only constitute cruel and unusual punishment, as stated by the Supreme Court in *R. v. Nur* in 2013, they also create unnecessary expenses.

Bill S-251 would restore judicial discretion in sentencing all crimes that have mandatory minimum penalties attached to them, of which there are now more than 60. In particular, clause 3 of the bill gives courts the discretion to order an individual who has been found guilty of an offence to attend a treatment or counselling program instead of the required prison time that accompanies MMPs.

• (1730)

Senator Pate also reminds us that individuals with significant mental health issues are among those who are disproportionately affected by mandatory minimums. Those recidivism rates I spoke about earlier rather suggest that a public health approach to the issue, including the use of alternative sentencing focusing on rehabilitation and not punishment, is a more effective means of helping the individual with their addiction and keeping them out of prison.

But it goes the other way, too. For crimes that have MMPs attached to them, prosecutors are encouraged to accept guilty pleas in order to avoid harsher penalties. Critics have stated that this results in individuals being convicted of offences that do not correspond to the offence actually committed. For example, someone might plead guilty to manslaughter, even though the facts disclose that it was intentional. Judicial discretion would ensure that the sentence is appropriate to the crime and to the individual's situation. This is an issue that has received significant study and criticism. In fact, the Supreme Court of Canada has stated that:

> Empirical evidence suggests that mandatory minimum sentences do not, in fact, deter crimes.

In *R. v Lloyd*, the majority decision of the Supreme Court noted that:

> . . . mandatory minimum sentence provisions that apply to offences that can be committed in various ways, under a broad array of circumstances and by a wide range of people are constitutionally vulnerable.

Some penalties have already been struck down for incompatibility with the Charter, such as in *R. v. Nur*.

Honourable senators, Bill S-251 does not eliminate minimum penalties — far from it. Judges will still be able to rule the sentence required by the MMP or even a harsher sentence if they find it appropriate as a course of action. But giving them the discretion to rule a different sentence will, I believe, ensure that justice is being done and that an appropriate sentence is being handed out according to the nature of the crime.

Senators, I hope you will join me in supporting Bill S-251. I look forward to continued debate on the subject.

The Hon. the Speaker: Question, Senator McIntyre?

Hon. Paul E. McIntyre: Senator Dean, would you take a question?

Senator Dean: Yes, of course.

Senator McIntyre: I note your opposition to mandatory minimum sentences. That said, am I to understand that you do not support mandatory minimum sentences for first- and second-degree murder, as outlined in the Criminal Code of Canada? If so, could you tell us why?

Senator Dean: If we go back to the principle of the legislation, throughout, it speaks to the punishment for a crime being weighed against the nature of the crime, the nature of the accused and all of the circumstances surrounding those.

As a matter of principle, I'm supportive of that. I'm also supportive of, where the circumstances warrant, for those crimes, the mandatory minimum or a more severe punishment being imposed where the circumstances, in the discretion of the judiciary, warrant that to be appropriate.

(On motion of Senator Plett, debate adjourned.)

HISTORIC SITES AND MONUMENTS ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Pratte, for the second reading of Bill C-374, An Act to amend the Historic Sites and Monuments Act (composition of the Board).

Hon. Peter Harder (Government Representative in the Senate): Colleagues, I rise today to join the debate on Bill C-374, An Act to amend the Historic Sites and Monuments Act (composition of the Board), and to indicate strong government support for this legislation that represents directly and responds to a call for action of the Truth and Reconciliation Commission of Canada. Specifically, Bill C-374 guarantees Indigenous representation on the Historic Sites and Monuments Board of Canada, a body that recommends which historic places, persons and events should receive official designation and why.

Let me start by acknowledging the work of Member of Parliament John Aldag, the sponsor of this bill in the other place. The bill received unanimous support in the House of Commons. I also congratulate Mr. Aldag because Bill C-374 is only the third ever private member's bill to receive a Royal Recommendation authorizing a public expenditure. I would also like to thank Senator Sinclair for his contribution to our debate as Senate sponsor of this legislation, as well as for his foundational work toward reconciliation measures such as this, based on a shared commitment to the truth of Canadian history.

[*Translation*]

Bill C-374 provides for First Nations, Inuit and Metis representation on the Historic Sites and Monuments Board of Canada. The commission plays a central role in determining official federal historic designations by making recommendations to the minister responsible for Parks Canada.

[*English*]

Ensuring Indigenous representation on the board will help promote recognition and understanding of the historic contribution of Indigenous peoples, as well as commemorate Indigenous people's contributions to Canada's history.

Today, close to 1,000 sites, 700 persons and 50 events have official national historic designations. Behind each one of these designations is a chapter in the larger story of Canada. Together, Canada's national historic designations help define our values and our identity as Canadians. The persons, places and events that we choose to designate reflect not only our roots but also our aspirations for our future together.

This is particularly true when it comes to non-Indigenous Canadians' relationship with Indigenous peoples, as together we, and most especially our young people, work toward a brighter future. Our goal must be to make Canada into the partnership it was always supposed to be.

The Truth and Reconciliation Commission called for a concerted effort to educate Canadians about Indigenous history. More than a dozen of the commission's 94 calls to action appeal for greater education about the history of the Indigenous peoples in Canada. Call to Action No. 79 proposes the inclusion of dedicated Indigenous representation on the Historic Sites and Monuments Board of Canada. Bill C-374 answers that call.

[*Translation*]

This bill leverages Canadians' attachment to their historic sites and monuments. The board collects requests for designation from members of the public, analyzes them and researches the proposals with support from Parks Canada. The board then makes recommendations to the minister responsible for Parks Canada regarding events, places and individuals that merit federal historic designation and provides reasons for its recommendations.

[*English*]

Guaranteed Indigenous representation on the board will help to raise the profile of Indigenous history, heroes and values, and will give greater balance to what we think of as Canadian history. Beginning in the 1990s, the Historic Sites and Monuments Board of Canada and Parks Canada did make a concerted effort to increase the number and quality of Indigenous designations. These efforts produced a 31 per cent increase in the number of national historic designations related to the history of Indigenous peoples as of 2015.

During that time, the board and Parks Canada also took steps to better integrate Indigenous perspectives into Canada's network of national historic designations. The text on many plaques, for instance, has been revised to more appropriately reflect Indigenous perspectives on our common history. In some case, Indigenous-language text has also been added. Over time, the board has adopted guidelines on the designation of Indigenous cultural landscapes and on the use of oral history.

• (1740)

Today, Indigenous communities are consulted on designations that concern them. As important as these improvements are, they are insufficient. This bill will take further action. With dedicated Indigenous representation, the board would be better able to integrate Indigenous history and values into the designation and commemoration process. That is an important goal.

That is why, honourable senators, I am sharing the government's strong support for this legislation at our second reading debate. Further, it is my view that all private members' bills and Senate public bills deserve timely debate and decision making. However, as with all private members' bills and Senate public bills, the pacing and timing of our deliberations, as well as the timing of our final decisions, are up to senators, not the government.

That said, I hope our deliberations on Bill C-374 can proceed expeditiously out of a shared commitment to the bill's objectives and out of respect for the unanimity expressed with respect to this bill by the other chamber.

(On motion of Senator Martin, debate adjourned.)

GIRL GUIDES OF CANADA BILL

PRIVATE BILL—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Cordy, for the second reading of Bill S-1002, An act respecting Girl Guides of Canada.

Hon. Nancy J. Hartling: Honourable colleagues, I rise today to speak to Private Bill S-1002, An Act respecting Girl Guides of Canada. I would like to thank Senator Jaffer for sponsoring this bill in the Senate on behalf of this organization and for sharing some of her fond memories with us during her second reading speech.

Bill S-1002 is a new act that will replace "An Act to incorporate the Canadian Council of the Girl Guides Association" in order to make changes as they relate to the organization's administration. Though I will not speak at great length today, I do want to add my support.

I strongly support the Girl Guides of Canada, and I fully understand its need to modernize some of its governing principles to keep up with the times. As a previous founder and executive director of a not-for-profit organization, I can relate to some of the challenges this organization must face in order to stay current and relevant.

The Girl Guides of Canada is a great organization which has kept true to its roots of promoting the development, health and well-being of girls and young women through leadership programs, while adapting to the meet the needs of our ever-changing society. The Girl Guides organization still has a large part of its programming focused on outdoor adventures, however, its current programming also includes options such as digital platforms for girls, learning about online safety and developing an anti-bullying code.

Furthermore, it produces reports such as *Girls Empowering Girls: a girl-driven approach to gender equity*, which is prefaced by a statement on how the Girl Guides were created more than 100 years ago by Lord Baden-Powell's sister Agnes specifically as a space for girls because she felt there was a need for girls to have their space.

In its early years, the guiding movement was characterized by girls advocating for access to the same opportunities afforded to boys — in essence, gender equality. However, despite its best

efforts and progress towards achieving this goal of gender equality, inequalities and inequities have persisted. Thus, it goes on to say:

> As such, today, Girl Guides of Canada's approach is one that strives for gender equity — ultimately a more ambitious goal, in which systemic changes empower every girl to truly be everything she wants to be.

I think that's very fitting for 2018.

[*Translation*]

My family has been involved in scouting for a long time. My children, Melissa and Marc, were Brownies and Beavers in Moncton. They were proud of the badges they collected for their skills and achievements.

The wonderful thing about Girl Guides of Canada is that it's an actual national organization with local units from coast to coast.

[*English*]

In fact, a few years ago, in 2012, CTV featured Ann Connolly, a resident from my home of Riverview, as their "Maritimer of the Week." The coverage highlighted the fact that she had been volunteering with the Girl Guides of Canada for 63 years. She had joined at the age of 9 and by the time she was 16, she was a leader.

More recently, another member of my community, Ms. Susan James Belanger, who is with the 2nd Riverview Guides chapter, was nominated by her peers and received a Canada 150 Senate medal. That was most notably for her role as deputy district commissioner of the Tidewater area within the Girl Guides Association. She is an excellent role model for youth in the community and is well-known for promoting inclusion, self-esteem and empowerment through community service to the girls in her unit.

Colleagues, I conclude by reiterating my support for this bill. As sponsor of this bill, Senator Jaffer has already clearly articulated why this private bill is before us. We know that since the Girl Guides of Canada's governance is formalized through a special act of Parliament, which has been amended twice in the past, it must again come through Parliament in order to modernize the organization, unless there is a way we can change that.

Let's get this bill to committee as soon as possible in order to allow the Girl Guides of Canada to modernize the language used to reflect their goals and missions, make administrative edits to its procedural provisions and incorporate certain provisions of the Canada Not-for-profit Corporations Act.

(On motion of Senator Martin, debate adjourned.)

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.

Hon. Mary Coyle: I would like to move the adjournment of the debate in my name.

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

Hon. Senators: Agreed.

(On motion of Senator Coyle, debate adjourned.)

(*At 5:50 p.m., the Senate was continued until tomorrow at 2 p.m.*)

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