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(HANSARD)

Tuesday, December 11, 2018

The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Tuesday, December 11, 2018

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

Prayers.

[*Translation*]

SENATORS' STATEMENTS

CHRISTIAN "KIT" GOGUEN

Hon. Rose-May Poirier: Honourable senators, I am pleased to once again speak to you about Christian "Kit" Goguen of Saint-Charles, an exceptional artist from my neck of the woods. The last time I spoke to you about Kit was five years ago. At the time, I shared Kit's inspiring story as an artist, but now a new chapter has begun for him.

For those colleagues who were not here the last time I spoke about Kit, he made a name for himself as an artist by winning honours at the thirty-fifth Gala de la chanson de Caraquet in 2003, which launched his national and international music career with the musical revue Ode à l'Acadie. From 2010 to 2013, he sang with two Cirque du Soleil productions, Corteo and Zarkana, which took him all over Europe and to Russia, Las Vegas and New York, where he played Radio City Music Hall.

At some point in the past five years, Kit returned to New Brunswick, where he performs and leverages his fame to raise awareness of Tourette syndrome, which affects him personally. In his case, the syndrome manifests as tics that, thankfully, have subsided over time. However, as a young child, he was bullied because of this problem, which he could not control. Music provided solace during that painful time, and that is what inspired him to create a show that he performs in schools across New Brunswick. He also supports the cause through speaking engagements.

Eventually, wanderlust and the lure of the limelight became so strong that he was drawn back to Cirque du Soleil, this time to sing in Totem. In 2019, he will feature in 370 performances, singing six days a week, sometimes twice a day.

His reunion with the Cirque du Soleil is scheduled for December 16 in Paris, and his European tour will start with London's Royal Albert Hall in January. Just think, honourable senators: An ordinary guy from Saint-Charles, a community of about 2,000 people, performing on the same stage that has hosted legendary artists like The Beatles and Elton John. The time has come for Christian "Kit" Goguen to join their ranks and leave his mark on the Royal Albert Hall. This is an incredible career milestone. He is such an inspiration.

For all the dreamers who have been or are still being bullied, Kit's story proves that you should never give up on your dream.

The cherry on top is that Kit will become a father for the first time in 2019. Honourable senators, I invite you to join me in congratulating him for his accomplishments and encouraging him to keep showing the whole world what makes Acadia so great.

[*English*]

INTERNATIONAL HUMAN RIGHTS DAY

Hon. Marilou McPhedran: Honourable colleagues, yesterday was International Human Rights Day. On December 10 every year since 1948, we have celebrated progress and admitted the work we have yet to do before all peoples can live their rights.

At the Manitoba Human Rights Awards gala last evening we celebrated Brielle Beardy-Linklater, the first Indigenous transgender woman recipient; Daniel Thau-Eleff of Moving Target Theatre Company; and Byron Williams, the brilliant legal strategist, and his team at the Public Interest Law Centre. The seventieth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide was the day before, December 9.

[*Translation*]

I enjoyed sharing in these moments of justice and success during the commemoration of the Universal Declaration of Human Rights, but I can't forget the injustices that plague our world today.

[*English*]

Colleagues, yesterday the Rohingya Human Rights Network held a press conference here in Centre Block to remind us of Canada's obligation as a state signatory to the Convention on Genocide. Canada still needs to be strong, bold and to protect Rohingya people in the face of the ongoing genocide by the Myanmar government.

On this historic day, I also took the occasion to publish an opinion editorial highlighting the continued injustices faced by political prisoners such as Nasrin Sotoudeh from Iran, for whom I have committed to raise awareness, along with the Raoul Wallenberg Centre for Human Rights. As I have highlighted before, Nasrin, and many other political prisoners, continue to face persecution and grave human rights violations because they have chosen to believe, live and uphold their human rights and those of others in dangerous political climates. As co-chair of the Raoul Wallenberg All-Party Parliamentary Caucus for Human Rights, I am inviting parliamentarians to sign on to an open letter similar to the one already signed by over 60 members of the European Parliament to draw attention to the imprisonment of Nasrin Sotoudeh.

Yesterday I also spoke briefly about Sun Qian, who has already endured nearly two years of wrongful detention in Beijing. As reported in *The Globe and Mail*, she has endured physical torture, more than 11 lawyers have been pressured to quit her case, and she has issued a "confession" that many believe was coerced through torture. On December 7, just a few days ago, we learned that her state-appointed lawyer plans to file a request for her to renounce her Canadian citizenship. If this happens, she will be utterly helpless.

To conclude, colleagues, let us celebrate the seventieth anniversary of the Universal Declaration of Human Rights. Let us remember that we can actively seek remedies and uphold rights as part of what we do as parliamentarians. It is truly about living rights, not just about the words on paper. Thank you. *Meegwetch*.

• (1410)

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mary Collins and Mo Ettehadieh. They are the guests of the Honourable Senator Omidvar.

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

Hon. Senators: Hear, hear!

NATIONAL GALLERY OF CANADA FOUNDATION

Hon. Patricia Bovey: Honourable colleagues, partnerships throughout society are increasingly critical to the success of so many endeavours, in business, the charitable sector, sport, large and small community events and, of course, the arts. Indeed, I sometimes think dire necessity forced the cultural sector years ago to put partnerships together long before it was the thing to do.

Last week, one such partnership was celebrated, one built from multiple layers of giving, of leadership and of dedicated creative enterprise, all combined to ensure a healthy future. That celebration was at the National Gallery of Canada, hosted by the National Gallery of Canada Foundation. Retiring Director Marc Mayer was saluted and over $3 million of gifts were announced.

Artists, collectors, gallery professionals, patrons, philanthropists, and business, government and community leaders gathered to thank and salute Marc, the gallery's director and CEO for the last 10 years. I first worked with Marc as a national colleague in the late 1990s, when he was Director of The Power Plant in Toronto. Marc's career has taken him to Paris, New York, Brooklyn, and, before coming to the National Gallery of Canada, to Montreal as Director of the Musée D'art Contemporain.

At the National Gallery he led an excellent professional team, including leading curators and education directors. Building solid relationships between galleries both at home and internationally, Marc's successes were many. The National Gallery collection grew with significant and international treasures, historical and contemporary; exhibitions were challenging, popular and eye opening, with many breaking new ground, such as "Anthropocene," the work of Ed Burtynsky, of which I have spoken before.

Perhaps Marc's most important contributions are the rehanging of the Canadian and Indigenous Galleries, celebrating Canada's one hundred and fiftieth anniversary; and the work he did to enhance the newly restored Canadian Pavilion at the Venice Biennale — truly important for international exposure of the work of Canadian artists and curators.

[*Translation*]

Marc, thank you and congratulations for everything you've done for the Canadian art world, and I wish you all the best for the future. May you enjoy many more years of rewarding experiences and good health. I hope our paths will cross again.

[*English*]

I also applaud the National Gallery of Canada Foundation's Chief Executive Officer, Karen Colby-Stothart; and Chair Tom d'Aquino. The $13 million donations announced were fourfold: to recognize Canada's talent at our artist-run centres and small galleries; to support Canadian contemporary artists' exhibitions at our Venice Biennale Pavilion; the exhibition "Canada and Impressionism 1880-1930," which will travel internationally before coming to the National Gallery in 2020; and to make our national collection more accessible through loans and exhibitions across Canada. All this makes our national collection so accessible here and away, to large and small institutions, while celebrating and giving voice to Canada contemporary artists. Thank you for these milestones.

INTERNATIONAL HUMAN RIGHTS DAY

Hon. Thanh Hai Ngo: Honourable senators, I rise a day late, after International Human Rights Day, to add my voice in the celebration of the seventieth anniversary of the Universal Declaration of Human Rights — a milestone document that proclaimed the unalienable rights which everyone is inherently entitled to as a human being, regardless of race, colour, religion, sex, language, political or other opinion, national or social origin, property, birth or other status.

I wish to add my voice to that of my honourable colleagues who spoke yesterday with a strong message of equality, justice and human dignity. In this respect, I wish to call attention to the degrading situation in Asia with regard to freedom of speech, refugee rights and freedom of the press.

In Vietnam, human rights have worsened in 2018, as the Communist government continues to imprison dissidents for longer prison terms, sanctions thugs to attack rights advocates and legislates draconian laws to further limit online freedom.

In China, we are standing idly by while millions of Uighur Muslims have been detained in indoctrination camps against their will. In Myanmar, the so-called genocide is affecting nearly 1 million Rohingya people and others.

Honourable senators, we live in an era where tyrants and dictators are able to easily surveil, quell and oppress peaceful dissent because of intrusive online surveillance tools. We are faced with a world where more and more leaders are challenging the very premise of human rights.

We must come together to preserve and uphold the spirit of this formative document. The principles enshrined in the declaration are as relevant today as they were in 1948.

Honourable senators, the Universal Declaration of Human Rights empowers us all. In this resolve, let us all recommit never to abandon these principles. Thank you.

DONNA STRICKLAND

CONGRATULATIONS ON NOBEL PRIZE IN PHYSICS

Hon. Marty Deacon: Honourable senators, I rise today to pay tribute to Dr. Donna Strickland, who yesterday received the 2018 Nobel Prize in Physics from the King of Sweden, in Stockholm. The pageantry and glamour on that stage were a far cry from room 3407 in Needles Hall at the University of Waterloo, where a few hundred students crammed into the room to watch the proceedings in Stockholm with pride. It was wonderful to watch and support this intimate, youthful event.

You see, in addition to being the third woman to be awarded the Nobel Prize in Physics in its 117-year history, Ms. Strickland is also professor at the University of Waterloo's Department of Physics and Astronomy, where she has researched and taught since 1997.

Professor Strickland, who was born in Guelph, is one of three recipients of the prize this year. It was in recognition of research she published in 1985, when she was still a doctoral student at the University of Rochester. It was then that she and her supervisor, one of her co-recipients, discovered chirped pulse amplification. These are high-intensity, short-pulse lasers that have a number of practical purposes, most notably in laser eye surgery.

Honourable senators, you'll note that, ominously, Professor Strickland wears glasses because, as she puts it, "I have great faith in lasers, but no one's putting one near my eye."

I had the pleasure of attending the celebrations in Waterloo yesterday morning, where I was encouraged by the number of women I saw who are studying the subjects of science, technology, engineering and math. In 1986, as a physics teacher, I was invited to be part of a small group of women who launched the STEM concept with fellow university professors. Here we are, over 30 years later, and I am thrilled to see someone like Professor Strickland recognized for her work and bringing attention to our community. I have no doubt this award will encourage more women to study and work in these fields.

In addition to the $1.1 million in prize money Professor Strickland now splits with her fellow winners, she will see some other perks when she returns to work in Waterloo shortly. For one, the university has designated a reserved parking spot for Nobel winners on campus — a prize hard to quantify for anyone who studies or works at the university. She also received a promotion in October, from associate professor to full-time professor. At the time Professor Strickland was quick to admit that she had simply never applied for a full-time position, a testament to how humble she really is. Upon hearing this, the university's president said that her application need only be one line long.

Honourable senators, Professor Strickland and her accomplishments are a reminder of the important role that curiosity and creativity have in our everyday work. I ask that you join me in congratulating her on her brilliant accomplishments and wish her the best in all her future scientific endeavours. Thank you.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of chiefs and deputy chiefs of the Eagle Spirit Chiefs Council and the National Chiefs Coalition, as well as representatives of the Indian Resource Council and the International Union of Operating Engineers. They are the guests of the Honourable Senator Patterson.

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

Hon. Senators: Hear, hear!

[*Translation*]

ROUTINE PROCEEDINGS

TAXPAYERS' OMBUDSMAN

2017-18 ANNUAL REPORT TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the report of the Office of the Taxpayers' Ombudsman for the fiscal year ended March 31, 2018.

• (1420)

[*English*]

GIRL GUIDES OF CANADA BILL

PRIVATE BILL—TWENTY-SEVENTH REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE PRESENTED

Hon. Carolyn Stewart Olsen, Deputy Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Tuesday, December 11, 2018

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

TWENTY-SEVENTH REPORT

Your committee, to which was referred Bill S-1002, An Act respecting Girl Guides of Canada, has, in obedience to the order of reference of November 1, 2018, examined the said bill and now reports the same without amendment.

Respectfully submitted,

CAROLYN STEWART OLSEN
Deputy Chair

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

Hon. Terry M. Mercer (Acting Leader of the Senate Liberals): Honourable senators, with leave of the Senate, I move that the bill be placed on the Orders of the Day for third reading later this day.

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

Hon. Senators: Agreed.

(On motion of Senator Mercer, bill placed on the Orders of the Day for third reading later this day.)

THE UNITED CHURCH OF CANADA ACT

PRIVATE BILL TO AMEND—TWENTY-EIGHTH REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE PRESENTED

Hon. Carolyn Stewart Olsen, Deputy Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Tuesday, December 11, 2018

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

TWENTY-EIGHTH REPORT

Your committee, to which was referred Bill S-1003, An Act to amend The United Church of Canada Act, has, in obedience to the order of reference of November 1, 2018, examined the said bill and now reports the same without amendment.

Respectfully submitted,

CAROLYN STEWART OLSEN
Deputy Chair

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

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, with leave of the Senate, I move that the bill be placed on the Orders of the Day for third reading later this day.

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

Hon. Senators: Agreed.

(On motion of Senator Harder, bill placed on the Orders of the Day for third reading later this day.)

STUDY ON PRESENT STATE OF THE DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM

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

Hon. Carolyn Stewart Olsen: Honourable senators, I have the honour to table, in both official languages, the twenty-ninth report of the Standing Senate Committee on Banking, Trade and Commerce entitled *The collection of financial information by Statistics Canada* and I move that the report be placed on the orders of the day for consideration at the next sitting of the Senate.

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

SENATE MODERNIZATION

THIRTEENTH REPORT OF SPECIAL COMMITTEE PRESENTED

Hon. Stephen Greene, Chair of the Special Senate Committee on Senate Modernization, presented the following report:

Tuesday, December 11, 2018

The Special Senate Committee on Senate Modernization has the honour to present its

THIRTEENTH REPORT

Your committee, which was authorized by the Senate on Friday, December 11, 2015 to consider methods to make the Senate more effective within the current constitutional framework, now presents its report entitled: *Reflecting the New Reality of the Senate*.

Respectfully submitted,

STEPHEN GREENE
Chair

(*For text of report, see today's* Journals of the Senate*, Appendix, p. 4228.*)

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

(On motion of Senator Greene, report placed on the Orders of the Day for consideration two days hence.)

STUDY ON THE POTENTIAL IMPACT OF THE EFFECTS OF CLIMATE CHANGE ON THE AGRICULTURE, AGRI-FOOD AND FORESTRY SECTORS

FOURTEENTH REPORT OF AGRICULTURE AND FORESTRY COMMITTEE DEPOSITED WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Diane F. Griffin: Honourable senators, I have the honour to inform the Senate that pursuant to the orders adopted by the Senate on March 9, 2017, and November 29, 2018, the Standing Senate Committee on Agriculture and Forestry deposited with the Clerk of the Senate on December 11, 2018, its fourteenth report entitled *Feast or Famine: Impacts of climate change and carbon pricing on agriculture, agri-food and forestry* and I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

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

[*Translation*]

ADJOURNMENT

NOTICE OF MOTION

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

That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, February 19, 2019, at 2 p.m.

[*English*]

THE SENATE

NOTICE OF MOTION TO AUTHORIZE COMMITTEES TO MEET DURING ADJOURNMENT OF THE SENATE

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

That, pursuant to rule 12-18(2)(b)(i), Senate committees have permission to meet from January 28, 2019, to February 8, 2019, even though the Senate may then be adjourned for more than a week.

[*Translation*]

INVESTMENT CANADA ACT

BILL TO AMEND—FIRST READING

Hon. Thanh Hai Ngo introduced Bill S-257, An Act to amend the Investment Canada Act (mandatory national security review of investments by foreign state-owned enterprises).

(Bill read first time.)

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

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

[*English*]

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

ANNUAL MEETING WITH MEMBERS OF THE U.S. SENATE AND HOUSE OF REPRESENTATIVES, JUNE 15-17, 2018—REPORT TABLED

Hon. Michael L. MacDonald: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the 56th annual meeting with Members of the United States Senate and House of Representatives, held in Ottawa, Ontario, Canada, from June 15 to 17, 2018.

CANADIAN/AMERICAN BORDER TRADE ALLIANCE CONFERENCE, SEPTEMBER 30-OCTOBER 2, 2018—REPORT TABLED

Hon. Michael L. MacDonald: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the Canadian/American Border Trade Alliance Conference, held in Washington, D.C., United States of America, from September 30 to October 2, 2018.

ANNUAL MEETING OF THE COUNCIL OF STATE GOVERNMENTS-WEST, SEPTEMBER 11-15, 2018—REPORT TABLED

Hon. Michael L. MacDonald: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-United States Inter-Parliamentary Group respecting its participation at the 71st Annual Meeting of the Council of State Governments-West, held in Snowbird, Utah, United States of America, from September 11 to 15, 2018.

GIRL GUIDES OF CANADA BILL

PRIVATE BILL—NOTICE OF MOTION IN AMENDMENT

Hon. Pierre J. Dalphond: Honourable senators, with leave of the Senate and notwithstanding rule 11-16, I give notice that, later this day, I will move:

That Bill S-1002 be not now read a third time, but that it be amended on page 8 by adding the following after line 17:

"**16.1 (1)** Directors of the Corporation are jointly and severally, or solidarily, liable to employees of the Corporation for all debts not exceeding six months' wages payable to each employee for services performed for the Corporation while they are directors.

(2) A director is not liable under subsection (1) unless

(a) the Corporation has been sued for the debt within six months after it has become due and execution has been returned unsatisfied in whole or in part;

(b) the Corporation has commenced liquidation and dissolution proceedings or has been dissolved and a claim for the debt has been proved within six months after the earlier of the date of commencement of the liquidation and dissolution proceedings and the date of dissolution; or

(c) the Corporation has made an assignment or a receiving order has been made against it under the Bankruptcy and Insolvency Act and a claim for the debt has been proved within six months after the date of the assignment or receiving order.

(3) A director, unless sued for a debt referred to in subsection (1) while a director or within two years after ceasing to be a director, is not liable under this section.

(4) If execution referred to in paragraph (2)(a) has issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

(5) A director who pays a debt referred to in subsection (1) that is proved in liquidation and dissolution or bankruptcy proceedings is subrogated to any priority that the employee would have been entitled to and, if a judgment has been obtained, the director is

(a) in Quebec, subrogated to the employee's rights as declared in the judgment; and

(b) elsewhere in Canada, entitled to an assignment of the judgment.

(6) A director who has satisfied a claim under this section is entitled to recover from the other directors who were liable for the claim their respective shares.".

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

Hon. Senators: Agreed.

• (1430)

THE SENATE

NOTICE OF MOTION TO CALL UPON STATISTICS CANADA TO REFRAIN FROM ACCESSING FINANCIAL DOCUMENTS THAT CONTAIN INFORMATION THAT MAKE IT POSSIBLE TO IDENTIFY AN INDIVIDUAL WITHOUT THAT INDIVIDUAL'S CONSENT

Hon. David M. Wells: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Senate call upon Statistics Canada to refrain from accessing, under section 13 of the *Statistics Act*, documents or records of a financial nature maintained in any financial

institution or credit reporting agency when such documents or records contain information that makes it possible to identify an individual without that individual's consent.

QUESTION PERIOD

FINANCE

FALL ECONOMIC STATEMENT 2018

Hon. Larry W. Smith (Leader of the Opposition): My question for the government leader today concerns a report from the Parliamentary Budget Officer released this morning regarding the Fall Economic Statement.

The PBO looked at the $9.5 billion set aside by the government for non-announced measures through to 2023-24 fiscal year. This massive fund is for cabinet decisions not yet taken and for decisions to be made under very broad categories, such as national security and trade agreements.

The PBO states that this fund is of "unprecedented magnitude" and recommends that parliamentarians seek details from the government about this spending. One week ago, during Senate Question Period, I asked Minister Morneau how he justifies this fund. The minister did not provide an answer. I'll try again with you.

Senator Harder, if you can help: How does this government justify setting aside $9.5 billion without specifying exactly what this money will be directed towards?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question.

He will know that since 2016, the Government of Canada began publishing a detailed summary of all policy actions taken between the fall statements and the budgets in order to increase the level of fiscal transparency. That is why, for example, in table A1.7 in the recent Fall Economic Statement, which describes policy actions taken since the budget of this year, the table provides a detailed list of all funding actions taken; and the subsequent table, table A1.8, provides a list of policy actions in the Fall Economic Statement investments by the Government of Canada.

However, the honourable senator will know that in some cases there are measures that cannot be disclosed, which includes cases where cabinet has not yet reached a decision with respect to the actions for measures related to issues of national security, commercial sensitivity or litigation, or certain matters related to trade agreements. Those matters are subject to the reference that the questioner, the Honourable Senator Smith, has asked and that provides the explanation.

In fact, there is enhanced transparency, although, as I stated and I'll repeat, these are areas where policy decisions have yet to be made or are subject to the override that I have referenced.

Senator Smith: Thank you very much, senator. I guess the simple question is will there be a time before the money is actually committed that there will be requests made so there will be true transparency for parliamentarians to understand where the money is going?

Senator Harder: As I understand the commitments that have been made by the President of the Treasury Board, as those decisions are made there will be transparency with respect to the funding for the policy measures when they are announced.

[*Translation*]

PUBLIC SAFETY

RIGHTS OF VICTIMS OF CRIMINAL ACTS

Hon. Pierre-Hugues Boisvenu: My question is for the Leader of the Government in the Senate. Today, I wish to ask you a question, once again, about a fundamental matter, the Canadian Victims Bill of Rights. This fall, I spoke to you about the murder case of little Tori Stafford, an eight-year-old child who was sexually assaulted, raped and brutally murdered. A few years later, her female assailant was transferred from a medium-security institution to a minimum-security institution without the victim's family being given prior notice. Public opinion forced the government to reverse its decision and the woman was returned to a medium-security institution.

Yesterday, Michael Rafferty, the other murderer, was transferred from a maximum-security institution to a medium-security institution, without the victim's family being given prior notice. Even worse, the family learned about it through social media; clearly, they were not treated with respect.

My question is this: When will you speak directly with the Minister of Public Safety of Canada to ensure that Correctional Service Canada complies with the Canadian Victims Bill of Rights, which takes precedence over the Corrections and Conditional Release Act?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his questions. Before I answer the question, let me begin by restating what I'm sure is on everybody's heart and mind, which is the tragedy that the family of Tori Stafford is living through. It is important we all recognize these are tragic events that have occurred.

I should also emphasize that priority one of our correctional system is public safety and that public safety priority is exhibited in the fundamental rules and procedures of the institution that is charged with these matters.

The minister responsible has made clear, in the other place and outside, that the ability of the government to intervene in any individual case is, of course, not appropriate but rather that the government must ensure the system is functioning adequately and adhering to the guidelines that are in place. That review is under way. Let me also remind all senators that the inmate in question is incarcerated in the La Macaza Institution, a

correctional facility that specializes in dealing with sex offenders. I should also remind all senators that the institution is surrounded by a guarded double fence that is 3.6 metres high and equipped with advanced security systems.

It is important for us to recognize that in our system of corrections and incarceration, there are facilities that deal with the kind of inmate that we have in this case. It is entirely appropriate that Corrections Canada makes decisions consistent with the guidelines being provided. It is important that the minister ensure those guidelines in this case have indeed been followed.

• (1440)

[*Translation*]

Senator Boisvenu: Government Representative in the Senate, the families do not want to hear justifications, they want to be treated with respect. The families were not informed of the last five offender transfer decisions made by Correctional Service Canada. The Canadian Victims Bill of Rights includes the right to information. In your view, as the Government Representative in the Senate, is this bill of rights nothing but a worthless piece of paper or is it a document that ensures respect for victims' rights in Canada?

[*English*]

Senator Harder: Again, I think it's important for us all to recognize the minister responsible has undertaken a review to ensure there has been adherence to the policies.

ETHICS AND CONFLICT OF INTEREST FOR SENATORS

SENATE ETHICS OFFICER

Hon. Marilou McPhedran: My question is to Senator Andreychuk, as Chair of the Committee on Ethics and Conflict of Interest for Senators.

As a result of the confidential line I opened for reports of harassment in the Senate, I have been advised that the Office of the Senate Ethics Officer may have contacted an external authority in the midst of its investigation into a harassment complaint against disgraced former Senator Meredith, and that personal contact information of one or more complainants may have been provided by the Office of the SEO to that authority without obtaining prior written consent to share such confidential information with that authority.

Given your committee has general oversight over if and how the Senate Ethics Officer fulfils his responsibility, I am asking if your committee would please undertake to seek clarification from the Senate Ethics Officer as to, one, whether he or anyone associated with his office, staff or consultants, in fact initiated contact with an external authority; and two, whether he or anyone associated with his office, staff or consultants, provided personal contact information to that authority; and three, if he or anyone associated with his office, staff or consultants, did initiate contact and did provide personal information of one or more complainants to that external authority, and did they first obtain the written consent of those whose personal information was provided by the SEO to the proper authority, if indeed that occurred; and four, can the SEO confirm for your committee that evidence of prior written consent is being held by the Office of the SEO as part of the documentation for his investigation?

Senator Andreychuk, your committee reported to this chamber that, "The completion of the process is also important to maintain and enhance public confidence and trust in the integrity of senators and the Senate."

Understanding that this observation applies to all investigations undertaken —

Some Hon. Senators: Question.

Senator McPhedran: — by the Senate Ethics Officer, would your committee use its authority under the code to inquire as to when the SEO might be reporting to you on the complaint by Senator Lankin and other senators as to hate speech against Indigenous peoples on Senator Beyak's Senate official website?

The Hon. the Speaker: I am sorry, Senator McPhedran. There were a number of questions that were put into your statement. I'm going to ask Senator Andreychuk if she wants to reply. Perhaps she will need you to clarify because I heard at least four or five questions.

Hon. A. Raynell Andreychuk: Thank you, Senator McPhedran. As you are bound by the same code as I am, the rules are in the code. Our way of practising under the code, which has served us very well, is we take committee decisions, not chair decisions. I will not be answering your question now. I will take up the points you have raised with the committee again.

There are a number of issues there. I want to caution all senators that when there is an investigation, which there is in two particular cases you have raised, we are bound by the independence of the SEO to conduct his inquiries as he deems necessary. We have a role of oversight, and we can exercise that. We also have to ensure the confidentiality of the process that he maintains. I will take your questions under advisement, and I will undertake to take them to the committee.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

FOREIGN COMPANIES DOING BUSINESS IN CANADA

Hon. Leo Housakos: My question is for the government leader. It has to do with the arrest and extradition of the CFO of Huawei. A number of Canadian security experts have expressed concern that company, along with other Chinese companies, has been engaging in espionage in terms of corporate espionage in Canada. Has the government taken steps to consult our strong security allies, Australia, the U.K. and the United States, that have taken a decision along with other governments recently to ban Huawei? What sorts of information and evidence do they have in order for the Canadian government to review it? As a result of that ban, is the Canadian government considering a ban of Huawei here in Canada?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for the question. As I understand the issues involved in the extradition request, they have nothing to do with the company in terms of its direct work in Canada or any of the Five Eyes. I have answered in the past and I'll repeat that the Government of Canada is in constant communication with our security allies to review all threats and potential threats to infrastructure, including telecommunications infrastructure, and takes its advice and makes its decisions in the best interests of Canada.

Senator Housakos: My understanding is the arrest was due to the fact that Huawei was exchanging information and providing communications technology to Iran, which, of course, is an infringement on an embargo that Iran has with the United States. We all know that Iran are supporters of terrorism and Hezbollah and other entities like al Qaeda that are certainly not allies of Canada. Is this government going to step up and support our strong allies around the world and send a clear message that we won't tolerate Canadian corporations or corporations that do business in Canada to be supplying technological information to a regime like Iran, which supports terrorism around the world?

Senator Harder: Thank you for the question. It has many accusations and pieces to it.

Let me simply make two clear points. With respect to the extradition request, it is before the courts. It would be inappropriate for me to comment on how the courts are dealing with that matter, except to say I have confidence in the rule of law.

With respect to the other aspects of the questions being asked, let me repeat that the Government of Canada remains vigilant and consults broadly with respect to security interests and will make decisions that are in the best interests of Canada.

JUSTICE

JUDICIAL APPOINTMENTS

Hon. Paul E. McIntyre: My question for the government leader concerns judicial vacancies, a subject I previously raised with him.

In February of this year, when I raised this matter, there were 63 vacancies across Canada. When I asked again in April, there were 59 vacancies. As of today, there are 55 vacancies across nine provinces.

The Supreme Court rendered its *R. v. Jordan* decision two and a half years ago. Despite assurances provided by the federal government that it takes wait times seriously, the numbers show that not very much progress has been made.

Senator, in 2018, we have seen cases involving the most serious charges stayed due to *Jordan*. When will the Minister of Justice act to fill these judicial vacancies?

Hon. Peter Harder (Government Representative in the Senate): Again, I thank the honourable senator for his question and his ongoing interest. Let me undertake, as I have in the past, to seek a response from the Minister of Justice.

I should also point out that in the period referenced the government has undertaken an expansion of the cadre of judicial appointments to increase the capacity of the court system. That too must be taken into account.

Senator McIntyre: Back in March, the Minister of Justice promised to fill judicial vacancies in my home province of New Brunswick. There were three vacancies at that time. As of December 3, there are currently two vacancies at Court of Queen's Bench of New Brunswick, one in the Trial Division and one in the Family Division.

Senator, can you please make inquiries of the Minister of Justice and ask when she intends to fill the vacancies in New Brunswick?

Senator Harder: I will indeed.

• (1450)

[*Translation*]

PUBLIC SAFETY

ORAL FLUID DRUG SCREEN DEVICES

Hon. Claude Carignan: My question is for the Leader of the Government in the Senate. The holidays are coming, and important issues like impaired driving and how to stop it are especially timely. The Canada Border Services Agency seems reluctant to buy the drug screening device that the Minister of Justice approved. Like most police forces across Canada, the Canada Border Services Agency is not convinced that the DrugTest 5000 is effective.

I have spoken out quite a few times in this chamber and in committee about how this government has not adequately prepared for the legalization of cannabis. Every time I raised the question, I was told not to worry because we were prepared. It is now clear. Canadian police officers and border officers do not have the tools they need. What's worse, they won't have them for several years, since the Canada Border Services Agency doesn't plan on buying any in the next five years.

Senator Harder, when will the Minister of Justice come down from her ivory tower to see that there is no approved drug screening device that is effective? Could police forces be given a list of devices that will enable them to enforce the law and prevent impaired driving?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. As he indicates, this is the time of year for gift-giving. I appreciate the gift of his question. It allows me to unwrap previous answers

given by Minister Blair when he was here, and the Minister of Justice when she was here, in which they indicated the resources that had been allocated to police for the purchase of devices; that the device in question has been one that has been certified; and that there are further devices coming available, as the minister indicated when she was here.

This is a process that begins with the coming into force of the law, which I remind all senators this senator opposed.

IMMIGRATION, REFUGEES AND CITIZENSHIP

REFUGEES AND ASYLUM SEEKERS

Hon. Linda Frum: Honourable senators, my question is for the Leader of the Government.

Senator Harder, in July the Government of Ontario requested $200 million from the Trudeau government to cover the cost of the so-called irregular migrants who poured into our province seeking asylum in response to the Prime Minister's infamous "Welcome to Canada" tweet. I remind you that 40 per cent of the shelters in Toronto are now occupied by people who have illegally entered Canada.

Last week, the Government of Quebec requested $300 million to cover the cost related to its asylum seekers.

Senator Harder, when will the government reimburse the provinces?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question. They are not "so-called." They are, in fact, asylum seekers.

The Government of Canada has, for the last number of months, worked closely with municipalities and provinces to put in place a higher capacity to respond to this situation. Those discussions with provinces and municipalities are well advanced. The government has made a number of announcements. I would be happy to table the list. Further announcements will be made.

ORDERS OF THE DAY

CRIMINAL CODE
DEPARTMENT OF JUSTICE ACT

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR NON-INSISTENCE UPON SENATE AMENDMENTS ADOPTED

The Senate proceeded to consideration of the message from the House of Commons concerning Bill C-51, An Act to amend the Criminal Code and the Department of Justice Act and to make consequential amendments to another Act

Monday, December 10, 2018

ORDERED,—That a Message be sent to the Senate to acquaint Their Honours that the House respectfully disagrees with amendments 1 and 2 made by the Senate to Bill C-51, An Act to amend the Criminal Code and the Department of Justice Act and to make consequential amendments to another Act, as they are inconsistent with the Bill's objective of codifying Supreme Court of Canada jurisprudence on a narrow aspect of the law on sexual assault and instead seek to legislate a different, much more complex legal issue, without the benefit of consistent guidance from appellate courts or a broad range of stakeholder perspectives.

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

That the Senate do not insist on its amendments to Bill C-51, An Act to amend the Criminal Code and the Department of Justice Act and to make consequential amendments to another Act, to which the House of Commons has disagreed; and

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

He said: Honourable colleagues, I rise today to speak to the message received from the other place on Senate amendments to Bill C-51 and to urge this chamber's concurrence with that message. Adoption of the motion before us would allow Bill C-51 to become law before we rise for the winter break.

This would in turn bring into effect Bill C-51's important measures, such as the requirement of Charter-compliant statements for all government legislation, the expansion of "rape shield" provisions on the admissibility of evidence in sexual assault proceedings, and the provision that a complainant has the right to legal representation in that context.

For senators who did not review Bill C-51 at committee and whose focus has been on the amendments at issue in our third reading debate, let me say more broadly a few words about the bill.

As I said, Bill C-51 brings in key reforms. First, it will modernize the Criminal Code to remove or amend provisions that have been found to be unconstitutional by the courts.

It will also amend the Department of Justice Act to create a statutory duty to table a Charter statement for every piece of government legislation to outline its impacts on the rights protected in the Canadian Charter of Rights and Freedoms.

Lastly, Bill C-51 proposes changes to the law of sexual assault.

The bill creates a legal regime that applies where an accused has a complainant's private records that they wish to present as evidence at trial. This regime will ensure the privacy of complainants is appropriately protected and that only relevant evidence is admitted at trial.

In addition, the bill makes clear that complainants whose records are at issue have the right to be represented by counsel so that their legal interests can be properly and effectively set out for the court.

Finally, Bill C-51 seeks to clarify the law of sexual assault, including the issue of capacity to consent to sexual activity.

Let me begin with some background.

Bill C-51's amendments concerning the capacity to consent to sexual activity have been grounded in the principle that the law, as written, must reflect the law as applied.

It is for this reason that the government has proposed to codify a principle as articulated by the Supreme Court of Canada, namely, that where a complainant is unconscious, there can be no consent.

This principle is drawn directly from the Supreme Court's 2011 decision in *R. v. J.A.*

Bill C-51 also states expressly that no consent is obtained if the complainant is incapable of consenting to sexual activity "for any reason other than" unconsciousness. This language seeks to make it explicit in our written laws that there are many possible reasons a person may be incapable of consenting to sexual activity, short of unconsciousness.

The proposed wording of Bill C-51 is consistent with the recent findings of the Court of Appeal of Alberta in *R. v. WLS*. This case concerned allegations of sexual assault and unlawful confinement. The victim had been drinking and consuming pills prior to being assaulted.

The trial judge acquitted the accused of both charges. On appeal, the Court of Appeal of Alberta found that the trial judge, in acquitting the accused, had mistakenly believed that a finding of unconsciousness was needed to establish incapacity. The Court of Appeal quickly concluded that this was clearly an error in law on the part of the trial judge.

Bill C-51 would clarify the Court of Appeal's finding in the Criminal Code.

The bill expressly states that no consent is obtained if the complainant is incapable of consenting to sexual activity "for any reason other than" unconsciousness.

This language seeks to make it explicit in our written laws that there are many possible reasons a person may be incapable of consenting to sexual activity, short of unconsciousness.

It is the government's view that Bill C-51, without Senate amendments, provides clear and unambiguous direction to courts to consider not only unconsciousness but any and all reasons why a person may be incapable of consenting.

Following the passage of Bill C-51, it would be contrary to a clear provision of the Criminal Code for a judge to decide that a finding of unconsciousness is needed to establish incapacity. Such an error in law would also, of course, violate appellate-level jurisprudence, which I would emphasize on the record today.

During consideration of this legislation, some stakeholders have said that stating there can be no consent where a person is unconscious is unhelpful because it simply states the obvious. However, the very reason the government has sought to codify this principle is to ensure that there is no room for ambiguity, and therefore, to prevent misapplications and to ensure a clear understanding of the law.

I also wish to acknowledge that changes made to Bill C-51 in the other place codified another important principle from *R. v. J.A.*, which is that consent must be contemporaneous with the sexual activity in question.

These important changes reflect well-established principles in Canadian jurisprudence, as well as the views of important stakeholders.

I understand that some witnesses wish Bill C-51 went further and addressed an entirely different issue — that is, articulating a test concerning when someone may be incapable of consenting to sexual activity for reasons other than unconsciousness. The amendments proposed by the Senate to respond to these concerns have now been respectfully declined by the other place.

• (1500)

In explaining why she was unable to support the amendments, the minister stated that the amendments:

> . . . though very laudable in their aim, unfortunately do not assist courts in adjudicating incapacity cases.

For example, the Senate amendments focus on instances when a complainant is conscious but intoxicated.

The government is concerned about the impact of the amendments on other types of incapacity cases, for example, those involving individuals living with cognitive disabilities.

Also, by focusing on elements internal to the complainant, there is a concern that the amendments could lead some courts to overlook relevant circumstantial evidence when determining capacity.

Moreover, should the factors listed be considered the principal indicators of whether someone was incapable of consent is a worrying question. How would a police officer or a prosecutor decide whether to lay a charge or proceed with a prosecution? And are there factors intended to apply to all types of incapacity cases? These are relevant and difficult questions that, to some extent, might be unavoidable and applicable today. But the fact remains, if we put these changes into our law, then we need to understand what they entail.

It is the government's view that there is a risk that, instead of clarifying the law in this difficult area, the proposed amendments would only confound it.

Another concern that the Minister of Justice referenced is that the changes proposed by the Senate would not be prudent without the benefit of more comprehensive analysis and consideration.

I share concerns expressed that, though we may have had the benefit of some witness testimony on this issue, the government has not heard from a full range of stakeholders in the justice system who may be able to assist us. That is why I was pleased to hear the Minister of Justice in her speech in the other place commit to consulting on and studying the issue of capacity to consent while conscious.

I would note that a Senate study on this issue could also be informative as no senator, I'm sure, would dispute we should do everything possible to ensure that Canadian sexual assault law is as clear and unambiguous as possible.

Honourable colleagues, as I said in my opening remarks, the issue of capacity to consent stimulated much discussion and debate both here and in the other place, and that dialogue has served a valuable purpose in generating public discourse and promoting public awareness of this issue.

I want to recognize the leadership of honourable colleagues. I would especially like to reference Senator Pate for engaging this chamber and the other place in an important conversation regarding the law of consent and sexual assault. For too long this issue has received inadequate attention and action both in Parliament and in Canadian society. I applaud and thank senators who have highlighted this unfortunate fact in the course of our proceedings in this chamber.

In the context of Bill C-51, Canadians should know that justice for victims of sexual assault and prevention of this reprehensible crime are of central concern to the government and the Senate alike. Victims of sexual assault require justice in both legal processes and its outcomes. That is why, for example, the government has supported private member's Bill C-337, currently before our Legal and Constitutional Affairs Committee, which would establish sexual assault training for judges. That is also why the government has taken other critical steps on this issue.

As the minister stated last week:

> Addressing violence against women is an issue of the utmost importance to me and to our government as a whole. We remain deeply committed to ensuring that our criminal justice system is responsive to the needs of sexual assault victims.

To that end, the government has provided significant funding for judicial education relating to sexual assault law so that judges are better educated. As well, millions of dollars have been made available through the victims' fund to improve the criminal justice system's response to sexual violence. Resources are funding important pilot projects in Ontario, Saskatchewan, Nova Scotia, and Newfoundland and Labrador to provide four hours of legal advice to victims of sexual assault at no cost to them.

The overarching goal of these efforts, and the provisions of Bill C-51, is to help effect a culture shift in the criminal justice system so that sexual assault complainants feel empowered to come forward. That is why I would urge this chamber to adopt this motion to concur with the other place and to respect the carefully considered legal position outlined by the Minister of Justice in her statement in the other place.

The government has heard senators' concerns about the judicial system's approach to sexual assault proceedings. The difference of opinion between this place and the other place is not about public policy objectives, which the government and senators share. The difference of opinion here concerns statutory language and ensuring a comprehensive process for formulating that language.

We owe it to all Canadians to ensure that the laws we pass are clear and will be properly applied.

In conclusion, I would like to add that the Senate's important work in this area does not end with the acceptance of this message. As I mentioned earlier in my remarks, Bill C-337, now in committee, has been in the Senate since May of last year. First brought forward by former Leader of the Opposition in the other place, the Honourable Rona Ambrose, this private member's bill also addresses some of the concerns raised in our debate on Bill C-51. I urge all senators to make every effort to move forward expeditiously on that important and timely bill.

Honourable colleagues, as I said at the outset, Bill C-51 as a whole will make important changes not just to the law of sexual assault, but to other fundamental issues like ensuring our Criminal Code provisions reflect the law as applied, and demonstrating respect for the Canadian Charter of Rights and Freedoms when tabling legislation.

Bill C-51 was first introduced by the Minister of Justice in June of 2017. Both in this house and in the other place, the bill has benefited from thorough examination. The bill has received unequivocal support in the other chamber in its unamended form. Indeed, the vote last night on the Senate amendments in the other place was decisive to send a message respectfully declining the amendments.

I would encourage my colleagues to move forward with this important piece of legislation as it represents an opportunity to continue some of the important work we have brought to bear on Bill C-51.

Turning to the specific motion before us, I believe it is time to move forward with the legislation and to bring these important measures into effect. Thank you.

[*Translation*]

Hon. Renée Dupuis: Would the Government Representative in the Senate take a question?

[*English*]

Senator Harder: Yes.

[*Translation*]

Senator Dupuis: Senator Harder, I want to make sure that I understand the part of your speech on Bill C-51 about sexual assault. Did the minister make a commitment in the other place to study the issue of incapacity to consent, including for reasons other than unconsciousness?

[*English*]

Senator Harder: As I indicated, the minister made a commitment in the other place to consult with a broad set of stakeholders to reflect on how the law might be adapted to recognize that there are causes outside of unconsciousness that need to be part of it without having to deal with the consequence of a narrow list, which could confuse charging judges.

Hon. Kim Pate: Thank you, Senator Harder.

Honourable senators, since this may be my last intervention this year and in this particular chamber, I want to first take the opportunity to thank each of you on your work for all Canadians and express the appreciation for the trust placed in us to be our country's independent, democratic chamber of sober second thought.

As we prepare to break for the holidays, I wish all of you, your staff, and administration staff throughout this place and their loved ones a lovely holiday season and a happy, healthy and hopeful new year.

Honourable colleagues, on behalf of all Canadians, I rise today to express my disappointment with the message from the other place concerning Bill C-51. This message asks us not to insist on amendments we made to clarify the law with respect to capacity to consent to sexual activity. As Minister Wilson-Raybould noted during debate in the other place, sexual assault remains a fundamental barrier to women's equality in this country.

• (1510)

When we voted on these Senate amendments at third reading, I was honoured and humbled to stand together with all of you in this place of power and privilege to support marginalized women and girls and, in particular, poor, disabled, gender non-conforming, racialized — particularly Indigenous — women and girls who continue to be over-represented among victims and survivors of sexual assault.

The Senate amendments aim to provide guidance about where and how to draw the line regarding capacity to consent, and not only for police, judges, and lawyers. Laws are also a key way to communicate to Canadians what behaviour is and is not acceptable and lawful. We understood these amendments would resonate beyond the legal community in homes, schools, at social and public events and in workplaces. We hoped they might also be a catalyst for education, particularly among young Canadians, about the harmful stereotypes and misconceptions that enable sexual assault and prevent too many from ever reporting.

This is a hope shared by many women and young people who have contacted us during the month of uncertainty as these crucial amendments sat unaddressed in the other place. This past week, as the debates in the other place made clear, they would be rejected. Without exception, all who reached out to us confirmed the need for the amendments.

I recognize and appreciate the time that the other place took to consider and debate the merits of these amendments before their vote on our message. As the Senate prepares to yield to the decision of the other place, however, and with the greatest respect, I have grave concerns not only about the consequences of the other place's decision but that the reasons for this decision have yet to be made clear.

First, contrary to some of the concerns raised in the other place, there were not last-minute changes. The need for these amendments was first specifically explained on June 8, 2017, in a letter to the Minister of Justice signed by numerous professors and others with sexual assault law expertise. These changes were repeatedly urged before the house committee that studied the bill in the fall of 2017. They were reiterated not only in the Senate but also once the Senate amendments passed in a follow up November 2018 letter from academics and other experts to the Minister of Justice.

The message from the other place states that the Senate amendments are "inconsistent with the Bill's objective of codifying Supreme Court of Canada jurisprudence on a narrow aspect of the law on sexual assault." Yet, from day one of their outreach to the department, sexual assault law experts were unequivocal: Bill C-51's wording, by providing "unconsciousness" as the only example of what it means to be incapable of consent, does not actually codify the decision of the Supreme Court in *R. v. J.A.*.

Those experts in sexual assault law made clear at committee here and in the other place, as well as in open correspondence, that focusing on unconsciousness will fail to protect women who are incapable of consenting but still conscious, whether because they have been awoken from sleep, are extremely intoxicated through the voluntarily or involuntary consumption of alcohol or drugs, or because they experience cognitive disabilities. *R. v. J.A.* does not direct us toward this undue focus on unconsciousness at the expense of other situations of incapacity. This is simply not the law.

The example of unconsciousness fails to challenge the harmful and still far too prevalent misconception that if a woman is incapacitated but still conscious, she may still have "consented." In short, the emphasis on unconsciousness risks reinforcing the unacceptable view that has influenced some trial judges in this country, who have tended to equate incapacity with unconsciousness and who have failed to protect the sexual autonomy of women who are incapable of consenting due to sleep, mental disability or intoxication.

The minister also stated that the proposed amendments

> . . . focus on concerns that arise in cases where the complainant is conscious but intoxicated. As a result, the government has concerns about the potential impact of the amendments on the law governing incapacity to consent in other types of incapacity cases, . . . such as individuals living with cognitive impairment.

Professors Elizabeth Sheehy and Janine Benedet, leading Canadian experts on sexual assault and intellectual disability, both testified to this question at committee in the other place. They affirmed that the types of factors included in the Senate amendments would strengthen the protections for those with cognitive disabilities. They and other experts have noted that a narrow focus on unconsciousness renders complainants invisible and does nothing to clarify the law with respect to the capacity of those who are disproportionately targeted for sexual assault and exploitation.

Despite their attempts to discuss concerns with the Department of Justice dating back to June 2017, sexual assault law experts report that they were not consulted.

A second concern emerging from the debates in the other place is the implication that it is not the place of Parliament to go beyond codifying important Supreme Court of Canada decisions. The message from the other place states that the Senate amendments "seek to legislate a different, much more complex legal issue, without the benefit of consistent guidance from appellate courts or a broad range of stakeholder perspectives."

As recognized in the *R. v. J.A.* decision itself, it has always been the role of Parliament to lead, not to follow, with respect to sexual assault law. Had Parliament confined itself to the narrow role of legislating appellate decisions, we would not have the current consent provisions. These provisions arose not from the common law but instead from the submissions of women's groups and sexual assault law experts who urged Parliament to enact consent provisions that would protect women's sexual autonomy and equality rights.

The lack of clear appellate court guidance is precisely what made the Senate amendments necessary. They consist of three non-exhaustive factors to consider when assessing capacity. They aim to assist judges in applying complex and sometimes contradictory case law in order to carry out the most fulsome inquiry possible in all relevant circumstances. At the very least, it seems difficult to conclude that they would not result in a more thorough and thoughtful assessment of consent than the current wording of Bill C-51.

While some courts, such as the Nova Scotia Court of Appeal in *R. v. Al-Rawi*, rejected one factor listed in the Senate amendments, that is, incapacity to communicate consent as part of its test for incapacity, the court in *Al-Rawi* nonetheless noted:

> This is not to say that evidence tending to demonstrate a complainant's incapacity to communicate consent is irrelevant. Far from it. Incapacity or patent defects in being able to communicate may well be cogent circumstantial evidence of lack of capacity to consent.

It is also noteworthy that when the Court of Appeal set out its test for incapacity, the only two considerations included in this test both appear as factors for consideration in the Senate amendments, namely, understanding the nature of the specific sexual act in question and understanding that one has a choice as to whether to participate or decline to participate in the act. As such, given the emphasis that appellate courts have placed on these same factors, the government's concerns about unduly focusing on elements internal to the complainant at the expense of overlooking relevant circumstantial evidence seem rather incoherent.

Furthermore, consent itself is assessed subjectively, and capacity to consent is inherently a matter of a complainant's subjective capacity. In fact, all of the factors included in the Senate's amendment lists, in a non-exhaustive fashion, can be assessed by both the complainant's testimony, subjectively and by the evidence of other witnesses and circumstantial evidence objectively. The Senate bill in no way unduly focuses on the complainant's internal state nor is there any reason to assume it would discourage judges from considering relevant circumstantial evidence in assessing a complainant's internal state at the time of the incident.

Throughout the debate on the Senate amendments, some have doubted whether further guidance is necessary on the grounds that judges know the law and will be sure to carry out fulsome inquiries into capacity. Ironically on October 30th, the same day the Senate passed the amendments, the Alberta Court of Appeal was hearing a sexual assault case involving a trial judge who had equated incapacity with unconsciousness. You heard correctly, colleagues, the very error so many of us are concerned about continues to plague courts.

In *R. v. WSL*, the Court of Appeal concluded:

> The trial judge's reasons are not expansive, but we can infer from the questions the trial judge asked of counsel during argument that she acquitted because she did not find that "unconsciousness" was the only reasonable inference available on the evidence. We infer from that finding that the trial judge believed nothing short of unconsciousness was sufficient to establish statutory incapacity. This is an error of law.

• (1520)

While this erroneous understanding of law was corrected on appeal, we know that the vast majority of cases are never appealed. Furthermore, the vast majority of sexual assaults are never reported to police, let alone tried in court. This lack of reporting is due in large part to harmful stereotypes that Bill C-51 risks encouraging.

Honourable senators, I am heartsick, frankly, when I think of all those across Canada who have contacted us and our colleagues in the other place to insist that we send a clear message about incapacity to consent. From rape crisis centres and transition houses, to numerous young women and men, from high schools and universities, they want to know why we did not pass these amendments. I cannot give them a clear reason why — why the government intends only to codify something so narrow, despite concerns that the method they have chosen does not reflect the law; what intended consequences they foresee related to the Senate amendments; why further consultation is not also required before enacting the reference to unconsciousness, when experts have raised such significant concerns about this wording.

I appreciate that the minister has committed to consulting with stakeholders. I trust that more details about consultation will follow and that the experts whose testimony was so helpful to the Senate at committee, as well as the grassroots organizations that have reached out to us in support of these amendments, will be given full opportunity to participate. Some were being contacted individually yesterday. I trust this consultation process is something in which we, honourable colleagues, will have a role, given the understanding — which I believe we share with the minister — of the importance of standing together against violence against women and in support of a fairer and more equal society for girls and women.

We know we can and must do better. Now we must join forces and ensure, with the government, that we will.

Thank you, *meegwetch*.

Hon. Nancy J. Hartling: Will you take a question, Senator Pate? Thank you very much for your good work on this issue. I stand with you. It is a very difficult situation. As we know, thousands of women across the country are affected by this.

I was pleased to hear that we will have consultations, but I would like to hear from you what these consultations could bring to us that might change the situation. Also, what role could the Senate play in looking further at the situation so that we don't allow it to die off? It is a very serious issue.

Senator Pate: Thank you. I'm not certain what the government has planned in terms of consultations. As I mentioned in my comments, I learned yesterday that some of the individuals who had written to the Minister of Justice were receiving individual calls. I am hopeful there will be a detailed consultation.

As some of you are aware, had we received this message earlier, I was going to propose that we send this back to the Senate Legal Committee to consider what are the unintended consequences and to examine the information that is alluded to. That opportunity does not present itself without unduly delaying us in this chamber, so I chose to provide this information.

My hope is that we will, in fact, be involved in a fulsome consultation very soon. Some have been contacted and been advised that, as early as January, this consultation should occur. My hope is that all of us will be invited to participate in that.

Hon. Ratna Omidvar: Would the honourable senator take another question?

Senator Pate: Yes.

The Hon. the Speaker: I'm sorry, Senator Omidvar, but Senator Pate's time has expired.

Are you asking for five more minutes, Senator Pate?

Senator Pate: Yes, thank you.

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

Hon. Senators: Agreed.

Senator Omidvar: Senator Pate, I too commend you for your work and steadfast commitment to this issue. I don't know the legislation as well as you do. Could you tell us whether the legislation includes a review clause after a certain period of time?

Senator Pate: My understanding is that any one of the committees, including Legal and Constitutional Affairs, could choose to review the legislation at some point. We could certainly make that a recommendation if it is something you are interested in doing.

Senator Omidvar: I was asking for clarification on whether a review clause is embedded in the legislation.

Senator Pate: No, it is not.

Hon. Colin Deacon: Honourable colleagues, I had hoped that I would not be rising again to speak about Senator Pate's amendment to Bill C-51.

I was proud of the work — as was she, and many of us — undertaken by the Senate in this regard and, in particular, the study by the Legal and Constitutional Affairs Committee and the thoughtful examination in this chamber of Senator Pate's amendments. I was also pleased to hear Senator Harder's earlier comments in this regard.

While I am obviously disappointed that the other place chose not to accept these amendments, I appreciated the extensive debate that took place in the house last week. As I mentioned in my previous speech on this topic, I firmly believe that what our society needs is more discussion on the subject of consent. We know from other examples that drawing attention to these matters can, in fact, result in change.

Last month Statistics Canada reported that the number of police-reported sexual assaults in Canada had increased quite significantly.

> Data provided by police services in Canada show a marked increase in the number of victims of founded sexual assaults during October 2017 — the same month that #MeToo went viral — with nearly 2,500 victims of sexual assault. The number of sexual assaults reported by police in October and November 2017 was higher than in any other calendar month since comparable data became available in 2009.

The report was careful to note that the numbers were not presumed to suggest an increase in incidents but, rather, an increase in reporting:

> This sharp increase in police-reported sexual assaults following the #MeToo movement does not necessarily reflect a rise in the prevalence of sexual assaults in Canada, but is likely attributable to a combination of factors, including an increased willingness of victims to report to police. Other factors include a heightened awareness among Canadians of what constitutes sexual assault and public announcements by police services to encourage victims to report.

This is encouraging. I raise this point because it illustrates that discussion around an issue can help to cause real change. This is what I was hoping Senator Pate's amendments might enable.

Honourable senators heard me quote statistics in my speech. I have to say that I have been unable to get them out of my head. Every day there are more than 150 self-reported cases of sexual assault where the victim was unable to consent because they were drugged, intoxicated, manipulated or forced in ways other than physically.

It is unconscionable: an average of over 150 every day in Canada. I have spoken about this issue with many people outside of this chamber. I was struck, in particular, by reactions I got from millennials. They seemed utterly gobsmacked to learn that clear explanations around the issue of consent are not already enshrined in law.

We truly have a problem in this country as it relates to consent. Far too many women — because it is primarily women — are being sexually assaulted. Far too few are reporting these assaults — only 1 in 20 — largely because of a lack of confidence in our judicial system. We need a comprehensive strategy to materially reduce the number of sexual assaults and increase the percentage of those that are reported and prosecuted. I had hoped that Senator Pate's amendments could be a first step.

I was happy to hear some of the things the Justice Minister had to say on the issue of consent and that she largely agreed with the work of this chamber. She said:

> I would like to be clear. I agree that courts could benefit from guidance in making determinations on a complainant's incapacity to consent when he or she is conscious. The proposed amendments underscore some very significant issues in the area of consent. I also agree that intoxication, short of unconsciousness, represents challenges in the adjudication of sexual assault cases.

This, colleagues, is an important statement. I am pleased that the Minister of Justice put it on the record.

She also stated that she looks forward to "the bill's expeditious passage." We have heard from Senator Harder that the Senate is now expected to deal with this message from the House of Commons in a most expeditious manner.

I have to say that, while I am still learning my way in this place, I found the different perspectives related to timing a bit perplexing. Senator Pate introduced her amendments on October 16. After a comprehensive debate, this chamber passed those amendments on October 30, two weeks later. That was just over five weeks ago, and now this chamber must immediately consider and accept the message from the other place, lest we delay government legislation. I do not intend to be obstructionist or to contribute to any perceived delay, but it certainly seems to me that the Senate did its work expeditiously.

In her speech, the Minister of Justice also noted that there is a risk of unintended consequences if we pass these amendments without further detailed study. I'm still not certain I agree with that assessment based on the advice I've been given from legal experts. Regardless, I think it's something that our very capable Standing Senate Committee on Legal and Constitutional Affairs could have undertaken had we received a message back in a more timely manner.

• (1530)

Of course, as Senator Pate noted, it would have been optimal if key stakeholders had the opportunity to be heard before the Minister of Justice introduced the provisions regarding consent in Bill C-51.

I want to finish by saying that people listen to what we say and do in this chamber. I was not yet appointed to the Senate before the Honourable George Baker reached his mandatory retirement age, but it's rumoured he used to read case law for fun — I can't imagine that — and would regularly update this chamber on what he read. A recurring theme was that he would emphasize how often the Senate and Senate committees were quoted — always at a much higher rate than the House of Commons. He has previously told this chamber that we're quoted in case law three times more often than the House of Commons, not just referring to cases before the courts but before quasi-judicial bodies.

The work we do here is important, colleagues. While I'm disappointed with the outcome of the amendments to Bill C-51, and it wasn't what I'd hoped, I remain very proud of the debates we have had on this important issue.

I am also at least somewhat reassured by what else the Minister of Justice said:

> . . . I will and have committed to study the issue of incapacity, with a view to striking the right balance on this important matter. I am grateful to the witnesses who appeared before the Senate committee for suggesting that this issue be the subject of further study. I look forward to consulting with them further as part of my future review.

This is an important commitment. I will be watching closely to see real progress from this work and I'm sure I will not be the only one.

Earlier this afternoon, I spoke with Glen Canning, Rehtaeh Parsons' father. He is regularly invited to speak to police forces and schools across our country. He says it's frightening to see how many boys and girls in high school simply have no understanding of the basic issues related sexual consent and sexual assault. It is harm ready to happen. I share his belief that the discussions proposed by the Minister of Justice need to include not only the judiciary but educators as well. This is because our education systems can and should play an important role in empowering all students to make better decisions around the issue of sexual consent, a key element to dramatically reducing the overall number of sexual assaults. At the same time, our justice system needs to become unrelenting in its efforts to dramatically increase the levels of reporting as a measure of public confidence. Both will be relying on appropriate guidance in our Criminal Code. We must get it right.

Honourable senators, I would argue that counting on appellate courts to overturn glaring errors does little to build public confidence — quite the opposite.

Those of you who have participated in committee meetings with me will know that my focus is on benchmarks and tangible results. I'm pleased to hear the Minister of Justice will now be consulting with those who are dealing with sexual assault issues on a daily basis. I encourage her to reach beyond the judiciary and into educational settings as well. I look forward to this occurring expeditiously.

We've all heard the stories. We've seen the facts. We know the devastating effects. Now we need to see real action.

Thank you, colleagues.

Hon. Lillian Eva Dyck: Honourable senators, I rise to say a few words on this motion, like my colleagues before me.

Thank you, Senator Pate and Senator C. Deacon. You have given absolutely tremendous speeches on this important issue.

I, too, was disappointed in the government response. My thoughts this afternoon are basically that the government appears to be abdicating their legislative responsibility. I say that for two reasons. First, they have focused on a private member's bill, Bill S-337, saying we need to take action on that rather than action on their own government bill, Bill C-51. They should be taking action forward. They shouldn't be relying on a private member's bill. To me that's abdicating responsibility.

Second, focusing on the issue of trying to find guidance from appellate courts is abdicating your responsibility. Appellate courts are not the bodies assigned the legislative responsibility.

Honourable senators, I cannot help but think back to when we were dealing with Bill S-3 on changes to the Indian Act, which were meant to remove all gender discrimination. In that case, the government took a similar approach in which they had a court decision that said they had to fix the Indian Act by December 2016. What did they do? They took a narrow action. They didn't remove all of the problems; they removed some of the problems.

That's pretty much what's happening here in Bill C-51. They've taken a narrow action. They haven't done the complete job, so, of course, people are disappointed. They wanted to see this filled out. Senator C. Deacon's comments about our young people not knowing what consent means is important not only to the boys and the girls but to both sexes. They have to know what are the legal ramifications.

In Bill S-3, the government took this narrow approach, like they are doing here, and we received the bill. We didn't like it. We sent it back. They had to get an extension. We still didn't like it. They had to get another extension. During the deliberations of the court, when they were looking at the granting of extensions, the court decisions said, for instance, that when Parliament chooses not to consider the broader implications of judicial decisions by limiting their scope to the bare minimum, a certain abdication of legislative power in favour of the judiciary will likely take place. I would argue that's exactly what's happening here. It's a similar situation, where the government has not taken up its legislative power. It's leaving it up to the courts to decide.

In this decision, Justice Chantal Masse goes on to say:

> In such cases, it appears that the holders of legislative power prefer to wait for the courts to rule on a case-by-case basis before acting, and for their judgments to gradually force statutory amendments to finally bring them in line with the Constitution.
>
> From the perspective of Canadian citizens, all of whom are potential litigants, the failure to perform this legislative duty and the abdication of power that may result are obviously not desirable.

I would say those words also apply to what's happening here with Bill C-51 as they applied to Bill S-3. The government has given up its powers to the courts, and I don't think that's the right way to go.

Another decision states:

> Courts are not and should not be the only ones bearing the responsibility of innovating to protect fundamental rights and the rule of law, even if they hold a central role as guardians of the Canadian Constitution.

So, the government took this narrow view. We have experts, as Senator Pate pointed out, and affected people contacting us and saying it needs to be changed. Yet, we have not done that. Senator Colin Deacon knows these statistics very well. We have let down thousands and thousands of women who are vulnerable to violence. We have let down the youth because we have to let our youth know what the laws are. What is consent? Our young people need to know. It's deeply disappointing. When are we ever going to take that stance?

I will vote against accepting the message from the House of Commons. Thank you.

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

Hon. Senators: Question.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

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

Hon. Senators: Yea.

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

Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "yeas" have it. On division or do I see two honourable senators rising?

And two honourable senators having risen:

The Hon. the Speaker: Do we have an agreement on a bell?

Senator Plett: Fifteen minutes.

Senator Mitchell: Fifteen minutes.

The Hon. the Speaker: Fifteen minutes. The vote will take place at 3:55.

Call in the senators.

• (1550)

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Batters	McInnis
Bellemare	McIntyre
Beyak	Mitchell
Bovey	Mockler
Brazeau	Moncion
Busson	Neufeld
Campbell	Oh
Cordy	Omidvar
Cormier	Patterson
Dagenais	Petitclerc
Dalphond	Plett
Dawson	Poirier
Deacon (*Nova Scotia*)	Pratte
Dean	Ravalia
Doyle	Richards
Dupuis	Saint-Germain
Gold	Sinclair
Greene	Smith
Harder	Tannas
Hartling	Tkachuk
Klyne	Wallin
MacDonald	Wells
Maltais	Wetston
Martin	Woo—49
Marwah	

NAYS
THE HONOURABLE SENATORS

Downe	Marshall
Dyck	Massicotte
Forest	McCallum
Forest-Niesing	McCoy
Griffin	Mercer
Joyal	Munson
LaBoucane-Benson	Ngo
Lovelace Nicholas	White—17
Manning	

ABSTENTIONS
THE HONOURABLE SENATORS

Andreychuk	Frum
Bernard	Gagné
Black (*Ontario*)	Galvez
Boehm	Housakos
Boisvenu	Lankin
Boyer	McPhedran
Carignan	Mégie
Christmas	Miville-Dechêne
Coyle	Pate
Dasko	Seidman
Deacon (*Ontario*)	Simons
Eaton	Stewart Olsen
Francis	Verner—26

• (1600)

OIL TANKER MORATORIUM BILL

SECOND READING

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 C-48, An Act respecting the regulation of vessels that transport crude oil or persistent oil to or from ports or marine installations located along British Columbia's north coast.

Hon. Dennis Glen Patterson: I rise today to speak to Bill C-48, An Act respecting the regulation of vessels that transport crude oil or persistent oil to or from ports or marine installations located along British Columbia's north coast. This act, as you know, purports to protect the ecological diversity of northern B.C. by banning tankers with the capacity to carry equal to or greater than 12,500 tonnes or 90,000 barrels of crude and persistent oils.

As the critic for this bill, I have met with stakeholders and listened carefully in this chamber to arguments our honourable colleagues have made so far. I have kept an open mind because, contrary to some beliefs, as a member of Her Majesty's Loyal Opposition, I am not anti-environment. In fact, it is quite the opposite. As a senator for Nunavut, I understand the need to protect a diverse and pristine ecosystem that Indigenous peoples rely on for subsistence and commercial fishing. But the approach in the North has been to balance the traditional needs of the people with the economic opportunities provided by the land and resources.

In addition to supporting a balanced approach to economic development and environmental protection, I support the creation of strong policies based on science and facts. The concerns I have with this bill are concerns I've also heard reflected in the speeches of other non-Conservative senators in this chamber.

Senator Pratte, for instance, asked:

> . . . is a prohibition of tanker activities the best way to achieve that protection? Does it reflect a balance — the balance that the current government is seeking — between environmental protection and economic development?

Senator McCoy later raised the issue of Canada's constitutional duty to ensure all Canadians have equal access to economic opportunities that would reduce the disparities between communities. She spoke of Canada ". . . as a role model for pluralistic societies that honour the aspirations of many different interests in our society —".

Colleagues, this is not a partisan issue. This is a good governance issue. I've always believed policies should be fair, consistent and balanced based on the expert advice heard at committee and through stakeholder engagement.

Over the past two weeks, I have heard competing advice from First Nations leaders. Last week, I heard compelling testimony from the Coastal First Nations group, whose concerns were eloquently raised by Senator Harder. I met with them, and thanks to Senator Neufeld, I also met with the Nisga'a and other coastal nation leaders last week.

The Nisga'a were compelling. The senior representatives of the first modern-day treaty for Canada, signed in 2000, had this to say: The treaty includes detailed environmental assessment provisions for the entire Nass Valley area. The Nisga'a will never support a project which will jeopardize our good. We need to have a meaningful say. The government has proceeded without any accommodation with the Nisga'a. The modern treaty opened the door to the development of our natural resources, they told us, yet Bill C-48 was introduced without any meaningful dialogue and despite pleas that Bill C-48 should not cover the Nisga'a treaty area.

A 2015 cabinet directive, which set out the process for federal engagement, clearly fell far short of what was expected, they said. Bill C-48 is not based on science. It's something else, they told us. It is an arbitrary choice of coastline. We have successfully negotiated pipeline rights-of-way over our lands. We have undertaken exploration of whether an export industry on our lands is economically feasible, capitalizing on our proximity to Asia. The economic development door will be slammed shut for North coastal nations.

Today, a group of chiefs representing 200 First Nations and several Indigenous-led professional organizations, including the Indian Resource Council and the Aboriginal Skilled Workers Association, delivered a passionate plea to either stop or amend the bill. We heard of their initiative, the Eagle Spirit pipeline, which hopes to bring economic prosperity and stability to First Nations in B.C. and Alberta, all along the planned route.

I would like to thank Senator Neufeld for organizing this briefing today. It was unfortunate that so few senators were able to attend this morning.

Honourable senators, we have a duty to hear all points of view on this controversial issue. We have a duty to take a balanced approach to issues of environment and the economy.

• (1610)

Calvin Helin, president of Eagle Spirit, described their initiative as follows:

> We spent six years designing the highest environmental model in the world. We have a solution where we can take the upgraded bitumen right out of the ground. It can be done in a way that, on 200 million barrels per year, would reduce CO_2 emissions by 100 megatons, one seventh of the current standard in Canada.

The process will leave all the heavy metals and most of the CO_2 in the ground and minimize the use of water by recycling and recirculation.

We have all of the solutions. If this bill is passed the way it is, this government, which purports to be a reconciliation government, would be forcing the poorest people in the nation to fight this government to overturn this legislation.

Some of the additional comments I heard which struck me include:

> We've got to get work for our people. The fishing and forestry industry are dead. We've lost our industries. This is a new industry. This is a way to defeat poverty on our reserves. We don't want to keep begging and borrowing. Why run an industry which is paying for a good part of our social programs in Canada out of the country?

Chief Martin Louie of Nadleh Whut'en added, "We had to ask, 'what can this land do for our children?' . . . If you look at your children and look at our children, we had no choice. . . This will bring more money for proper housing, money for better roads and better schools. We're here today to do something for our people."

We also heard more strong opinions that consultation was sorely lacking on this bill, which has caused so much polarization and discord among coastal Aboriginal peoples. Spokesperson after spokesperson decried the lack of consultation:

> If this bill passes, the colonial government will say what's best. An announcement by a federal minister is not consultation. This does not even amount to note taking. The high standards required by the courts have not been met.

Currently, there is a civil claim in the Supreme Court of B.C. filed by Lax Kw'alaams, represented by their mayor John Helin, on behalf of all nine tribes of Lax Kw'alaams, against the Attorney General of Canada, which claims Lax Kw'alaams was not appropriately consulted and that Canada, through this bill, is infringing upon the nation's ability to control the use of their traditional lands. The claim is currently being held in abeyance pending the passage of this bill.

After hearing these two markedly disparate views, I wonder whose advice I should heed. The delegation from Coastal First Nations told us they represented the voices of 10,000 First Nations members.

Today, my attention was brought to the fact that there are competing claims surrounding who can speak with authority on behalf of the First Nations along B.C.'s coast. In fact, this matter was considered by the courts once before in the case of the Petronas LNG project. A hereditary leader claimed to speak for the majority, but, according to the decision by Justice Barnes of the Federal Court here in Ottawa, "[The hereditary leader of Lax Kw'alaams] not only failed to produce evidence of community support, but what evidence there is suggests that he is opposed by a substantial number of Gitwilgyoots members. He has also declined to reach out to members of the tribe to ascertain their collective views on the basis that the task would be too difficult."

How unfortunate it is that this bill has divided Coastal First Nations who have coexisted for millennia. The question remains, who represents the voice of the majority? Who, of the two delegations, is empowered by their people to represent their interests? The best way to answer these complex questions is for the committee considering this bill to travel to the West Coast and hear from those directly impacted. I encourage the committee to do so.

Last week, I also heard from the Coastal First Nations that, in addition to their support for this moratorium, there is a strong desire to focus on fishing and tourism industries instead of opening up the opportunity for oil and gas transportation through the area.

However, honourable senators, these industries pose the same dangers to the environment as oil and gas. Perhaps even more of one due to the difference in safety requirements between tankers and fishing vessels or ferries.

Following the *Exxon Valdez* disaster of 1989, industry and governments worldwide embarked on the most far-reaching tanker safety initiatives in history. The United States passed the Oil Pollution Act, 1990, which mandated double-hulled construction for new tankers and introduced a phase-out schedule for single-hulled tankers. In 1993, the International Maritime Organization followed suit with its own mandate for the transition to double-hulled tankers.

Double-hull construction is a key innovation that is proven to prevent oil spills even when tankers are involved in major collisions. The IMO estimates that if double-hulled tankers had always been used, approximately 85 per cent of historical spills would have been prevented.

In 1995, Canada integrated the American and international requirements into the Canadian Oil Pollution Prevention Regulations. These regulations required all single-hulled tankers to be phased out by 2026. However, after the wreck of the oil tanker *Erika* off the coast of France in 1999, the deadline for phasing out single-hulled tankers was brought forward by more than 10 years, to 2015.

Today, every single oil tanker that transits Canadian waters must be double-hulled, making Canada one of 150 countries to institute this requirement. Since the introduction of double-hulled tanker requirements and other advances in tanker safety technology, the volume of tanker accidents worldwide has dropped from 56 per cent of tanker traffic to 1 per cent, according to the Resource Works Society's report entitled, "Citizen's Guide to Tanker Safety and Spill Response on British Columbia's South Coast."

As a member of the Standing Senate Committee on Energy, the Environment and Natural Resources, I was also privileged to travel with committee members to Valdez, Alaska. In our report, *Moving Energy Safely: A Study of the Safe Transport of Hydrocarbons by Pipelines, Tankers and Railcars in Canada*, we note the impressive spill response capabilities that have evolved since the last major disaster in that region.

In July 2013, committee members visited Valdez and met the U.S. Coast Guard, first responders and the tanker operator in the region. Committee members were most impressed by the extensive spill prevention, preparedness and response programs in the region. The region is supported by the Ship Escort/Response Vessel System, SERVS, which was created after the *Exxon Valdez* accident to prevent oil spills and provide oil spill response and preparedness capabilities. SERVS maintains a readiness to respond to a nearly 41,000-ton oil spill within 72 hours.

My goodness, we were even told that every ship's captain is tested for alcohol and drugs before a vessel sails. It's a most impressive regime.

Exxon Valdez is an old story. It would never happen today. I would suggest it's irresponsible to raise the spectre of *Exxon Valdez* in 2018. What is relevant to this debate about tanker safety in Canadian waters is that no comparable infrastructure or spill response capabilities exist in B.C.'s north coast. In fact, it was a recommendation of our Standing Senate Committee on Energy, the Environment and Natural Resources, in our report on the safe transportation of oil and gas, to increase the spill preparedness and response capacity to meet the unique needs of each of Canada's regions.

Why have we not done that? Sure, the north coast is a pristine environment. Why has the much-touted Oceans Protection Plan left out the north B.C. coast? This is something I think everyone, including all First Nations, can agree: Canada should be investing to provide industry-funded oil spill response capabilities on all our coasts. That is what we need, not a bill which will continue to allow close to 300 U.S. tanker vessels to pass just outside the so-called exclusion area. Not a bill which will allow all kinds of smaller vessels without double hulls, not requiring pilots, with significant fossil fuel cargoes to continue to sail in these waters.

• (1620)

Fishing vessels and cruise ships do not have the same double-hull requirements that tankers do. According to the Senate report:

> Tankers are not permitted to move through Canadian harbours or designated waterways without a professional pilot (in some cases two pilots are required) who have extensive knowledge of the local navigation route, including currents, subsurface features and marine infrastructure. Local pilots board tankers to guide them to their destinations safely.

These are not the same pilotage requirements set out for fishing vessels, tug boats and community resupply ships.

Additionally, according to Transport Canada's Port State Control Annual Report 2011, there were 1,033 vessel inspections; 35 per cent or 358 of which were tankers. Among the total of 34 vessels detained, only two were tankers.

Some honourable senators may ask, is it fair to compare the potential damage of a tug boat to an oil tanker? I would draw the attention of my colleagues to a recent spill off B.C.'s northern coast that was discussed during my meetings with Coastal First Nations. There were 110,000 litres of diesel fuel spilled by an American barge in October 2016. This spill has reportedly led to the destruction of the clam fishery in Heiltsuk Nation and led to an average loss of $200,000 per year for the last three years. Bill C-48 will not prevent accidents like this from happening in future.

A tanker ban is not the answer to the environmental protection of the region. What in fact would be a better use of resources would be to spend some of the $1.5 billion Oceans Protection Plan funding announced on November 7, 2016, on increasing the spill preparedness off B.C.'s northern coast.

Increased spill preparedness, colleagues, should also be driven by the fact that today, 8.6 billion gallons of oil flow from the Port of Valdez to the lower 48; 245 tankers passed off the coast of B.C. in 2017, and 287 tankers are expected to have passed by in 2018, just outside the current voluntary exclusion zone. Whether or not we approve this ban, the reality is that we have a lack of spill response and preparedness capabilities on the north coast. This is a big problem. This is what we need to address.

Speaking of the Americans, the Asian market is very hungry for oil. The Energy Committee has heard that the world demand for oil will continue to grow for many decades ahead, whether we like it or not — that the Eagle Spirit proponents have signed a memorandum of understanding out of desperation with the town of Hyder, Alaska, to ship Canadian oil under a U.S. flag from that port. This will be a $1 billion port creating 500 to 750 high-paying jobs if it goes ahead.

We should be keeping those jobs in Canada. The Governor of Alaska and senior Alaskan politicians have rolled out the red carpet for this initiative. Why should we have to put critical infrastructure in the hands of the U.S.? Why, the Eagle Spirit proponents asked us, should we run an industry that is paying a good part for social programs in Canada out of the country?

Other senators may be wondering if there are unique environmental characteristics in the region that justify a tanker ban, as Senator Harder advocated.

I encourage all senators to read the risk assessment conducted on behalf of Transport Canada in 2014. This report entitled *Risk Assessment for Marine Spills in Canadian Waters*, studied all marine shipping zones in Canada. Scientists involved in writing the report divided Canada's marine environment into 77 separate zones and calculated a score for each called the Environmental Sensitivity Index. This calculation incorporated three components: biological, the sensitivity level of natural resources that are affected by an oil spill; physical, the degree of difficulty involved in the coastal cleanup operations; and human, direct commercial losses caused by a spill in addition to the evaluation of the damage caused to social resources.

I have explained this index to give context to the following quote from the report:

> Environmental Sensitivity Index results indicate that the zones of highest potential impact were located in the Estuary and the Gulf of St. Lawrence as well as in the southern coast of British Columbia, including Vancouver Island.

At the risk of stating the obvious, neither of these areas is located in the Bill C-48 moratorium zone.

In closing, the scientific evidence is clear. There is no evidence-based case for imposing an oil tanker moratorium anywhere in Canada. And the case for imposing one in the Bill C-48 area is even weaker than in other areas of the country, where navigation and environmental risks are higher.

In the industry's safety record is a model for others to follow. Every large spill in recent memory in Canada was caused by a different industry. On the West Coast, the most recent large oil spill was from the MV *Marathassa*, a bulk grain carrier. The worst oil spill in the West Coast's history was the result of a passenger ferry shipwreck, the *Queen of the North* in 2006. Even if Bill C-48 had been in place, neither of those incidents would have been prevented.

I hope these concerns are thoroughly examined and addressed by committee, including on the West Coast, in their study of this bill, because as it stands now, I cannot support this legislation. Thank you.

Hon. David Tkachuk: I have a question. Senator Patterson, at the meeting we had this morning with a number of the Indian leaders, there were also steel and pipe unions who participated. Could you inform the Senate how many members those unions represented?

Senator Patterson: Yes, thank you for the question. Indeed, I did neglect to mention that there were three trade unions represented at the briefing this morning who are experts at building pipelines and anxious for work as they see opportunities dwindling in this great country of huge natural resource potential.

The three unions at the table told us that they represented 330,000 members. Thank you for the question.

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

Hon. Senators: Question.

The Hon. the Speaker *pro tempore*: It was moved by the Honourable Senator Jaffer, seconded by the Honourable Senator Cordy that this bill be read a second time?

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

Some Hon. Senators: No.

Some Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: On division?

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker *pro tempore*: I see many senators standing. Is there a time for the vote?

Senator Plett: Fifteen minutes.

The Hon. the Speaker *pro tempore*: The vote will take place at 4:43. Call in the senators.

• (1640)

Motion agreed to and bill read second time on the following division:

YEAS
THE HONOURABLE SENATORS

Bellemare	Griffin
Bernard	Harder
Black (*Ontario*)	Hartling
Boehm	Joyal
Bovey	Klyne
Boyer	LaBoucane-Benson
Brazeau	Lankin
Busson	Lovelace Nicholas
Campbell	Marwah
Christmas	Massicotte
Cordy	McCallum
Cormier	McPhedran
Coyle	Mégie
Dalphond	Mercer
Dasko	Mitchell
Dawson	Miville-Dechêne
Deacon (*Nova Scotia*)	Moncion
Deacon (*Ontario*)	Munson
Dean	Omidvar
Downe	Pate
Dupuis	Petitclerc
Dyck	Ravalia
Forest	Saint-Germain
Forest-Niesing	Simons
Francis	Sinclair
Gagné	Verner
Galvez	Wallin
Gold	Wetston
Greene	Woo—58

NAYS
THE HONOURABLE SENATORS

Andreychuk	McInnis
Ataullahjan	McIntyre
Batters	Mockler

Beyak	Neufeld
Boisvenu	Ngo
Carignan	Oh
Dagenais	Plett
Doyle	Poirier
Eaton	Pratte
Frum	Richards
Housakos	Seidman
MacDonald	Smith
Maltais	Stewart Olsen
Manning	Tannas
Marshall	Tkachuk
Martin	Wells—32

ABSTENTIONS
THE HONOURABLE SENATORS

Patterson	White—2

REFERRED TO COMMITTEE

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

(On motion of Senator Mercer, bill referred to the Standing Senate Committee on Transport and Communications.)

• (1650)

OCEANS ACT
CANADA PETROLEUM RESOURCES ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Bovey, seconded by the Honourable Senator Harder, P.C., for the second reading of Bill C-55, An Act to amend the Oceans Act and the Canada Petroleum Resources Act.

Hon. Dennis Glen Patterson: Honourable senators, I rise today to speak to Bill C-55, An Act to amend the Oceans Act and the Canada Petroleum Resources Act. This bill would enable the Minister of Fisheries and Oceans to create Marine Protected Areas, or MPAs, as well as enable the creation of interim MPAs pending a five-year review of the proposed area.

I've always taken my duty to represent the voices of my region in this hallowed chamber seriously. As such, one of my main concerns regarding this bill stems from concerns raised by the Government of Nunavut, the GN, and northerners.

In several letters sent to the federal government by the GN, both former Premier Peter Taptuna and current Premier Joe Savikataaq expressed concerns about the unilateral powers that would be granted to the Government of Canada in this bill. Namely, the GN is concerned with provisions in the bill that would give the Government of Canada the right to:

> Designate areas for marine protection without our consent in waters within or adjacent to Nunavut that we may consider for other purposes;
>
> Remove geographical areas from development that are currently subject to discussion at the devolution negotiation table; and.
>
> Prohibit access to petroleum resources without a provision for compensation for loss in opportunity for Nunavummiut.

Premier Taptuna's July 25, 2017 letter reminded Prime Minister Trudeau that:

> In the wake of the December 20, 2016 Canada-U.S. joint leadership statement all three territorial governments publicly expressed their deep disappointment with the unilateral decision made, without prior consultation, to impose a moratorium on new offshore petroleum licensing in the Canadian Arctic . . . .
>
> During our meeting in Iqaluit earlier this year you assured me that further unilateral decisions of this importance would not happen. I am deeply concerned that this is not the case. The federal government is currently reviewing the Canada Petroleum Resources Act (CPRA), creating Marine Protected Areas and removing potential areas of jurisdictional authority from the Government of Nunavut prior to the conclusion of devolution negotiations.

The last line is of particular significance, colleagues, because the lands and resources devolution negotiation protocol specifically mentions and acknowledges the GN's position "that a devolution agreement should make no distinction between resource management regimes onshore and in the seabed in and adjacent to Marine Areas." This protocol was signed in 2008 and continues to govern negotiations to this day.

Like any responsible government, the Government of Nunavut has developed strategies for the future development and prosperity of the territory. Cognizant that 85 per cent of Nunavummiut are Inuit, and operating on the Inuit principles of environmental stewardship, those strategies also include areas of interest for future conservation initiatives. This is why the co-development of MPAs is so important and why the granting of co-decision authority to adjacent jurisdictions to a proposed MPA is necessary.

Premier Savikataaq's most recent letter, sent on November 27, 2018, to the attention of Senator Manning as chair of the Standing Committee on Fisheries and Oceans, clearly states that:

> The GN highly values marine wildlife and believes that conservation and economic development are both important and have a role to play for the benefit of future generations. The GN is insisting that it be part of the process from the start.

In addition to the jurisdictional authority concerns that this bill raises, I am worried about the potential gaps in the "science-based" approach being touted by this government.

With the rise in global temperatures, the world's oceans are getting warmer. As this happens, huge stocks of fish, particularly shrimp and other cold-water marine life, are migrating further and further north. This could mean that large swaths of the Arctic Ocean could potentially be made into an MPA, only to find that several years down the road it had become a prime area for fishing. The process given under clause 6 of the bill for reversing the decision is cumbersome and lengthy. The time required for the Governor-in-Council to reverse the exclusion of certain economic activities in that zone, including fishing, could very well rob Nunavut fisheries — all of which are Inuit-owned — of thousands of potential dollars in commercial fishing revenue.

It is important to remember that due to the relatively nascent fishing industry in the North, many areas have not yet been explored for their fishing potential. The closure of potential prime areas would only put Nunavut's fishermen at more of a disadvantage.

Recently, the Nunavut Fisheries Association called for full Inuit access to resources in the waters adjacent to Nunavut, where currently other jurisdictions, including Newfoundland and Nova Scotia, continue to fish, having been granted rights prior to the territory's creation in 1999.

The Northern Coalition, a federally incorporated non-profit organization representing Indigenous-owned firms throughout Nunavut, Nunavik, Nunatsiavut and southern Labrador, in their December 3, 2017 brief to the committee in the other place, stated:

> It is important to consider the consequences if resources are not available to conduct the necessary science work within the five-year period in which the Minister must move forward with a permanent MPA. Related to this concern is the application of the Precautionary Principle wherein the Minister and Cabinet "do not use lack of scientific certainty regarding risks posed by activities" as a reason to postpone or refrain from exercising their powers or performing their duties and functions to make regulations for interim or permanent MPAs. This implies that an interim protection MPA will become permanent, even if the necessary science work has not been completed.

I agree that this application of the precautionary principle is at odds with the government's stated position of science-based decision making.

Another issue raised by the Northern Coalition is one that I have spoken about in the past at length, namely, the concept of regional proportionality.

• (1700)

The brief reads:

> In discussing the Marine Conservation Target (MCT) initiative with DFO earlier this year, NC members have noted that regional sharing (proportionality) of the 5 and 10% conservation targets for 2017 and 2020 may not be balanced. Given the planned establishment of large MPAs under the Oceans Act and the recently announced Lancaster Sound initiative of Parks Canada, together with the proposed MCTs for Baffin Bay, Davis Strait, Hatton Basin, Hopedale Saddle and Hawke Channel, the cumulative Conservation Targets proposed for the Eastern Arctic and Labrador Sea region (all areas adjacent to Northern Coalition members) are expected to contribute well over 50% of Canada's 2020 commitment to protect 10% of its marine environment.

Honourable colleagues, I represent a territory, not a province, and this is just what we feared from the federal government. Acting like a colonial government, setting aside vast areas of ocean for protection, without the involvement of the duly elected Government of Nunavut, undermines the negotiations that are underway to discuss devolution of management of natural resources in Nunavut, including the offshore. Don't forget: we're a territory, not a province. We don't have ownership and management of our natural resources onshore and offshore.

All this is happening because the federal government has the constitutional authority. In fact, our constitution, the Nunavut Act, is an act of the federal Parliament, so they can act unilaterally in Nunavut, and are doing so with this bill — seeking authority to take unilateral action it would never dare to do on a provincial coast.

Nunavut is the vehicle for Canada to meet UN targets for conservation and preservation. It is preposterous that this should be done without the involvement of the territorial government, which is, as we speak, engaged in good-faith negotiations on the transfer of federal jurisdiction over natural resources to the Government of Nunavut.

I was encouraged that Canada has recently agreed to engage with the Northwest Territories on managing the N.W.T. offshore. Having already completed their devolution agreements, the Governments of the Northwest Territories and the Yukon, as well as representatives of the Inuvialuit settlement area, have finally found a place at the table. In October of this year, Minister LeBlanc committed to negotiating a new oil and gas co-management and revenue-sharing agreement for the Beaufort Sea's oil and gas resources. This is a welcome response to Premier McLeod's red alert about Canada having unilaterally imposed a moratorium on oil and gas development in the North without even a modicum of consultation with territorial governments or territorial Indigenous leaders.

In his announcement, Minister LeBlanc stated:

> . . . our partners were very clear: they want to be involved in the management of Arctic offshore oil and gas resources, and they want to see economic prosperity and jobs that will benefit Indigenous peoples and all Northerners in the future without affecting the health of their environment.

But what about Nunavut? That's great for the Northwest Territories and Yukon. This bill would leave the Government of Nunavut in the dark — or should I say in the cold — over the establishment of marine conservation areas and impede the territory's ability to negotiate similar agreements upon the conclusion of their devolution negotiations.

Nunavut is 85 per cent Inuit. The Inuit are marine people who have survived for millennia based on a marine economy. Inuit have established sovereignty for Canada in the Arctic. They successfully campaigned for the establishment of a new territory alongside the settlement of the Nunavut land claim. This and every Nunavut government works closely with the Inuit on implementation of their land claim agreement but is also responsible for delivering public services and programs on behalf of all citizens of Nunavut, including dealing with the impacts of development or the impacts of a lack of development.

Nunavut cannot be expected to break the cycle of dependency on Canada if it is not given the opportunity to benefit from its vast natural resources. Last year — and we're not proud of this — Canadian transfer payments made up a staggering 89 per cent of the territorial budget. This is not sustainable or preferable. We need to be passing legislation that empowers the territory as opposed to giving more powers to the federal government to act unilaterally.

Finally, honourable senators, since first reading the bill, I was disturbed to read that under clause 5, the minister would have the power to:

> . . .exempt from the prohibition in paragraph (b) or (c) . . . any activity referred to in those paragraphs in the marine protected area by a foreign national, an entity incorporated or formed by or under the laws of a country other than Canada, a foreign ship or a foreign state.

The North Water Polynya, an area of ecological diversity and a major source of subsistence fishing for local Inuit, has been the dumping ground of hydrazine-fuelled Russian rockets for some time. Senators who were in this chamber in 2016 may remember my appeals to the government and questions posed to the government leader in an attempt to stop this practice.

Under this bill, we are making it possible for the government to continue to allow Russian-made rocket debris — toxic rocket debris — to land in and pollute our waters but making it difficult for Canadians to benefit from the natural resource potential and cutting one Canadian jurisdiction out of the decision-making process.

Colleagues, rest assured that after this bill goes to committee for study, I will continue to push for the changes outlined in the Government of Nunavut's submission and will continue to fight for Nunavut's commercial fishing industry and the meaningful involvement of the Nunavut government in managing its natural resources onshore and offshore on Canada's longest coastline. Only when these concerns are collaboratively addressed could I contemplate supporting this bill.

Thank you.

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

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Bovey, seconded by the Honourable Senator Harder, that this bill be read the second time.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: Do we have agreement on a bell?

Thirty minutes. The vote will take place at 5:37 p.m.

Call in the senators.

• (1730)

Motion agreed to and bill read second time on the following division:

YEAS
THE HONOURABLE SENATORS

Bellemare	Griffin
Bernard	Harder
Black (*Ontario*)	Hartling
Boehm	Joyal
Bovey	Klyne
Boyer	LaBoucane-Benson
Brazeau	Lankin
Busson	Lovelace Nicholas
Campbell	Marwah
Christmas	Massicotte
Cordy	McCallum

Cormier	McPhedran
Coyle	Mégie
Dalphond	Mercer
Dawson	Mitchell
Deacon (*Nova Scotia*)	Miville-Dechêne
Deacon (*Ontario*)	Moncion
Dean	Omidvar
Downe	Pate
Duffy	Petitclerc
Dupuis	Pratte
Dyck	Ravalia
Forest	Saint-Germain
Forest-Niesing	Simons
Francis	Sinclair
Gagné	Verner
Galvez	Wetston
Gold	Woo—57
Greene	

NAYS
THE HONOURABLE SENATORS

Andreychuk	McInnis
Ataullahjan	McIntyre
Batters	Mockler
Beyak	Neufeld
Boisvenu	Ngo
Carignan	Oh
Dagenais	Patterson
Doyle	Plett
Eaton	Poirier
Frum	Seidman
Housakos	Smith
MacDonald	Stewart Olsen
Maltais	Tannas
Manning	Tkachuk
Marshall	Wells—31
Martin	

ABSTENTION
THE HONOURABLE SENATOR

Richards—1

• (1740)

REFERRED TO COMMITTEE

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

(On motion of Senator Bovey, bill referred to the Standing Senate Committee on Fisheries and Oceans.)

[*Translation*]

CUSTOMS ACT

BILL TO AMEND—MESSAGE FROM COMMONS—
SENATE AMENDMENT CONCURRED IN

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill C-21, An Act to amend the Customs Act, and acquainting the Senate that they have agreed to the amendment made by the Senate to this bill without further amendment.

[*English*]

NATIONAL SECURITY BILL, 2017

SECOND READING

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. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I rise today to speak on Bill C-59, An Act respecting national security matters.

Bill C-59 is divided into nine parts and does many things. I would like to focus on just one element in this legislation, which has understandably received considerable attention from the public, particularly from exasperated parents whose innocent children have been wrongly affected due to having the same name as those on the "no-fly list." I've met with these parent advocates and spoken to them by phone. In support of their tireless effort, I do support the adoption of certain parts of this bill and hope that some of the problematic parts will be further examined at committee. Therefore, I will focus on Part 6 of the bill, which amends the Secure Air Travel Act, or SATA, to allow the Minister of Public Safety to inform parents that their child is not on the list.

Bill C-59 would also allow the Department of Public Safety to electronically screen air passenger information against the SATA list with the objective of preventing false name matches, otherwise known as "false positives."

The government has started consultations on regulatory changes that would create government-controlled centralized screening of the SATA list and improve data that might better prevent false positives. The government is also promising to improve the fairness of the recourse process to create a unique identifier to help distinguish legitimate travellers from listed individuals on the no-fly list.

The government has pledged to adopt a new approach to the review of complaints that someone is on the SATA list unfairly. Such an individual's name will be removed from the SATA list if a decision on their recourse application is not rendered by the Minister of Public Safety within 120 days. The minister is also giving himself the ability to extend this decision period if he believes he needs more information.

While the government has argued that the steps it is taking will assist parents and those who are unfairly on the list, many groups are arguing that the government should be doing more to comprehensively address this issue.

Honourable senators, there are many components of the bill before us that are being rightly criticized for weakening our national security legislation. However, in relation to those who have been unjustly and unfairly placed on the no-fly list, we could say the opposite as there are other issues.

Zamir Khan has a five-year-old son — Sebastian — who has been held up at the border since he was six weeks old. His son's name matches someone on a national security list. Having met with these parent advocates whose children and families have been affected in the same way as the Khan family — experiencing unnecessary delays, having to prove or defend their identity and missing flights as a result — it's a problem for Canadian families that must be corrected once and for all.

When Zamir Khan testified before the Standing Committee on Public Safety and National Security in the House of Commons, he pointed out that Bill C-59 really only takes a small step toward enabling a redress system for Canadians flagged as false positives by Canada's no-fly list.

The legislation creates no obligation or guarantee that the new system will be truly effective for those flagged as false positives. For one, there is a high degree of opaqueness when it comes to the redress process. If the minister refuses to delist a person, that person can go to court to ask a judge to review the minister's decision. However, it's the government lawyers who will present the court with information relevant to the listing, and the person listed has no access to this information other than a summary of the reasons for the listing.

The hearing can also be held in secret, should the minister so request, with neither the accused nor their lawyer able to attend.

• (1750)

There may be good reasons for this in cases where the accused is terrorist affiliated, but for those wrongly affected who are on the no-fly list, the opaqueness of the process raises legitimate concerns.

If one is wrongly on the no-fly list, the impact on the individual can be serious and substantial. Since the no-fly list can be shared with foreign governments, there is a risk that this sharing of information could lead to potential danger of detention and mistreatment abroad or, at the very least, cause the affected individual and families to worry about such consequences.

Federal government officials have never said how many people are affected by the current no-fly list, nor will they disclose the number of people on the SATA list due to "security reasons."

In the United States, the number of people on comparable lists has been published. If that is so, it is reasonable to ask why additional secrecy is necessary in Canada when it does not appear to be required in the United States. I am certain the committee to which this bill is referred will examine this matter thoroughly.

It is also my understanding that the Human Rights Committee has decided to examine the complex issues associated with the no-fly list. I hope the study will coincide with the principal committee's examination of Bill C-59 to further inform the committee as well as all senators in this chamber.

In this respect, I think there are at least several issues that should be examined.

First, what options exist for improving the transparency of the envisaged redress process? Second, can we ensure there is greater transparency related to some of the statistics and data related to the no-fly list? Third, what are the arguments in favour of utilizing the current SATA list when compared with other options for keeping suspected terrorists off planes?

Some have suggested that perhaps terrorism peace bond provisions in the Criminal Code might be better mechanisms for prohibiting air travel. Such peace bonds are imposed by a court and they are time-limited. Is that a realistic option, or could we make terrorism peace bonds more flexible to incorporate such a function?

I am aware that in the U.S. system a person subjected to false positives related to travel can apply for a special travel number that they can subsequently use when booking future airline tickets to prevent being flagged for subsequent travel. Is that a better approach than what is being proposed in Bill C-59?

Senators, I do not claim to have answers to the questions. Given the negative and unintended impacts that the no-fly list can have on those who unjustly find themselves on the list, I believe we have an obligation to seriously consider whether we can improve our approach beyond what is being proposed in this bill.

I found out a few weeks ago that my sister's name is on that list. She was very stressed at the airport and had brought all sorts of paperwork to prove she is not the person on this list. I know this issue affects many families.

This is something I urge our committee to look at carefully. The families wrongly affected by this issue have waited long enough and deserve our best efforts to provide clear and fair legislation to right the wrong once and for all.

Nonetheless, as is, Bill C-59 remains problematic. Should it be adopted at second reading and referred to committee, I trust the bill can be thoroughly studied and we will receive a report that we will consider carefully at third reading. Thank you.

[*Translation*]

Hon. Jean-Guy Dagenais: Honourable senators, I am pleased to share my observations with you today on Bill C-59, An Act respecting national security matters.

First of all, this is a massive bill that covers many issues and policy areas related to protecting Canada's national security.

The measures proposed in Bill C-59 include creating a whole new organization to oversee national security, specifically the national security intelligence review agency. This new organization requires the creation of the position of intelligence commissioner who would be tasked with oversight and review duties in certain security- and intelligence-related fields.

Bill C-59 also enacts the Communications Security Establishment Act and gives it new powers. It also amends the Canadian Security Intelligence Service Act to limit the exercise of CSIS's power when it comes to stopping a threat to Canada's security. This is a very important point, and I will come back to it. Furthermore, this legislation amends certain provisions of the Security of Canada Information Sharing Act dealing with Canada's security, going as far as limiting the sharing of information in some cases. In the airline sector, Bill C-59 amends the Secure Air Travel Act in relation to the collection of information from air carriers and operators of airline reservation systems to identify individuals on certain flights and prohibit them from flying.

Lastly, Bill C-59 amends the Criminal Code to water down the provisions on the offence of advocating or promoting the commission of terrorism offences and raise the threshold for imposing a recognizance with conditions under the code.

Honourable senators, these are very important, very broad measures that require careful and in-depth consideration of their consequences. The fact that some aspects of Bill C-59 would weaken provisions of legislation on Canada's national security certainly warrants close scrutiny when we return in 2019.

I listened with great interest to the remarks made by Senator Gold, the sponsor of this bill in the Senate, and to his reasons for supporting the government's legislation. Our colleague raised a number of points in his speech. I will focus on addressing only two. Honourable colleagues, Senator Gold said that Bill C-59 is, and I quote,

> . . . a reasonable, responsible and necessary response to genuine threats to Canada's national security.

and that it

> . . . will improve the operational effectiveness of our security agencies while also respecting the constitutional rights and freedoms of Canadians.

I can honestly say that those words are true in part and that some aspects of the bill really do strike a reasonable balance. For example, the new powers bestowed on the Communications Security Establishment will help to protect Canadians from ever-changing cyber threats.

That being said, I still question some of the other points that Senator Gold raised in his speech. First, will Bill C-59 really "improve the operational effectiveness of our security agencies," as our colleague claims? In many way, I believe it won't. Rather than making improvements, this measure imposes restrictions. For example, Bill C-59 seriously restricts CSIS's ability to disrupt terrorist threats. Such activities go well beyond a simple conversation between CSIS agents and an associate of individuals who may be planning terrorist activities. Disrupting a threat may sometimes be much more complicated than that and could mean that agents have to get involved in the activities of individuals who are about to launch a terrorist attack. In police jargon, that is known as infiltration, and it is often a necessary step in preventing individuals from committing an act that could endanger the lives of Canadians.

Honourable senators, let's not forget that the power to disrupt a terrorist threat before it takes shape was given to CSIS in 2015 under legislation passed by the previous government. It is no different from the powers our police forces are sometimes called upon to use, such as when an undercover police officer has to break the law to complete their mission without blowing their cover. Under the 2015 legislation, remember that the use of active measures that infringe on our Charter rights requires judicial authorization. In this type of situation, we are far from the "minimal legal limits" Senator Gold mentioned in reference to how CSIS exercises its powers. A judge hears and evaluates the application and authorizes the action. We're talking about a judge, not just anyone.

Today, Bill C-59 before you limits the exercise of that authority. A judge will now have to be convinced that the proposed measures are not only Charter compliant, but are both "reasonable and proportionate." Those two vague and problematic descriptors are open to judicial interpretation. In fact, Bill C-59 —

• (1800)

The Hon. the Speaker: Senator Dagenais, I'm sorry to interrupt, but it's 6 p.m.

[*English*]

Honourable senators will know that pursuant to rule 3-3(1), I'm obliged to leave the chair unless it is agreed that we not see the clock. Is it agreed, honourable senators?

Hon. Senators: Agreed.

[*Translation*]

Senator Dagenais: Thank you for not seeing the clock.

Bill C-59 does, however, create a new requirement that CSIS will have to submit to. Do you really believe that it makes sense to force our security services to get into such a debate right when they are dealing with an emergency situation?

As though that were not enough, Bill C-59 also imposes limits on the action that CSIS can take to stop a threat, even when it has judicial authorization. For instance, the legislation stipulates that an individual cannot be subjected to treatment that is, and I quote, "degrading."

For example, some measures that involve a form of detention will be prohibited. Measures that could cause the loss of or serious damage to property if doing so would endanger the safety of an individual will be prohibited. What does the word "measures" mean? There's no clear definition. I'm sure my colleague, Senator Gold, knows that, and you must all take it into account now that you know it. Depending on the judge, the word "measures" can be interpreted in a very broad or narrow sense. We have no idea, but that's the kind of difficulty that may arise if we pass Bill C-59 in its current form.

The bill also imposes other restrictions, such as the requirement to consult other federal departments to determine whether they're in a position to reduce the threat rather than rely on CSIS. Who will be consulted? How will they be consulted? How quickly? What's the risk of compromising everything by sharing information? Imagine a hospital emergency room where the doctor has to transfer a wounded patient to a walk-in clinic to see if the patient can be treated by a nurse rather than saved by a specialist.

That's called "wasting time," and wasting a little time when dealing with terrorists can have serious consequences that the drafters of this legislation don't seem to have considered.

I don't think there's any doubt that these measures will create an additional obstacle to stopping the threat. Threats can emerge without warning, and I would say that all of us here have a duty to give our security services the means to respond quickly and effectively to these threats.

In light of Canada's position and role on the world stage, I think Bill C-59 is unacceptable. With respect to what I just described, our allies recognize the need for flexibility in combatting terrorism. For example, Australia's security and intelligence agency has the authority to do all kinds of things, with warrants, that would otherwise be illegal to protect national security. Security and police services in the U.K. can arrest individuals who are suspected of planning an attack. Anyone arrested under the Terrorism Act can be detained without charge for 14 days. Some of their powers are much more sweeping than those of CSIS and Canadian police forces.

Some senators opposite may think that restricting powers in that way is a good idea. I'm sorry, but that is unacceptable. The fight against terrorism is not a political game. Our security services must be able to act pre-emptively and not after the fact, once panic has set in.

At the risk of repeating myself, I have to say that that's exactly what we're being asked to do with this bill. Those among us who are prepared to maintain that weakening the powers of our security agencies will result in enhancing their role should slow down and listen to the experts.

By introducing such a bill, it's as though the current government were saying that we can no longer trust our current oversight bodies and Canadian security services and that they need additional restrictions. If that's the case, it should just say so clearly, because the argument that this is about strengthening security is merely a pretext.

Honourable senators, I'm also concerned about some of the arguments put forward to justify the creation of the national security and intelligence review agency and, therefore, the position of intelligence commissioner. As Senator Gold pointed out, the problem of our agencies working in silos also has serious operational implications. According to him, the new structure, as set out in Bill C-59, will simplify oversight. That is his opinion and I respect it, but I don't share that opinion and it certainly isn't the opinion of many people who have worked within those organizations.

I'm sorry to have to tell him that that is not what I heard or understood from the testimony of the heads of security agencies who appeared before the Standing Senate Committee on National Security and Defence, which I have served on for six years. When Richard Fadden, former director of CSIS and national security advisor to the Prime Minister, testified in the other place in this regard, he said, and I quote:

> Taken together, the new committee of parliamentarians, the new SIRC, the commissioner, and the Federal Court place a significant weight on government institutions.
>
> When I went to CSIS, I was really surprised to see that most applications made to the Federal Court ran to some 150 pages, even the shortest ones. I'm not saying that too much is demanded in any particular case, but rather that this requires a lot of resources.

Mr. Fadden also said that he was concerned about the role that Bill C-59 proposes to give the new intelligence commissioner. The bill would give the commissioner, not the minister, the final say regarding a certain number of activities conducted by CSEC and CSIS. According to Mr. Fadden, and I quote:

> . . . surely "reasonableness" should be the domain of ministers and of the officials for whom they are responsible.

He went on to say:

> Under the current arrangements being proposed, you will have the agencies, the public safety department, the Department of Justice, the minister, and then an appointed official, who may or may not know anything about national security, determine in the final analysis whether in these variety of activities they can move forward.

I repeat, "who may or may not know anything about national security." These statements show that some people who have worked in our security agencies have real concerns about the potential impact that a large number of review bodies will have on the effectiveness of our security system.

When I see that the government wants to create a national security and intelligence review agency while keeping the existing structures in place, I have to wonder:

[*English*]

Who doesn't trust whom in this business?

[*Translation*]

Let's take a close look at this. Are the actions of our security agencies already subject to the approval of a judge? Whether the actions are taken by CSIS or the RCMP, they are subject to review by competent and experienced oversight committees. Each of these groups is required to report to committees of the House and the Senate. I would add that these days, even though they do not have an official role, social media platforms act as watchdogs or at least as whistleblowers.

The current government wants to add the national security and intelligence review agency to all that. Am I to take this bill as a sign that the government has come to the conclusion that the people doing the monitoring are incompetent? I would like an answer to that question.

• (1810)

For goodness' sake, let's stop adding more layers of bureaucracy. It is pure folly, and it only slows down and even hobbles our security services in the fight against terrorism.

When you say that you support the increase in layers of oversight, it gives people the impression that you are more inclined to give rights to criminals and terrorists than to look after the safety and security of honest Canadian citizens.

Bill C-59 will only limit the ability of CSIS to thwart terrorist threats. In fact, on February 8, the Director of B'nai Brith Canada, Michael Mostyn, stated that the bill would only weaken the anti-terrorism law.

In summary, honourable senators, many clauses of this bill will have to be scrutinized. I hope that you will pay more attention to expert testimony than to dubious or unfounded political intentions concerning certain realities of the fight against terrorism. Canada must remain a safe and secure country. However, it must give itself the means to achieve that objective.

The Senate committee that will study this bill must be given enough time to properly examine the consequences of Bill C-59. It is the least we can do to preserve Canadians' national security rather than seeking to please those in power.

[*English*]

Hon. Frances Lankin: Would the senator take a question?

[*Translation*]

Senator Dagenais: With all due respect for my honourable colleagues, I believe that I have given a comprehensive speech and I will not answer any questions. However, I can assure you that I will work assiduously at the National Security and Defence Committee when it studies the bill. Thank you.

[*English*]

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

Some Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Gold, seconded by the Honourable Senator Moncion, that this bill be read a second time. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour say, "yea."

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion the yeas have it.

And two honourable senators having risen:

The Hon. the Speaker: I see two senators having risen. Do we have agreement on a bell?

Senator Plett: One hour.

The Hon. the Speaker: The default position on a vote, if there is not an agreement, is one hour. Is there an agreement on a time other than one hour?

Some Hon. Senators: Oh, oh!

The Hon. the Speaker: The vote will take place in one hour at 7:13. Call in the senators.

• (1910)

Motion agreed to and bill read second time on the following division:

YEAS
THE HONOURABLE SENATORS

Bellemare
Bernard
Black (*Ontario*)
Boehm
Bovey
Brazeau
Busson
Christmas
Cordy
Cormier
Coyle
Dalphond
Dasko
Deacon (*Nova Scotia*)
Dean
Downe
Duffy
Dupuis
Dyck
Forest
Forest-Niesing
Francis
Gagné
Galvez
Gold
Greene
Griffin
Harder
Hartling
Klyne
Lankin
Lovelace Nicholas
Marwah
Massicotte
McCallum
McPhedran
Mégie
Mercer
Mitchell
Miville-Dechêne
Moncion
Munson
Pate
Petitclerc
Pratte
Ravalia
Saint-Germain
Simons
Sinclair
Verner
Wallin
Wetston
Woo—53

NAYS
THE HONOURABLE SENATORS

Andreychuk
Ataullahjan
Batters
Beyak
Boisvenu
Carignan
Dagenais
Doyle
Eaton
Frum
McInnis
McIntyre
Mockler
Neufeld
Ngo
Oh
Plett
Poirier
Richards
Seidman
Housakos
MacDonald
Maltais
Manning
Marshall
Martin
Smith
Stewart Olsen
Tannas
Tkachuk
Wells—31

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

• (1920)

REFERRED TO COMMITTEE

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

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

[*Translation*]

FISHERIES ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Christmas, seconded by the Honourable Senator Deacon (*Ontario*), for the second reading of Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence.

Hon. René Cormier: Honourable senators, I rise today to speak in support of Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence. I am happy that the Minister of Fisheries, Oceans and the Canadian Coast Guard took the initiative to introduce tougher legislation, demonstrating a major commitment to ensuring the sustainability of and respect for our fisheries resources.

[*English*]

Like many of you, I believe the objective of this bill deserves praise, as it seeks to better support sound fisheries management and monitoring, and the conservation and protection of fish in their habitat, including preventing pollution.

I am also delighted this bill provides for better recognition of the rights of Indigenous peoples and respect for their traditional fishing knowledge.

[*Translation*]

As a senator from New Brunswick's Acadian Peninsula, I am obviously aware of the various issues affecting the fishing industry in my region. The commercial fishery is central to the economic and social development of coastal communities back home, especially rural ones. Not only does the industry do much to help some of our fellow Canadians get richer, but it is also a real way of life in our communities. It is a huge part of our culture and our identity.

[*English*]

In 2016, the New Brunswick fishing fleet consisted of close to 2,400 boats. That year, harvesters took in 89,213 tonnes of fish and seafood, representing $411 million for New Brunswick. This sector accounted for more than $1 billion in exports for the province.

It is not surprising that fishing communities in our region and across the country are calling for our fish stocks to be sustainably managed. Protecting fish stocks and fish habitat strengthens the stability and sustainability of the entire fishing industry.

[*Translation*]

As many of you have stated in this chamber, now more than ever, the economy and the environment go hand in hand. With regard to environmental issues, recent reports such as the one from Oceana Canada reflect a disturbing trend in Canada in 2018. Of 196 fish stocks assessed, only 69 can be considered healthy, and 26 are critically depleted, which represents 13 per cent of the fish stocks assessed. Of all the stocks considered critically depleted, only three of them have rebuilding plans in place. When you look at this data, you can only support strengthening the sustainable management of Canadian fish stocks.

Over the past few weeks, I consulted representatives from fishing associations across the country who confirmed their support and their relief with regard to the bill's objectives. However, they also shared some of the serious concerns they have, and I think it's important that I share them with you.

Aside from the sustainability of fishery resources, the human factor is the one that concerns the fishing industry the most. The issue of control over that industry by independent fishers and the issue of succession are central to the concerns I want to talk about today.

First of all, the fact that Bill C-68 includes protections related to the Policy for Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries is praiseworthy. Implemented in 2007, the policy is intended to reaffirm the importance of maintaining an independent and economically viable inshore fleet, ensure that the benefits of fishing licences flow to fish harvesters and coastal communities, assist fish harvesters to retain control of their fishing enterprises, and strengthen the application of the owner-operator and fleet separation policies.

The fleet separation policy prevents processing companies from acquiring the fishing licences of inshore vessels, and the owner-operator policy requires the holders of licences for inshore vessels to be present on the boat during fishing operations. Together, the two policies are designed to prevent vertical integration and corporate takeovers of independent fishers' boats and fishing licences.

Bill C-68 includes a series of provisions to reinforce these policies. First, the bill includes a list of criteria that the minister must consider when making a decision. These criteria include social, economic and cultural factors in the management of fisheries, as well as the preservation or promotion of the independence of licence holders in commercial fisheries.

What is more, the new section 9 of the Fisheries Act would specifically allow the minister to suspend or cancel any lease or licence if the lease or licence holder has entered into an agreement that contravenes this act. The minister would also have regulatory power to that effect. This would prevent the conclusion of controlling agreements, which allow processing companies to control licence holders.

Finally, new section 43 of the Fisheries Act includes various regulatory powers that govern the management of fishing for social, economic or cultural purposes; the control and use of licensing fees; and the circumstances requiring licence holders to personally carry out an authorized activity.

[*English*]

Including these policies in Bill C-68 is great news for the harvesters' associations that have been calling for this type of protection for decades.

Colleagues, we must remember that owner-operators are women and men, often our neighbours, brothers, sisters and friends who live mainly in coastal communities, work hard every day to maintain and operate their boats, and bring in most of the catches in Canada. Their work is responsible for thousands of direct and indirect jobs in this country.

These provisions will help to keep the income and spinoffs from the fisheries in our communities, thereby protecting thousands of jobs, and maintaining the expertise of Canadian harvesters and the integrity of Canada's fisheries sector.

[*Translation*]

The second major issue that the Canadian Independent Fish Harvesters' Federation identified in its brief has to do with succession. It said, and I quote:

> The most serious constraint on future growth may therefore be on the people side. The fishing industry faces a labour supply crisis driven by the aging of the workforce and rural population decline. StatsCan data from the Tax Filer system and the Census both indicate that from 40 to 50 percent of current license holders in different regions will retire from active fishing by 2025. There is an immediate need to attract and retain a new generation of fish harvesters.

Unfortunately, there is nothing in this bill about that, even though this would have been a good opportunity to address this challenge head-on.

[*English*]

As some harvesters' groups have said, including provisions in Bill C-68 to protect owner-operator and fleet separation policies will likely help to stabilize the sector in the short term.

However, to ensure the long-term viability of the fisheries sector, more options are needed to support the next generation of harvesters and make it easier to transfer a family business and help young people enter the industry.

[*Translation*]

Today, these aspiring fishers face major financial challenges due to the astronomical cost of fishing permits and licences. Depending on the region, a lobster fishing permit that may have been worth $175,000 five years ago could now be worth between $600,000 and $1.2 million. We have to find solutions to give these aspiring fishers access to permits and to help them compete with large enterprises in the transfer of licences without having to go hundreds of thousands of dollars into debt.

It may also be useful to rethink how the system works, to ensure that a fisher can transfer his permit to several of his children who want to acquire it together at a reasonable price, since that is not possible right now.

• (1930)

Another thing some of the fishers associations are apprehensive about is the lack of consultation and transparency. According to the government, transparency is one of the strengths of Bill C-68, especially when it comes to the minister's decision-making for enforcing the legislation. The Minister of Fisheries and Oceans already has a wide range of powers to enforce the Fisheries Act and Bill C-68 gives him even more, particularly in regulatory matters. Some fishers associations are concerned about these powers, which are not necessarily subject to a duty to consult.

Our fishers have been practising their trade for decades. They pass on their knowledge from one generation to the next. They work with all these species that we are trying to protect with this bill. They know their behaviour and their habits. They are the first to notice changes or worrisome indicators that a stock is at risk. Our fishers are an important source of knowledge about the practices of fishing, waterways, habitats, fish and shellfish. The government must take advantage of this knowledge and consult fishers as often as possible. As we know, ineffective consultations have a negative impact on everyone. For example, we remember the measures implemented last spring to protect the right whale following the unfortunate deaths in 2017. Last spring and summer there was considerable tension and fishers repeatedly asked that we listen to them. This illustrates the need for better collaboration and open and ongoing dialogue between all parties to manage the measures that will be implemented.

Thanks to the consultations held this autumn, the climate fortunately seems more conducive to collaboration. We can hope that this will result in measures that protect this species while minimizing the impact on fishers' commercial activities.

Although we might have hoped that Bill C-68 would add consultation mechanisms for similar situations, it doesn't. Under the bill, the measures to protect right whales, for example, would have been taken under the provisions regarding fisheries management orders. However, those provisions make no mention of prior consultation. I'm sure honourable senators will agree that it would be a good thing for the minister, whenever possible, to benefit from the knowledge of fishers and to consult with them both before implementing emergency measures and immediately after to minimize the impact those measures have on them.

Clause 21 of Bill C-68 is another example of a potential lack of consultation. That clause creates subsections 34.2(1) and 34.2(3) of the Fisheries Act. It provides for the establishment of standards and codes of practice for projects. These standards seek to prevent the death of fish, the alteration or destruction of fish habitat, and pollution. Before establishing these standards and codes of practice, the minister may consult provincial governments, Indigenous governing bodies, government departments or agencies, or any interested persons. However, there is no mention of fishers groups, associations or representatives, and the provision is not binding, which is rather surprising at first glance.

In addition, I support the fisheries groups that want assurances that they will in fact be consulted at all stages of the minister's enforcement decision process, and this applies to various contexts such as issuing management orders, designating ecologically significant areas, establishing standards and codes of conduct, and so on.

[*English*]

I believe the committee that will review Bill C-68 will have the chance to examine all these issues expressed and identified by different groups — issues closely connected to the viability of the fisheries sector and the sustainable management of our resources.

I would like to conclude by highlighting what this bill sets out to do: achieve the delicate balance between economic development and stability, the inclusion of all members of Canadian society, and the protection of our resources and the environment — our environment. It is an ambitious task, but one that must now be at the heart of all our decisions.

[*Translation*]

Although it isn't perfect, Bill C-68, in its current form, brings us closer to that imperative, and I invite you all to support it. Together, senators, we can make sure that this bill is studied seamlessly and as quickly as possible, since the economic and social development of all our coastal communities depends on this industry and on this bill.

With the holidays just around the corner, honourable senators, as you sit down with your family and friends and enjoy lobster, crab and other Atlantic seafood, think of all those fisheries

workers, those men and women who take to the sea, often in difficult conditions, to ply their trade and contribute to the economic success of our province and our country.

With that, I thank you.

[*English*]

Hon. A. Raynell Andreychuk: Honourable senators, I too rise today to speak to Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence.

At the outset, I want to underscore the importance of protecting fish and their habitats. As we all know, there are many difficulties facing our fisheries, both offshore and onshore, from competing interests to threats, including pollution and overfishing. We must continue to ensure the protection of fish and their habitats as a priority.

My difficulties with this bill lie in the lack of details and of its implementation strategy. Bill C-68 gives powers to the government and to the Minister of Fisheries and Oceans to move quickly, and in many cases intrusively. Often powers such as these are necessary in order to enable the minister to respond to unpredictable crises. However, the public, affected sectors and parliamentarians have a right to understand the full breadth of these powers and their use. While these details should be understood prior to the passage of the bill, other details have been left to be determined by regulations, and they have yet to be developed.

Concerns regarding the bill have also been communicated to me by the agriculture and resource development sectors. As noted by others in this chamber, Bill C-68 seeks to reverse the amendments made to the Fisheries Act under Bill C-38 in 2012. The pre-2012 Fisheries Act contained a broad prohibition against the destruction of fish and their habitats. In 2012 this prohibition was narrowed to apply to:

> . . . any work, undertaking or activity that results in serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery.

The purpose of this change was not to deplete or to reduce the protection of fish and their habitats. Rather, the purpose of these changes in 2012 was to respond to key concerns calling for greater clarity and reduced administrative delays.

Appearing before the Standing Committee on Fisheries and Oceans during a review of 2012 changes, Mr. Ron Bonnett, President of the Canadian Federation of Agriculture, shared the following comments regarding the pre-2012 Fisheries Act:

> The experience that many farmers had with the Fisheries Act, unfortunately, was not a positive one. It was characterized by lengthy bureaucratic applications for permitting and authorizations, and a focus on enforcement and compliance measures taken by officials . . . .
>
> Many farmers were then relieved when the changes that were made just a few years ago drastically improved the timeliness and cost of conducting regular maintenance and improvement activities to their farms as well as lifting the threat of being deemed out of compliance. . . .

Mr. Bonnett continued:

> . . . There are also many accounts of inconsistency in enforcement, monitoring, and compliance across Canada with different empowered organizations, which led to a confusion and indiscriminate approaches to enforcement and implementation. Even at the individual level, there were different interpretations of the act based on one's familiarity with agriculture.

With Bill C-68, the government has proposed to repeal those changes and restore a regime similar to that which existed prior to 2012. Bill C-68 proposes to amend section 35(1) to read:

> No person shall carry on any work, undertaking or activity that results in the harmful alteration, disruption or destruction of fish habitat.

This is frequently referred to as the "HADD" principle.

• (1940)

An amendment adopted at committee in the other place has also generated great concern. A revised subsection 2(2), the so-called "deeming" provision regarding water flow, reads:

> For the purposes of this Act, the quantity, timing and quality of the water flow that are necessary to sustain the freshwater or estuarine ecosystems of a fish habitat are deemed to be a fish habitat.

As noted by Ontario Power Generation, this marks "the most significant expansion of this definition in the 145-year existence of the Act."

Under this new provision, any body of water, be it natural or man-made, could be deemed a fish habitat. As a result, the scope and interpretation of this provision has generated fear and anxiety amongst farmers and others working in the resource development sector.

According to the Canadian Grain Farmers:

> This "deemed habitat" provision could mean that a grain farmer could be prohibited from moving a drainage ditch, or filling a reservoir that is no longer needed, even if there has never been a fish in it . . . .
>
> It has the potential to subject farmers to go through burdensome and expensive permitting processes for changes that will never impact fish.

Bill C-68, as amended, is expected to increase the regulatory burden placed on a sector that is already heavily regulated. Allow me to describe the potential reach of the proposed amendments in Bill C-68 with an example provided in a written submission by the Canadian Cattlemen's Association:

> A rancher clears a brush line to erect a fence across sloped rangelands.
>
> Shortly, after the fence is complete a heavy rain results in flooding that carries debris and soil to a creek some distance away.
>
> As a result of the debris and soil combination a temporary damming effect ensues in the creek and the water flows along on alternative routes before re-joining the original route.
>
> The high sediment load also impacts the water quality.
>
> The flow of water was sufficient to sustain a fish so therefore it would be deemed a fish habitat and therefore it is not necessary to prove that this is a fish habitat.
>
> Thus, altering the stream flow would be prohibited under section 35(1).
>
> As this was not a predictable event, there is no potential to obtain authorization in advance.

I personally have heard similar examples from many members of the farming community in my home province of Saskatchewan. When our economy is already under stress, when the natural resources and the agriculture industry are in deep difficulty in my province and neighbouring provinces, this is just one load too many for most of them. They wonder why the broad reach is being reinstated.

Among Canadian businesses, increased regulatory uncertainty following the passage of Bill C-68 was raised as a significant concern. Canadian energy producers have raised concerns that artificial waterbodies such as industrial cooling ponds, tailing ponds or intake canals could be deemed fish habitats. Other concerns were raised regarding costly changes which may be required in order to bring existing hydropower facilities into compliance with the amended act.

Bill C-68 makes further amendments to the Fisheries Act to put into effect measures respecting the management of major fish stocks. In order to respond to concerns raised regarding the management of fisheries, we need to ensure that all those affected understand these changes.

I have listened closely to Senator Cormier, who has covered fish management, and I will not tread on the same ground. He has raised the very real issues of fish management and the consequences of acting on Bill C-68 in its current form.

There are other questions beyond the powers I have talked about, but a worrisome one is the sweeping powers for the Minister of Fisheries and Oceans. As I stated earlier in my remarks, these powers may be necessary to respond to unpredictable crises when there is a need for the minister to act. However, there is also a need to know in advance how these powers will be exercised. If these powers are necessary, we should know why and how they will be managed. Instead, much is left to be determined by regulations that have yet to be developed or through consultations yet to be held.

Senators, yes, this is an issue I continue to raise. It appears that bills introduced by this government rely less and less on content and more heavily on ministerial discretion and regulations. As a result, our involvement in shaping legislation as parliamentarians and the involvement of concerned Canadian citizens is hindered.

We are being asked to scrutinize and adopt legislation without a comprehensive understanding of its potential outcomes. I note there are provisions related to the rights of Indigenous peoples and consultation contained within Bill C-68, and I would thank the sponsor senator for bringing up many of the issues around consultation. Again, I will not go into them because I think Senator Christmas has adequately pointed out the difficulties that may arise. He has also pointed out that some consultations were taken, but the real consultations have yet to be held.

For example, Bill C-68 creates a new requirement for the Minister of Fisheries and Oceans to consider any adverse effects that his decision may have on the rights of Indigenous peoples, recognized and affirmed by section 35 of the Constitution Act, 1982.

I note these concerns raised by Senator Christmas with respect to the details and the applications of these provisions. I sat for many years on the Legal and Constitutional Affairs Committee when we grappled with a clause such as this. It does not, in fact, ensure the rights of Aboriginal people. It simply affirms that they are there. They are not described and they are yet to be known, particularly with respect to this bill. We are now talking decades, not months or years.

Once again, it remains unclear how these provisions affecting Aboriginal rights will be implemented. It is yet to be determined. The committee studying the bill must look closely to ensure the needs, concerns and legal rights of Aboriginal people are carried through with the implementation of Bill C-68.

Finally, I would like to make a few comments regarding competitiveness. In his second reading speech, Senator Harder stated:

> . . . the overall goal of Bill C-68 is to balance environmental and economic considerations, while maintaining the public's trust.

Given the concerns raised by businesses, industry groups and Aboriginal peoples, I question whether the legislation in its current form will achieve this balance.

Industry representatives have cautioned that the increased regulatory burden created by Bill C-68 could slow down approval processes and discourage investors from choosing Canadian projects. Similar concerns have been raised regarding the lack of clarity surrounding the designated project's mechanism included in Bill C-68.

Enbridge raised the following questions in a brief submitted to the Standing Committee of Fisheries and Oceans in the other place:

> What would the criteria and thresholds be for 'designated projects' under the Act?
>
> Is there any relation between the designated projects list created pursuant to regulations under the Fisheries Act and the one created pursuant to regulations under the Impact Assessment Act?

Similarly, the Quebec Business Council on the Environment raised the following question:

> Will the authorization issued for a designated project include day-to-day activities subsequent to the construction?
>
> The Act already grants powers to this effect in that the minister can designate which works, undertakings or activities will be associated with a designated project.

• (1950)

To gain greater clarity, industry representatives have called for an opportunity to review the regulations related to designated projects.

A key issue for the committee's consideration will be whether the bill needlessly adds additional layers of bureaucracy that could deter investment and economic growth from Canada, while not increasing the protection of fish and their habitat. It is critical that the Senate hold full hearings to answer the questions and concerns raised by those affected.

The key question again revolves around finding the correct balance, as has been noted in this chamber, to protect fish and their habitats without unduly infringing on farmers, businesses, Aboriginal rights and others.

I am encouraged that Senator Harder in his speech indicated a willingness of the government to improve the bill. In particular, I agree with Senator Harder that all steps should be taken to reduce any bureaucratic and cumbersome process for regulatory approval. However, there are many substantive technical issues with respect to Bill C-68 that need to be dealt with and appear yet to be developed.

I am left with the difficulty that so much identified in Bill C-68 is dependent on future consultations, administrative actions and ministerial discretion and regulations yet to be developed.

The committee, no doubt, will have to look at all these crucial issues raised in Bill C-68, but go further to look at the implementation to ensure that we are not burdensome to Canadians at this very fragile economic moment and a very fragile moment for the fish. Thank you.

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

Hon. Senators: Question.

[Senator Andreychuk]

[*Translation*]

The Hon. the Speaker *pro tempore*: It was moved by the Honourable Senator Christmas, seconded by the Honourable Senator Deacon, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

[*English*]

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker *pro tempore*: Do we have an agreement on a bell?

Senator Plett: Fifteen minutes.

The Hon. the Speaker *pro tempore*: The vote will take place at 8:08 p.m. . Call in the senators.

• (2010)

Motion agreed to and bill read second time on the following division:

YEAS
THE HONOURABLE SENATORS

Bellemare	Hartling
Bernard	Klyne
Black (*Ontario*)	LaBoucane-Benson
Boehm	Lankin
Bovey	Lovelace Nicholas
Busson	McCallum
Christmas	McPhedran
Cordy	Mégie
Cormier	Mercer
Coyle	Mitchell
Dalphond	Miville-Dechêne
Deacon (*Nova Scotia*)	Moncion
Dean	Munson
Downe	Pate
Duffy	Petitclerc

Dupuis	Pratte
Dyck	Richards
Forest	Saint-Germain
Forest-Niesing	Simons
Francis	Sinclair
Gagné	Verner
Galvez	Wallin
Gold	Wetston
Griffin	Woo—49
Harder	

NAYS
THE HONOURABLE SENATORS

Andreychuk	McInnis
Ataullahjan	McIntyre
Batters	Mockler
Beyak	Neufeld
Boisvenu	Ngo
Carignan	Oh
Dagenais	Patterson
Doyle	Plett
Eaton	Poirier
Frum	Seidman
Housakos	Smith
MacDonald	Stewart Olsen
Maltais	Tannas
Manning	Tkachuk
Marshall	Wells—31
Martin	

ABSTENTIONS
THE HONOURABLE SENATORS

Ravalia	White—2

REFERRED TO COMMITTEE

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

(On motion of Senator Christmas, bill referred to the Standing Senate Committee on Fisheries and Oceans.)

POINT OF ORDER

Hon. Terry M. Mercer (Acting Leader of the Senate Liberals): On a point of order, Your Honour, when this vote was called, the Speaker asked if there was agreement on the time. Both senators were talking about a 15-minute bell. I said no and asked for a 20-minute bell.

Afterwards, I was told that people didn't hear me, which is unusual for me. Unsolicited, Senator Tkachuk told me he heard me; Senator Plett told me he heard me; Senator Cordy heard me; even Senator C. Deacon heard me.

I don't want to overturn the vote, but I want it noted that no senator should be ignored by the person sitting in that chair if he or she stands up and clearly wants to be involved in the debate or in the discussion when a vote is being requested.

> **The Hon. the Speaker:** I thank the Honourable Senator Mercer for raising this point of order. It gives the chair an opportunity to provide a more fulsome explanation of rule 9-5, which requires a one-hour bell unless there is an agreement between the government and the opposition whips. That agreement, of course, must be endorsed by the unanimous consent of honourable senators. If a senator objects, then the default position is a one-hour bell.
>
> I caution honourable senators to ensure that they are heard because my understanding is, in this case, that the chair understood that there was an agreement for a 15-minute bell and did not hear an objection.

• (2020)

IMPACT ASSESSMENT BILL
CANADIAN ENERGY REGULATOR BILL
NAVIGATION PROTECTION ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Pratte, for the second reading of Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts.

Hon. Pamela Wallin: I would like to add my voice to the debate on Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts.

There are many concerns about the impact and intent of this bill. It has become a focal point for an entire industry and for the families and communities who are connected to the energy sector.

I know this bill hasn't caused the crisis in the oil sector, but Ottawa's attitude, some of its actions and intentions on the energy file have led to a growing sense of frustration, anger, resentment and a profound disconnect, particularly in my part of the world, with those who govern this country.

To be clear, I'm not talking about western separation movements or predictable partisan positioning. In fact, what I see is much more troubling than that. It is a loss of trust and an uneasy feeling that you are no longer a respected part of the nation or its future.

Of course, we all have very different realities and experiences in a country this large. Watching Prime Minister Mulroney so eloquently pay tribute to a great friend and leader last week caused many of us to recall his powerful rhetorical flourish. When Senator Tkachuk recalled a quotation, the words really resonated with me:

"We are all children of our environments," Mulroney said. "We bring to given problems the judgment that has been shaped by the realities to which we have been exposed in our lives."

Let me share a little bit about my reality and the lens through which I and the people I'm here to represent see Bill C-69 and a series of other pieces of legislation that have come before us.

While we all sincerely appreciate the need to be environmentally conscientious, I do not have the luxury of jumping on my bicycle and riding home along the canal every night, nor can I take public transit or call an Uber.

Here is how it works for me: I get on a plane to fly first to Toronto, then change planes and fly another three and a half hours to Regina or Saskatoon. At the airport, where my car has already been plugged in, I let it run for 20 minutes to save wear and tear on the engine, and then I drive another three and a half hours home.

It's 20 or 30 below these days, so I plug in my car there, too, so it will start when I need to drive the 20 minutes to get groceries or mail or another three and a half hours if I need medical attention.

My reality is that I need fossil fuels. My community needs fossil fuels so we can heat our homes, so farmers can grow the food we need for ourselves and for export; so moms and dads can get to work and so local hockey teams can take their road trips to play other small town teams. Electric cars aren't a good idea if you get caught in a snowstorm or end up in a ditch, but a tank full of gas might just save your life.

My community needs the work and the income generated by the young men and women who commute to Alberta or within my province to work in the oil industry. We need their spirit and their work ethic.

When the Prime Minister and others characterize those who work in the construction field or to help build pipelines as cause for social concern and for fear for the safety of women and families, you might want to stop and think about what you are saying, not just to the energy workers and their families but to the single mother on Facebook the other day who waitresses. She explained that the tips from "these guys that we should fear" feed her kids and pay for hockey equipment.

Words matter. Your words hurt and they belie a profound misunderstanding of the reality that these potential pillagers are actually husbands, fathers, sons, daughters — in my case, a nephew and many close friends. They are hard-working family people. Their kids play sports. They are community-minded. My nephew's crew is actually hoping to work through Christmas, even if that means not being at home, because now that work is so sporadic paying the mortgage is more urgent.

Even the prospect of Bill C-69 is taking a heavy toll on our communities. So the character assassination cuts deeper than you know. It shows the lack of understanding of how many Canadians — Western Canadians — live, how we cope with vast distances, expensive rules and regulations, cold weather and few job options.

Let me remind you of some of the other messages that Ottawa is sending to my part of the world so you can see the context in which Bill C-69 is being received. There's the carbon tax, which means a double whammy for small businesses and farmers who get hit twice both as consumers and producers. Giving them their own money back doesn't help much when they are too small to qualify for a business subsidy or a rebate on the producer side when they're buying farm inputs or getting products to market. And Saskatchewan has a carbon reduction plan. Ottawa just doesn't like it.

Bill C-48, an oil tanker moratorium, is also seen as targeting and further restricting Alberta's ability to move oil to foreign markets, and that costs jobs.

Then there's Bill C-68, which we heard about a little earlier tonight, which most of us would like to support, except that it calls for farm and rural land to possibly become sustainable for fish habitats. People on the Prairies know about drought. Water is a precious resource to us. Livelihoods depend on it. I live on a lake. I get it. We fish. We eat the fish. But the farmer who has a slough in the middle of the field or an irrigation or a drainage ditch when there's too much rain or not enough should not have to ensure it's a fish habitat. It's another case of regulatory overreach where farmers have to deal with burdensome, expensive and unnecessary rules designed for some other legitimate purpose.

I spoke recently on Bill C-71 and noted the same issue. The problem is crime, illegal guns and the resulting carnage on city streets. To appease part of the population, there will now be more red tape, more licensing and transport restrictions for law-abiding gun owners who use those guns as tools, not weapons. It's not solving the problem that we all recognize is real.

Think back to the battle over income splitting and the obvious lack of appreciation by the powers that be of what it means for a small business or a farm, where spouses and family members all work, unpaid and unrecognized, to keep things afloat. And this small, legal gesture at tax time was deemed too much, although money for GM or Bombardier is okay.

There was the summer jobs fiasco where faith communities were denied funding and disadvantaged kids hoping to attend or work at summer camps couldn't.

Over the past two years, we have seen what looks and feels like an assault on rural Canada. I'm not naive. I know as a country we are urbanizing and there are costs and consequences for being part of rural life. I have lived in big cities and I have travelled the world. I don't expect all the amenities of big city life to be available in every small town. But I do expect decent health care and cell service, and most of all, I expect fairness and respect.

Governments must govern for all the regions. It's their job to reconcile competing policy imperatives. We need climate action, but we need to be realistic about today's energy needs.

Every year we have the same discussion about moving our grain and pulses to market. Yes, just like oil and gas, more than 65,000 grain producers who feed us and the world need to get their product to market. That legislation too was caught in the maw of yet another omnibus bill. The delays made it difficult for producers to pay mortgages and input payments.

Just last week at the Agriculture Committee, we learned that in the process of limiting unnecessary advertising to kids, we have now declared and classified bread as unhealthy, this at a time when we were told the cost of a family food basket is going up by more than $400 a year. Why? Because fruits and vegetables are becoming more expensive in part because greenhouses are getting out of the healthy food business in favour of the much more lucrative marijuana crop.

That legalization has exacerbated another issue: rural policing. RCMP detachments are woefully understaffed and they have hundreds of square kilometres to patrol. We should not have to tolerate a situation where a call to 9-11 goes unanswered or where people are told to lock their doors and hide because no officer can get to them.

I'm sure I can see some of your eyes rolling as I recount the experiences of the people where I live. But policies and attitudes have unintended consequences, or perhaps intended, and Bill C-69 is yet another powerful message at a very difficult time.

• (2030)

Yes, most of us know it is not the root of all evil. It didn't stop pipelines or cause the price differential, but its effects are already having an impact. Investment is fleeing because few believe energy projects will ever meet the tests.

It's no surprise that Saskatchewan's Minister of Energy and Resources, Bronwyn Eyre, said that Bill C-69 is ". . . an existential threat to our competitiveness. "And it is Canada's economy, not just Alberta's or Saskatchewan's, that will suffer.

Bill C-69 makes a series of sweeping changes to the impact assessment process. It promises to shorten the timeline for assessment periods for review but adds more options for ministerial discretion, and that creates more uncertainty.

An updated list of which projects are or are not at the minister's discretion is still being debated, so we don't know, as we consider this legislation, which projects are on or off the list.

Some of the language in this bill is ill-defined. It declares that:

> The Government of Canada, the Minister . . . must exercise their powers in a manner that fosters sustainability . . . .

But there's no definition of "sustainability." It's not provided. And what does the "intersection of gender and sex with other identity factors" really mean?

We are being told not to be too concerned with the provisions of this bill because once it's passed, the regulations will reassure and explain. But as we know, too often what cannot get through the legislative front door comes in through the regulatory back door.

Determining the fine balance between our economy and our environment is not easy, so I can only hope that this bill will be thoroughly vetted in several committees, although at this point, I must say, my preference would be to have the drafters go back to the drawing board and try again.

I readily concede that the existing legislation is a problem, but two wrongs don't make a right. So let's get this right. As it now stands, I can't support Bill C-69. It simply matters too much to the people and the place I call home. Thank you.

(On motion of Senator Martin, debate adjourned.)

BILL TO AMEND CERTAIN ACTS AND REGULATIONS IN RELATION TO FIREARMS

SECOND READING

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. David Richards: Honourable senators, I'm going to speak on Bill C-71 and how it affected me. It's a personal observation about this bill and what the previous possession acquisition cards did to the people I know and love. I don't know who else in this chamber has their possession acquisition card on them. I have mine in my wallet and I know what it took to get it.

After hunting for 40 years, I was told I must take a course because the world we lived in was no longer safe. Others on my river were told the same thing, men and women who lived in rural New Brunswick. So for weeks we were told much of what we already knew and were shown how to do what we had always done; carry a rifle, load a shotgun, take a rifle apart and reassemble it.

One gentleman who sat beside me was terribly nervous when it came to writing the exam because, though he had been a guide in the woods of New Brunswick for 50 years, he had never learned to read or write.

That is, those who made the laws and arranged the test would never have lasted in the woods a day as that gentleman did, but for the hollow display of security, this test was given him.

A friend of mine and I asked the instructors if this gentleman could take an oral test instead of a written one to save him from the humiliation, and they agreed. His rifles were part of his livelihood and he wouldn't have even heard of gangbangers or thugs in Toronto.

Now when I go to the Canadian Tire to pick up my 180 grain 303 shells, I'm not allowed to touch them or handle them. I have to wait around for up to 30 minutes to ask a youngster to do it. Sometimes on occasion the youngster does not know what 180 grain 303 shells are and I have to point them out, and he picks them up after reaching for the .30-30 shells or the 308 shells or at times shotgun shells.

After this I follow him like a schoolboy to the counter where a young lady, the same age as that young gentleman, rings them in, and after I show my possession acquisition card, hands them to me.

Of the 17 people I took the acquisition possession course with, none ever committed a crime, neither before nor after the test. Not all were men, and the women committed no crimes either. But crimes were committed during that time and before and after by people who would never have taken this test or bothered to honour it if they ever did.

My son asked me to go hunting a few years ago, and unfortunately the possession acquisition card I had in my wallet had expired. You see, like most other people, I got busy and forgot that it had to be renewed. "Oh," I said to John, "I will simply apply for another."

I discovered it would take 45 days to renew, so I would receive it after hunting season was over. They had all the information they would ever need on me on file. I had never committed a crime, but my entire hunting year was ruined by people who might never know that one hunts moose or deer during the rut.

This utter bureaucratic mendacity is just one more way to target those who don't need to be targeted, for some have come to believe that guns are bad even in the hands of good and decent people.

For the most part it profiles and corrals rural men, and I have long known rural men are the easiest targets to take to task in any spectacle against common sense. My rural friends are the ones monitored and catalogued if they use weapons, travel with guns or go to work. Some want to claim them a danger before they ever get to the oil field. It is a profiling which, if done with any other group, would shame this chamber and rile the face of the nation.

It is, of course, stated that this is a law for everyone and no one should mind it, that it does not hurt, but in a way, none of this is true. It is only the law-abiding who abide by it, who have given so much information to authorities they do not know because they are loyal. They believe in and love a country that time and again has betrayed them, has set them up for a fall and has ignored them with a dismissive sniff.

The law-abiding who will be beset by this are most often rural men and women who have grown up with rifles and dutifully follow the law. Most of the people who use guns to destroy lives don't much mind this law because they don't take the test.

This law is in fact a solution looking for a problem. The problem that exists cannot and will not be solved by this solution. I respect those who support this bill, Senator Cormier and Senator Gold, but I do not agree. It creates unnecessary time and money and a false sense of justice and security to placate the urban and urbane.

Yes, I know guns kill, but it is the human heart that commands it, and no law or opinion has yet had a cure for that.

Most of the major gun crimes are done with restricted, unregistered weapons by those who don't know what a possession acquisition card looks like, in cities like Toronto, Vancouver and Montreal. It is almost as if, since car accidents were happening along the 401, the government in all their wisdom decided to stop it by revoking the licences of drivers in Antigonish, Nova Scotia, and Chelmsford, New Brunswick.

I know the police have a harsh and at times terrible job. Seven members of my extended family are police officers. My sister is a judge and my brother is a Crown prosecutor, but nine of the 11 murder victims I know were murdered by other means.

I also know that having guns in the house saved lives during the 1980s when a serial killer was on the loose in my hometown. He never entered a house where young men lived and were able to protect their families. He picked on the defenceless and the elderly. A murderer will always find the means to murder. They always have.

• (2040)

So I am writing this for some of the victims I know, who have haunted me through the years and whose murders seem to be forgotten in this debate: little 14-year-old Tara Prokosh, the two Daughney sisters, Mr. Glendenning, elderly Father Smith, elderly Mrs. Flam, the victim of Mr. Cunningham, the mother and daughter victims of Mr. Black. These were victims bludgeoned and knifed. But most of all, they were murdered by those who failed themselves and others by losing the very core of their humanity.

This law, no matter how much it consoles, does not even come close to addressing that.

Hon. Marc Gold: Thank you, senator, for your speech and for the moving tribute to those who have lost their lives. I want to ask you about some statistics. Were you aware that this past year, in 2017, in New Brunswick, 41 per cent of police-reported firearm-related violent crime involved a rifle or a shotgun? That's more than 10 per cent above the rate of violent crime by handguns. That's in New Brunswick. This 41 per cent rate involving rifles or shotguns is the highest on record for Statistics Canada, which has been collecting this data since 2009.

My question is this: Would you not agree that better background checks could help reduce the incidence of violent crime in New Brunswick and elsewhere by the use of rifles and shotguns?

Senator Richards: No, I don't agree. I think a person who is going to commit a violent crime with a rifle will always find a way to get one. If a person is going to, as they say at times, run amok, a background check before that happens isn't going to solve the problem.

As far as statistics are concerned, I agree mostly with Mark Twain on this. You know what Mark Twain said about statistics: There's lies, damned lies, and statistics. I kind of agree with that. I always have. The arc goes from year to year, and one year doesn't signify the whole arc.

I actually think that owning a gun in a house in rural New Brunswick is a good thing. I think it's definitely an asset to the people who live there, and it was to me.

I'll give you a little example, if I may. We're surrounded by bears in the summer. Not like in Toronto, although I know there was one here in Ottawa. When I come home at night, I shine the spotlight around to make sure there are no bears because I don't want the kids stumbling into them. There was a little bear that got out on the highway and got hit by a truck that left. The reason he left, it wasn't because he was callous. He was frightened the mother was around. He didn't want to get out with the mother there. She would maul him to death.

This Acadian guy was coming from downriver, and we went out and got the bear up on the side of the road. We knew it was in pretty bad shape. Now, I had a rifle 10 minutes away, but I couldn't go get it because I wasn't allowed to use it. So we had to wait for an hour with that bear suffering and all the wonderful tourists coming to take pictures of it because they had never seen a bear before, before Forestry finally got there and were able to take that bear away and put it out of its misery. To me, that is absolutely imbecilic. That's what has happened to our gun laws in this country.

I'm glad I have my guns at home. They are in a case. The bullets are in the opposite room. I feel very safe that no one is going to touch them, and I use them every year.

Hon. Donald Neil Plett: Honourable senators, I will add my voice to this debate tonight. I will certainly not be as eloquent as Senator Richards was and have not had as many of the same experiences he's had. I certainly appreciated his speech and thank him very much for that.

Colleagues, I would like to speak to second reading of Bill C-71, An Act to amend certain Acts and Regulations in relation to firearms. I think we are all well aware that this debate over gun control is a long-standing one. It has gone on for decades. It is very polarized and highly politicized. Advocates and stakeholders on both sides of this issue have strong positions which they hold deeply and often communicate with powerful emotions.

This is understandable. On one hand, we have people who have lost loved ones through homicide or suicide where firearms were involved. In some cases, terrible accidents involving firearms have changed the lives of innocent people forever.

Last Thursday was the twenty-ninth anniversary of that dark day in 1989 when 14 young women lost their lives at École Polytechnique. It was a terrible tragedy, colleagues, that left deep scars on survivors, families and indeed the whole nation.

On the other side of this debate we have honest, law-abiding citizens and gun owners who are deeply troubled by gun violence but are concerned that this legislation misses the mark entirely. Instead of addressing a very real problem, it promises something it cannot deliver. To make matters worse, it casts a shadow over gun owners, suggesting they are somehow culpable for the tragic losses experienced by others through gun crime.

It is not hard to see that when you combine these two very polarized positions and add in strong rhetoric, which is often contradictory and confusing, you end up with a debate where there is far more heat than light. This is regrettable, but it is the reality.

Even as I speak here today, I am aware that some senators will not really be hearing me because I am opposing this legislation. But let me be clear. Nobody is debating whether gun crimes should be dealt with, nobody is minimizing the terrible losses that have been experienced, and nobody is suggesting that nothing should be done. The question is: What should be done?

It is critical that we consider the answer to this question carefully, because a failure to do so not only misallocates precious resources but endangers more lives. It is important to get this right.

Colleagues, they say that doing the same thing over and over again and expecting to get different results is a good definition of insanity. In my view, this is exactly where we find ourselves today. For some incomprehensible reason, the Liberal

government has decided once again to introduce another piece of gun control legislation based on faulty logic and phony statistics. If evermore gun legislation was effective, you would find a lot more public support for it, especially amongst gun owners. But the fact is that both simple logic and supporting evidence shows it will not. It will not increase public safety; it will not reduce gun crime; and it will not save lives.

Rather than helping, this bill actually hinders progress by giving the illusion that the government is addressing the problem, when in reality they are completely missing the mark.

You'll recall that their previous attempt with gun control was an abysmal failure. In 1993, the Liberals told Canadians the federal long-gun registry would cost about $2 million and would reduce crime. By the time we managed to get rid of the registry, the costs were estimated to be over $2 billion. And the impact on crime, colleagues, zero.

What we should have learned from this experience is that there are serious consequences from engaging in ideologically driven, unsubstantiated social experimentation, but it does not appear the current government has learned this lesson. In fact, the Liberal Party's track record on this issue is so terrible that the current Liberal government has taken pains to distance itself from the policies of its predecessor, claiming they will never bring back the gun registry.

• (2050)

Yet, here we are today, debating the same discredited approach that pretends that clamping down on lawful gun owners will somehow reduce crime and send gang members scurrying for cover. This is absurd.

Colleagues, let me give you a bit of background. In the 1960s, 1970s and 1980s, crime was rising in Canada. It was a turbulent time for many reasons, with a lot of social unrest and economic insecurity. However, in 1991, total Criminal Code incidents peaked and they have been trending downwards ever since.

Homicides hit their high point much earlier, in 1975, when they reached 3.02 homicides per 100,000 population. They have not returned to that level again but have been trending downwards ever since, just like crime in general.

In 2013 the homicide rate hit its lowest point in almost 50 years, at 1.45 per 100,000 population. You have to go back to 1966 to find it lower than that. In the last four years that rate has risen somewhat. Today, the latest Statistics Canada numbers show the homicide rate in Canada sits at 1.8 per 100,000 population.

These kinds of fluctuations are normal. The numbers move up and down from year to year over the course of a few years. In spite of this, the trend lines for crime, violent crime, gun crime and homicides all continue to point downwards. In fact, the homicide rate today is close to half of what it was almost 40 years ago.

Now, some people, such as Ralph Goodale and our good friend Senator Pratte, would have you believe that the last four years represents a turning of the tide. They will tell you that more than four decades of declining crime rates have suddenly done a 180-degree turn, and we must now scramble with bad legislation to try to correct this alarming change of course.

In his speech on Bill C-71 Senator Pratte said the following:

> Over the last four years, we have witnessed an increase in gun-related crime in Canada. Some will say — you will hear them in the next few weeks — that this increase is not significant because 2013, the year when it started to rise, was a historic low. They even accuse the government of manipulating the data to argue in favour of this bill. But, colleagues, this is not manipulation but statistical fact. The numbers and the police reports point to a very worrisome reversal of a downward trend that began over 20 years ago.

There you have it. According to our colleague Senator Pratte, we appear to be teetering on a precipice. Unless we pass Bill C-71, we are going to tip over the edge.

Well, with respect, colleagues, Senator Pratte and Minister Goodale are playing a bit loose with the facts.

However, there is no need for me to debunk Senator Pratte's assertion. That has already been done by Professor Pierre-Jérôme Bergeron, who teaches statistics at the Department of Mathematics and Statistics at the University of Ottawa.

In a CBC news story last March, Mr. Bergeron noted that the government's decision to choose 2013 as a base year for comparison was disingenuous at best, and perhaps dishonest. He said:

> They obviously picked the one year where it was lowest, so as to maximize the impact, the one year to make the change look most drastic, essentially. . . . Here, I'm pretty sure they saw 2013 at the bottom, and said, "We're going to pick that."

The same CBC article goes on to quote University of Ottawa criminologist Holly Johnson, who specializes in methodologies of crime and coordinated surveys of violence and crime for Statistics Canada and the UN. She said:

> I do not know the motivation or reasoning behind it, but certainly choosing the lowest rate in decades of data would suggest there's a reason for that, trying to make a point of some sort. . . . However, a few years does not a trend make.

Indeed, colleagues, if you take a closer look at the stats, you will find that the four-year bump in crimes involving firearms is reflective of an overall increase in crime, as noted by Statistics Canada's Crime Severity Index. If you look at the homicide stats by themselves, you might be concerned; however, when you consider the context that all crime has increased, it tells us that something larger is going on that isn't going to be solved by simply adding additional layers of gun regulation.

So what is going on? Why did crime rise consistently and significantly during the 1960s and early 1970s but then start to fall? What happened in the last few years that has caused an interruption in this decline?

In 2005 Statistics Canada decided to take a look at this question. They released a study entitled *Exploring Crime Patterns in Canada*, in which they examined patterns of crime between 1962 and 2003, with a particular focus on the decline of crime throughout the 1990s. They noted that there had been significant declines in property crime, robberies, homicides involving firearms, and homicides overall. What they found is not a simple one-size-fits-all answer. They noted that different crimes are influenced by different factors.

For example, financially motivated crime was influenced by shifts in the economy. Years with higher rates of inflation tend to have higher rates of financially motivated theft.

Property crimes, such as break and enter, were found to be strongly correlated with demographic changes, specifically the age composition of the population. Quite simply, they found that the more 15- to 24-year-olds you have in your population, the more B and Es you have.

When it came to homicide rates, they made another interesting discovery. They found that this model indicates there is a positive relationship between homicide and unemployment rates and rates of per capita alcohol consumption, such that when rates of unemployment increase or decrease, there is a corresponding change in homicide rates in the same direction. Similarly, when rates of per capita alcohol consumption increase or decrease, there is a corresponding change in rates of homicide in the same direction.

Now, nobody is suggesting that these are the only things that impact the homicide rate. There are no doubt other factors, which will continue to be discovered through research and observation. However, it is clear that different crimes are influenced by different social and economic factors.

This brings us to the more recent bump in crime rates in general, and gun crime specifically. What is going on here?

Well, there is little mystery. Statistics Canada has been sounding the alarm over the past few years that the rate of homicide and gun crime in Canada is being significantly impacted by criminal gangs and gang violence. This came up again in their most recent report, *Homicide in Canada, 2017*. Released just two weeks ago, they noted that after declining from 2009 to 2014, the gang-related homicide rate has increased for three consecutive years.

This rate has doubled since 2015 and is now at its highest level since StatsCan started tracking this data in 2005. Gang-related homicides now represent one quarter of all homicides in Canada.

Furthermore, StatsCan has told us over and over again that compared to other types of homicide, gang-related homicides more often involve guns.

• (2100)

Seventy-eight per cent of gang-related homicides in Canada were committed with a firearm, usually a handgun, compared to 27 per cent for homicides that were not related to gang activity. The problem could not be clearer. These are not law-abiding gun owners. This is predominantly criminals and gangs.

Read Statistics Canada's report for yourselves and you will see they set it out in black and white:

> A criminal past is common for both persons accused of homicide and victims [of homicide].

They note that in 2017, two thirds of adults accused of homicide had a criminal record — two thirds — and over half of the adult homicide victims had a Canadian criminal record. In other words, colleagues, the lion's share of our gun crime problem is criminals killing criminals and using guns to do it.

Do we care about that? Yes, absolutely, but will passing legislation that introduces more gun regulations on law-abiding gun owners change a thing? No, it will not. Criminals do not care about gun laws. Gang members do not walk into a store to buy a gun that they plan to use to kill someone. This may come as a shock to some senators, but they usually do not have a licence. And after the Liberals pass this legislation, which they most certainly will do, gun-carrying gang members are not going to call their firearms officer to get authorization to transport their firearms. They do not care about double-locking their guns when they transport them, and I highly doubt that they place them in the trunk of their car.

The more you learn about what is actually going on and the more you look at what this bill proposes, the more absurd it becomes. It plays to the emotions of Canadians and provides false comfort to those who do not like guns. It does absolutely nothing to achieve what it's supposed to achieve.

Now, perhaps you're listening to my remarks with a degree of skepticism because you believe that the Liberal government is only pushing this bill out of their concern for the latest gun crime numbers. Well, senators, let me point something out. This bill was promised to Canadians during the 2015 election. During that election, the latest numbers on gun crime showed the homicide rate at its lowest level in almost 50 years. We had not even hit the four-year bump in homicides yet. By the time the homicide stats for 2014 were released, it was November 25, 2015, a full month after the Liberals had been in office. And even those stats in 2013-14 had the lowest homicide rates since 1966.

My point is this: The determination of the Liberals to re-implement gun control has nothing to do with an increase in homicides or gun crime. When it comes to gun control, they do not care if the numbers are going up or down or moving at all. They are determined to push this useless legislation through because they are playing a political game instead of addressing the real issues.

That, my friends, is tragic. Canadians are being manipulated and fed false information in order to shore up support for this bill.

Let me give you another example in his second reading speech where Senator Pratte said the following:

> According to data provided by Statistics Canada, over the last 10 years, no fewer than 169 gun homicides were committed by licensed firearm owners.

This was repeated a couple of weeks ago by Senator Coyle. But it doesn't matter how many times it is repeated; it remains patently false.

The statistic Senator Pratte referred to was not for individuals who committed homicide but individuals who either were or just might be charged with homicide — 169 licensed gun owners charged or possibly charged with homicide over 10 years. Okay, that's about 17 people a year out of more than 2 million legal gun owners.

But wait, the number is even smaller than that. Over the last 10 years, an average 42 per cent of people charged with homicide were cleared of those charges, so now we're somewhere down between 8 or 9 people per year.

But there's another thing. At the bottom of the spreadsheet that Senator Pratte relied upon, there's a note by StatsCan researchers, and here's what it says:

> Due to the high portion of firearm-related homicide victims for which there is no charged [person] identified, and relatively high portion of firearms licensing status reported as unknown, data related to firearm licensing of the charged [person] should be interpreted with caution.

In other words, do not do what our friend Senator Pratte did and try to build a case on these numbers. You might just be building on sand.

If you really want to build a case against licensed gun owners, you should be looking at how many people are being charged under the Firearms Act. That is, after all, the act that Bill C-71 is amending.

Unfortunately, there's not much of a case there either. In 2017, this rate was the lowest it has been since 2001 and has been trending downwards for over 15 years. Even the federal government admits on the website of Public Safety Canada that:

> The vast majority of owners of handguns and of other firearms in Canada lawfully abide by requirements, and most gun crimes are not committed with legally-owned firearms.

Colleagues, there is simply no case to build against licensed firearm owners. It's all smoke and mirrors. If you want to reduce homicides, you'd be more effective targeting knives. Between 2007 and 2016, more homicides were committed by stabbing than by firearms in 7 out of 10 of those years. And the use of knives in homicides has been trending upwards since 1974, while the use of guns has been trending downwards.

The inconvenient truth is that knives are a bigger menace the firearms. In fact, firearms are not nearly as common in violent crimes as you might think. In 2016, there were 265,555 reported instances of violate crime, and 97.3 per cent of the time no firearm was involved. When a firearm was present, it was a handgun 1.6 per cent of the time and a long gun 0.47 per cent of the time — less than one half of a per cent.

Now, if gun control worked, it should be long guns used more often in crimes than handguns because handguns, colleagues, have been registered in Canada since 1935. Apparently, the criminals never got the memo that they need to register their guns and follow all the firearms regulations.

Colleagues, a number of speakers have suggested that law-abiding gun owners should be willing to endure a bit of inconvenience that Bill C-71 will cause them in order to facilitate the greater public good. Let me assure you, if there was any truth to the suggestion that Bill C-71 would contribute to public good, gun owners would be more than willing to adapt. The problem is there is no evidence that this bill will have any positive impact on gun crime but could have significant impact on legal gun owners.

Let me quickly list five ways this legislation will impact legal gun owners, as detailed by gun owners themselves in "The Bill C-71 Book."

First, licence revocation. Because background checks are being expanded to cover the entire lives, some gun owners could have their Possession and Acquisition Licence revoked when something from a distant past surfaces. Even if they have had a spotless record of firearm ownership, some incident from decades ago could come back to haunt legal gun owners and they will no longer be eligible for a licence.

Second, confiscation. This bill will result in an estimated 10,000 to 15,000 "non-restricted" and "restricted" rifles being reclassified as "prohibited."

• (2110)

Remember, these firearms are currently legally owned, legally stored and have never been used in the commission of a crime. They were purchased in good faith, according to the law. Yet, they will be reclassified as prohibited and potentially confiscated when their current owners die, with no reimbursement to the family or to the estate.

Third, criminalization. This bill will enable the potential criminalization of an estimated 15,000 honest people when their firearms are suddenly reclassified to prohibited. Since there is no registry for non-restricted firearms, there is no way to contact firearm owners to notify them that their rifle is now prohibited. This means that some owners may not learn their guns are now illegal until they are arrested, charged and must defend themselves in a court of law.

Fourth, no political oversight. This bill removes the government's ability to overrule RCMP firearm classification errors, giving a significant amount of power to the police. This measure is being sold to Canadians as the depoliticization of guns, but what it really does is remove political accountability. Decisions to reclassify firearms will strip Canadian citizens of their property and should not be made without political oversight.

Fifth, registration and connection tracking. This bill makes it a crime to buy, sell or give away a firearm without authorization and a reference number from the RCMP registrar of firearms. Owners of a non-restricted firearm must get permission to sell their rifle or shotgun by providing their PAL number — Possession and Acquisition Licence number — to the RCMP. The RCMP must be notified, even if the sale is not completed, creating a connections registry of whom gun owners talk to about transferring guns.

I know that the government and Senator Pratte have tried to drill into you that this is not a firearms registry, but it is. It just isn't a centralized registry yet.

Gun owners are concerned that it has all the capabilities of becoming one in a flash, however. They note that, under this bill, firearm retailers must create, manage and keep a registry of licensed buyers of non-restricted firearms and of the firearms they bought for at least 20 years. They will run the registry on behalf of the government, and if a business shuts down, it must surrender the records to the authorities. What part of that doesn't sound like the basis of a registry, colleagues?

You cannot blame firearms owners for being concerned. In spite of this government's promise that they are not going to introduce a long-gun registry, and in spite of the fact that a basically meaningless clause was inserted in the bill saying it is not a registry, the Liberal government still loves the idea of registering all hunting rifles and shotguns of law-abiding Canadians.

How do we know this? Because in Bill C-71, they are not just implementing all the machinery necessary to collect registry information, they are also giving provincial governments, and most immediately the Quebec government, access to the data captured by the previous long-gun registry. Even though the Supreme Court ruled that the data could be destroyed, this Liberal government is keeping it.

While, on the one hand, they say they are opposed to a registry, on the other hand, they are pulling the cloak off the registry data collected by their former Liberal colleagues. This gives gun owners little confidence that the Trudeau government will keep its word and not transform the records into a full-blown registry.

Colleagues, I do not have time to address all the problems with this legislation, but I need to put one more on the record.

Counter to all common sense, this legislation introduces absurd new procedures for transporting a restricted firearm. This is probably the most criticized part of this bill, and it's called the Authorization to Transport, or ATT for short.

ATTs are not new. They are already required for transporting a restricted firearm to certain places. In the past when you were given a gun licence for a restricted firearm like a handgun, this licence allowed you to transport your gun to certain places, six to be exact. These were: First, home and shooting range in the same province.

Second, police station or Chief Firearms Officer for verification, registration or disposal.

Third, gunsmith for repair or gun store for the purposes of appraisal or sale.

Fourth, a gun show.

Fifth, a border point such as a border crossing or international airport.

Sixth, from where you purchase a firearm to your home.

Transporting your restricted firearm to these places and for these purposes was permitted as a licence condition, and the gun owner didn't have to obtain a separate authorization to transport each time a trip was taken.

Now, bear in mind that in order to transport your firearm, it had to be double-locked. This means there's a trigger lock on the gun, and the gun is then placed in a locked case.

We are not talking about someone dropping a handgun in the glove box and heading off to the range. We are talking about taking serious safety precautions in order to transport your firearm legally.

The existing authorizations have been working fine, but for some reason in its infinite wisdom, this government has decided to make changes. Under Bill C-71, a legal gun owner will still be able to take their handgun home after they buy it, and they can take it to the shooting range and home again within the same province. But if you drive across the province to a shooting range and then your gun jams, you can't even take it to the gunsmith. You must first contact the provincial firearms officer and get permission.

What on earth is this supposed to accomplish, and how exactly does this reduce gun violence? If anything, it reduces gun safety by erecting roadblocks to timely repair and maintenance of firearms.

Colleagues, let me very briefly address one other concern about guns and that is suicide. Suicide is a horrible thing. It steals people from their loved ones at a time when they are the most vulnerable and helpless. But if we think more gun regulations are the answer, we are not fooling anyone. We are also failing those who desperately need our help at a time they need it the most.

I wholeheartedly agree with Senator McCallum when she said in her speech that suicide will remain wholly unaddressed with this legislation. Simply regulating access to firearms will not deter this prevalent form of gun violence.

It is true that in 1998, the Department of Justice did a study into this very issue, and this is what they had to say:

> The observed correlation between firearm availability and suicide in general . . . is not as solid as some might expect. In Canada, provincial comparisons of firearm ownership levels and overall rates of suicide found that levels of firearm ownership had no correlation with regional suicide rates . . . . Furthermore, the Canadian rate of firearm suicides has dropped without evidence of a similar reduction in the rate of firearm ownership.

This trend continues. According to StatsCan, the use of firearms in suicides had been steadily dropping since the turn of the century. In 2000, one in five people who committed suicide used a firearm. In 2016, it was one in six. There is simply no correlation between legal firearm ownership and the rate of suicide.

Senators, in closing, let me just repeat that if public safety is our priority, then we should make sure we understand what is going on and take steps that will address the real problem. This government and this bill fails miserably on both of these counts. As licensed gun owners have pointed out, the government has not provided a single example of how Bill C-71 could prevent violent crime or strengthen public safety.

• (2120)

To make matters worse, this government's record on crime and public safety is a joke. Under Bill C-75, they want to reduce sentences for crimes such as gang activity, child abduction, impaired driving causing bodily harm, administering of the date-rape drug, advocating genocide, participating in a terrorist group and many more. At the same time, they are welcoming known ISIS fighters back to Canada with open arms, claiming they can be an extraordinarily powerful voice in our country. This is the same government that thinks you can fight gun violence by forcing licence-safety-certified law-abiding gun owners to jump through more hoops.

Colleagues, I will not be voting in favour of this bill — if you thought there was any doubt. While you may not be surprised by this, colleagues, I was surprised to read in the Canadian Press that, according to our good friend Senator Pratte, independent senators will be supporting this bill. And he says the Conservatives will be opposing it. Now, I'm not sure who appointed him your spokesperson, but you've heard it in the Canadian Press.

I'm not sure when Senator Pratte was appointed to speak for the Independent Senators Group. I thought being independent meant you made your own decision on what position you take. It baffles me how the Trudeau appointees cannot see the absurdity in constantly asserting they're independent but repeatedly voting together as a block.

Honourable senators, I urge you to carefully look at this bill before supporting it. It fails to achieve its objectives, imposes unnecessary burdens on law-abiding gun owners and deserves to be defeated. Thank you.

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

Senator Plett: Well, it's getting pretty late and we have other things on the agenda, but yes, I will take a question.

Senator Pratte: First, I would like to thank the senator for quoting me. I don't think I've ever been quoted as extensively as I was tonight.

Senator, you referred to a report on homicide in 2017 by Statistics Canada. This report shows we have a gang problem in large cities in Canada, but that's only one part of our gun problem. I'd like to ask for your comments on the following statistics. For instance, the fact that the rate of homicides in rural areas in Canada has jumped 60 per cent in 2017 and that out of those homicides committed in rural areas, 66 per cent are committed with a long gun rifle or a shotgun.

Is this, senator, what you call a simple bump or just normal variation that governments should ignore? I don't think any government would ignore such statistics — not only from urban Canada but also from rural Canada, including Manitoba.

Senator Plett: I think, Senator Pratte, with that you should also include how many crimes were committed as opposed to just simply giving us an increase in the bump. If it increased from one to two, that's a 100 per cent increase.

Senator Pratte: That's a good answer. I don't have the exact numbers in front of me; I have rates. However, if you care to check, I think we can easily find the data for Manitoba. I don't think it would just be one or two. Even if it were only one or two murders, I think that would be sufficient for a government to act.

Senator Plett: Well, then, maybe we should table this legislation for some time in the new year, do some research and find out what those numbers are.

Hon. Julie Miville-Dechêne: Senator Plett, would you accept another question?

Senator Plett: Certainly.

Senator Miville-Dechêne: Police report a 66 per cent increase in female victims of intimate partner violence within an eight-year span. You like figures, so, in that case, we are talking about 584 women victims in 2016 — over 500.

Would you agree this huge increase is concerning? More to the point, would deeper background checks provided in the bill help?

Senator Plett: You have numbers for violent crime, but again, I didn't hear in there how many of those were committed by long guns.

I am not arguing the fact that we should cut down all violent crime. More violent crime is happening with knives than with guns. That's the point I'm making. I am not saying we shouldn't get rid of violent crime. We certainly should.

Senator Miville-Dechêne: I would argue that we are talking about 584 women victims of intimate partner violence. Those are done with guns.

Senator Plett: I didn't hear a question in there. It was a comment.

Hon. Frances Lankin: I apologize to senators because I know it's late and this is a surprise because I wasn't on the list. However, I have listened carefully and I want to make a couple of comments. I will be brief.

I want to thank Senator Richards, Senator Plett and previous speakers for their contribution to this bill. I think the complexity of some of these issues bedevil us when governments are looking for solutions.

I live in northern rural Ontario. My community has numerous hunt camps. It's part of the culture. My husband has a — pell — . I don't, but my husband does. Furthermore, most of my friends are hunters and gun owners. I certainly don't want to see criminalization or casting a shadow over legal long gun owners.

By the way, honourable senators, I will vote in favour of this at second reading because I think there are important issues to deal with at committee. I've been quite surprised to see this new event of a number of people in the Senate voting against second reading on a consistent basis tonight.

One of the issues that I would like to see us look at in committee is one raised by Senator Miville-Dechêne with respect to domestic violence. I like the Mark Twain quote. Statistics are important to inform us, but I think we all know we can cherry-pick and it's important not to do so.

I'm very fortunate to be on the Standing Senate Committee on Legal and Constitutional Affairs. I believe the bill's going to be referred there. I look forward to digging deeper into this. Some of the statistics we've been looking at in our office are with respect to domestic violence and gun possession. I had the opportunity, in a bit of a question and answer period with Senator Patterson, to point out to him the prevalence and rates of the use of legal guns in the northern regions that he lives — although he sometimes says they're not registered for obvious reasons he pointed to — in domestic violence.

The other statistics we've been looking at are the reports of the Chief Firearms Officer. Senators who have looked into this will know that the Chief Firearms Officer files a report every year. One of the things they report on are the number of people who have been refused possession and acquisition licences, as well as the number of people who have had their licences revoked. With respect to that, over the past 16 years — I'm going to go back and get my office to see this is not a false comparison to the period before that — we have consistently seen twice as many licences revoked for use related to domestic violence. The Chief Firearms Officer has to identify the reason. Twice as many were revoked as not granted in the first place.

This suggests the background checks we are doing are not sufficient. I appreciate what Senator Plett is saying — and I think Senator Richards referred to this as well — namely that people who have no violence or red flags in their background are concerned about extending that five-year period. I would argue that there are many people who do. The fact that we see twice as many being revoked in relationship to domestic violence as being refused in the first place says that our background checks are not working well enough. Although, there could be reasons that provoke people in situations to behave in such a way not indicated by their past.

• (2130)

I hope we take the time to examine this. I have lived in urban Canada as well. I spent many years in Toronto involved with issues of guns and gangs in that city. I understand and see both sides. I hope we take the opportunity to look into this and not take hard-line positions on either side. I don't think it serves us or Canadians well. I don't think it serves law-abiding gun owners well, and I don't think it serves victims of violence using legal long guns.

My hope is that we pass this at second reading and get it to committee, where we could perhaps take a more balanced approach to looking at all the issues that have been raised. Thank you very much.

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

Some Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Pratte, seconded by the Honourable Senator Coyle, that this bill be read a second time.

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

Some Hon. Senators: Yea.

Some Hon. Senators: Nay.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: Do honourable senators have an agreement on a bell?

Senator Plett: One hour.

The Hon. the Speaker: The vote will take place at 10:31 p.m. Call in the senators.

• (2230)

Motion agreed to and bill read second time on the following division:

YEAS
THE HONOURABLE SENATORS

Bellemare	Harder
Bernard	Hartling
Black (*Ontario*)	Klyne
Boehm	LaBoucane-Benson
Bovey	Lankin
Busson	Lovelace Nicholas
Cordy	McCallum
Cormier	McPhedran
Coyle	Mégie
Dalphond	Mercer
Dasko	Mitchell
Deacon (*Nova Scotia*)	Miville-Dechêne
Deacon (*Ontario*)	Moncion
Dean	Munson
Downe	Omidvar
Duffy	Pate
Dupuis	Petitclerc
Dyck	Pratte
Forest	Ravalia
Forest-Niesing	Saint-Germain
Francis	Simons
Gagné	Sinclair
Galvez	Wallin
Gold	Wetston
Griffin	Woo—50

NAYS
THE HONOURABLE SENATORS

Andreychuk	McIntyre
Ataullahjan	Mockler
Batters	Neufeld
Beyak	Ngo
Boisvenu	Oh
Carignan	Patterson
Dagenais	Plett
Doyle	Poirier
Eaton	Richards
Frum	Seidman
Housakos	Smith
MacDonald	Stewart Olsen
Maltais	Tannas
Manning	Tkachuk
Marshall	Wells
Martin	White—33
McInnis	

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

REFERRED TO COMMITTEE

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

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

• (2240)

The Hon. the Speaker: Honourable senators, is there some confusion about whether this motion just passed? Do senators wish to stand and explain if there is some confusion about whether this motion is passed, about the matter being referred to the National Security and Defence Committee?

Hon. Senators: Agreed.

[*Translation*]

ADJOURNMENT

MOTION ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of December 10, 2018, moved:

> That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Wednesday, December 12, 2018, at 2:15 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to.)

THE SENATE

MOTION TO PHOTOGRAPH AND VIDEOTAPE ROYAL ASSENT CEREMONY ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of December 10, 2018, moved:

> That photographers and camera operators be authorized in the Senate Chamber to photograph and videotape the next Royal Assent ceremony, with the least possible disruption of the proceedings.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*English*]

KINDNESS WEEK BILL

THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Munson, seconded by the Honourable Senator Mercer, for the third reading of Bill S-244, An Act respecting Kindness Week.

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I rise today to speak to Bill S-244, An Act respecting Kindness Week at third reading. I would like to thank Senator Jim Munson again for bringing the bill forward and inspiring a heartfelt debate in this chamber.

As the official critic of this bill, I will put on the record several concerns and some personal thoughts.

First, some have argued that there are already too many designated days and weeks on our calendar. Kindness week is yet another designation that would make people weary and potentially elicit apathy or indifference rather than compassion and inspiration.

Another concern is redundancy. There are existing local, national and international movements that promote acts of kindness, such as random acts of kindness week in Alberta and real acts of caring week in British Columbia.

Should this bill receive Royal Assent, I hope the proposed kindness week, as enacted in the bill will connect, add and enhance what is already being done in our country, rather than compete, overshadow or disregard existing traditions. Overall, though, I stand in support of this bill that encourages acts of kindness and volunteerism as is the Canadian tradition.

A well-known example which has resurfaced on the Internet in the recent months is the CBC documentary featuring Operation Yellow Ribbon in 2001. When the U.S. airspace became gridlocked soon after the 9/11 attacks, Canadians came together and welcomed 239 U.S.-bound flights with 33,000 passengers at 17 different airports, particularly the Gander International Airport in Newfoundland and Labrador, which was the first North American airport on the transatlantic route, took in 38 aircraft with 6,600 passengers and crew.

The population of Gander at the time was fewer than 10,000 people. Despite the limited people and resources available in this small town, more than half the town's population rushed to the airport to provide necessary assistance to the perfect strangers on the planes. Bus drivers who were on strike put down their picket signs to transport the thousands of lost travellers. Pharmacists worked around the clock to provide prescription medications to the passengers in need. Locals opened their homes and community spaces to shelter every single passenger. Not only in Gander but all across Canada communities stepped up to house and feed those thousands of passengers for days that followed.

It's no wonder this nationwide act of kindness resonates in all of our hearts as Canadians.

On a more personal note, when I hear the word "kindness," I'm reminded of the legacy of compassion and selfless love that Canadians have passed on to the people of Korean descent around the world that began with the first Canadian missionary to set foot on Korean soil in 1888, 130 years ago.

The effect of such kindness: South Korea has since become a generous donor, sending more than $2 billion in aid to the neediest countries in the world and a sovereign country that sends out more missionaries than Canada, second only to the United States.

This phenomenon of paying it forward is something that I witnessed in Montreal quite recently at a Korean church called Hosanna Church. Not only are they sending missionaries, but as ethnic Koreans living in Montreal, where they have the opportunity to learn French, they realized that missionaries needed to be sent to French-speaking francophone countries in Africa. Their mission is focused on serving that need because they are Korean-Canadians in Quebec. It's a wonderful effect of paying it forward.

This year also marks the sixty-fifth anniversary of the Korean War Armistice. You have heard me speak many times about the incredible service and sacrifice of Canadians in Korea during the Korean war, which allows me to be here today.

As we look around this beautiful chamber that we will soon have to say goodbye to — temporarily, but we know that at least for a decade — the paintings on the walls of the Senate remind us of our shared history as Canadians that we have inherited legacies of all those who have served and sacrificed so that we may live freely as we do today and enjoy the opportunities as well. It is in this spirit of serving and giving that I support the adoption of this bill.

In the words of Aesop: No act of kindness, no matter how small, is ever wasted. Now during this season of hope, peace, joy and kindness, I will stand with my colleague and sponsor of the bill, Senator Jim Munson, and urge all honourable senators to do the same.

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

Some Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read third time and passed.)

GIRL GUIDES OF CANADA BILL

PRIVATE BILL—THIRD READING—
DEBATE ADJOURNED

Hon. Terry M. Mercer (Acting Leader of the Senate Liberals) moved third reading of Bill S-1002, An Act respecting Girl Guides of Canada.

Hon. Pierre J. Dalphond: Honourable senators, I'll take two minutes to explain the amendment. The amendment was handed over this afternoon. I won't read it again. It's late and there are parties going on. Essentially, what this —

• (2250)

The Hon. the Speaker: Senator Dalphond, you will have to move the amendment. Then, if you wish to speak to it, you can.

MOTION IN AMENDMENT

Hon. Pierre J. Dalphond, pursuant to notice of earlier this day, moved:

That Bill S-1002 be not now read a third time, but that it be amended on page 8 by adding the following after line 17:

"**16.1 (1)** Directors of the Corporation are jointly and severally, or solidarily, liable to employees of the Corporation for all debts not exceeding six months' wages payable to each employee for services performed for the Corporation while they are directors.

(2) A director is not liable under subsection (1) unless

(a) the Corporation has been sued for the debt within six months after it has become due and execution has been returned unsatisfied in whole or in part;

(b) the Corporation has commenced liquidation and dissolution proceedings or has been dissolved and a claim for the debt has been proved within six months after the earlier of the date of commencement of the liquidation and dissolution proceedings and the date of dissolution; or

(c) the Corporation has made an assignment or a receiving order has been made against it under the Bankruptcy and Insolvency Act and a claim for the debt has been proved within six months after the date of the assignment or receiving order.

(3) A director, unless sued for a debt referred to in subsection (1) while a director or within two years after ceasing to be a director, is not liable under this section.

(4) If execution referred to in paragraph (2)(a) has issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

(5) A director who pays a debt referred to in subsection (1) that is proved in liquidation and dissolution or bankruptcy proceedings is subrogated to any priority that the employee would have been entitled to and, if a judgment has been obtained, the director is

(a) in Quebec, subrogated to the employee's rights as declared in the judgment; and

(b) elsewhere in Canada, entitled to an assignment of the judgment.

(6) A director who has satisfied a claim under this section is entitled to recover from the other directors who were liable for the claim their respective shares.".

He said: Honourable senators, the purpose of the amendment is very simple, namely, to provide the 175 employees of Girl Guides of Canada with the same protection as employees of other non-profit corporations across Canada, such as the Canadian Cancer Society. The amendment will introduce into the bill a provision that applies to all non-profit organizations incorporated under the Canada Not-for-profit Corporations Act. The amendment has received the approval of the Girl Guides association and was drafted by the Clerk's Office. I propose that the amendment be adopted.

Hon. Terry M. Mercer (Acting Leader of the Senate Liberals): As the sponsor, I have no objection to the amendment.

Hon. Ratna Omidvar: I wish to adjourn the debate in my name.

The Hon. the Speaker: It is moved by the Honourable Senator Omidvar, seconded by the Honourable Senator Gold, that further debate be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: Do we have agreement on a bell?

Some Hon. Senators: Oh, oh.

Some Hon. Senators: Now.

The Hon. the Speaker: Honourable senators, I will reiterate my earlier ruling. If there is no agreement on a time less than an hour set by the government and the opposition, the default position is one hour. Do we have agreement on a time?

Some Hon. Senators: Now.

The Hon. the Speaker: Are honourable senators in agreement that we vote now?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Honourable senators, we have an adjournment motion on the floor. Some senators are in favour of the adjournment motion; some senators are opposed to the adjournment motion. We have an agreement of the house to vote now.

Motion agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Bernard	Klyne
Beyak	LaBoucane-Benson
Black (*Ontario*)	Lankin
Boehm	McCallum
Bovey	McPhedran
Busson	Mégie
Dalphond	Mercer
Dasko	Miville-Dechêne
Deacon (*Nova Scotia*)	Munson
Deacon (*Ontario*)	Omidvar
Dupuis	Pate
Forest-Niesing	Petitclerc
Francis	Pratte
Gagné	Ravalia
Galvez	Saint-Germain
Gold	Simons
Griffin	Sinclair
Hartling	Woo—36

NAYS
THE HONOURABLE SENATORS

Andreychuk	McIntyre
Ataullahjan	Mockler
Batters	Neufeld
Boisvenu	Ngo
Carignan	Oh
Dagenais	Patterson
Doyle	Plett
Eaton	Poirier
Frum	Seidman
Harder	Smith
MacDonald	Stewart Olsen
Manning	Tannas
Marshall	Wells
Martin	White—29
McInnis	

ABSTENTIONS
THE HONOURABLE SENATORS

Bellemare	Lovelace Nicholas
Cordy	Mitchell
Cormier	Moncion
Coyle	Wallin—9
Downe	

• (2300)

THE UNITED CHURCH OF CANADA ACT

PRIVATE BILL TO AMEND—THIRD READING

Hon. Peter Harder (Government Representative in the Senate) moved third reading of Bill S-1003, An Act to amend The United Church of Canada Act.

He said: In essence, this is a private bill which amends the original governance structure of the United Church of Canada, which was first legislated in Parliament 94 years ago. These amendments bring the United Church of Canada structure into the 21st century to meet the current needs of the church.

The United Church of Canada was originally incorporated by an act of Parliament in 1924. This legislation reshapes the church's governance with better decision-making, accountability and transparency, thereby making the church more accessible and inclusive to a greater number of Canadians, while keeping the church's vision and mission clear.

With Bill S-1003, the church simplifies its structures, moving from a four-court or four-level decision-making structure to a three-council structure. The three-council model provides a more agile and sustainable structure that better supports and enables the church's main purpose of ministry and mission and reduces administrative costs.

At its core, this reorganization will help the church focus on its mission of making a positive difference in people's lives through faith and moral commitments that come with faith.

I want to thank Senator Patterson, as the critic, for lending his support to this bill. I want to thank the Banking Committee for its review of this bill and clause-by-clause support for these amendments.

I urge you all, esteemed colleagues, to pass this bill today.

Hon. Dennis Glen Patterson: Honourable senators, I wish to speak as well at the third reading of Bill S-1003, An Act to amend The United Church of Canada Act.

As I said in speaking to this bill at second reading, the bill is needed because the United Church of Canada has changed significantly since it was created by an act of Parliament in 1924, which transferred properties and united the three main evangelical Protestant denominations in Canada — Congregationalists, Methodists and Presbyterians — to form the largest Christian denomination in Canada after the Catholic Church. Following union, the United Church rose to a peak membership of over 1 million people by 1964.

Today, the United Church, like other churches, is facing the challenges of the ebb and flow of demographics, an aging society and growing secularism.

The governance structure that was created at the time was designed when financial and volunteer resources were more available. The church itself has undergone a very democratic process over several years to restructure its governance to allow the church to focus more of its precious resources on its global and community work and promoting its faith.

The traditional courts of the church have been reduced from four to three councils. The bill shrinks the size of the church's national General Council from 68 voting and corresponding members to a more manageable 18 members in total. A new way of dealing with personnel matters has been established — an Office of Vocation — rather than relying on volunteers at the presbytery level, and there is now more clarity for the source of church funds and their uses for administration and governance, and the mission and service work.

The United Church held extensive consultations, which resulted in overwhelming support from presbyteries and pastoral charges for these major changes.

Honourable senators, it is a historic anomaly which requires that the United Church of Canada must seek approval of Parliament to modernize and restructure itself. This may be a surprising matter for us to deal with, but I would respectfully say it should not be our place to judge what the church has done to fully consult its members in making the changes that are before us in this bill.

I believe we must respect the work that has been done by the United Church to restructure and modernize itself. We have heard that this process of restructuring was exhaustive and democratic, so let us not stand in the way of this important Canadian institution, the United Church of Canada, to modernize its governance structures and better deploy its resources to continue to do its good work.

I should mention that I understand the bill is time-sensitive to resolve this issue during the current year.

For all these reasons, I recommend passage of this bill on third reading. Thank you.

Hon. Jim Munson: Your Honour, it's late at night, but as a United Church minister's son, let's do the right thing and pass this bill. Thank you.

Hon. Percy E. Downe: Just a brief clarification. I want to thank Senator Harder and Senator Patterson for their work, but there's an important clarification.

I grew up attending the United Church, and we came from the Methodist side. Not all the Presbyterians joined — and that is significant — only some of them. Today you still see Presbyterian churches in Canada. You don't see any Methodist churches anymore. It's a significant point. As someone who married a Presbyterian, I wanted to get that on the record as well.

The Hon. the Speaker: Are 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 bill read third time and passed.)

ADJOURNMENT

MOTION NEGATIVED

Hon. Donald Neil Plett moved:

That the Senate do now adjourn.

The Hon. the Speaker: It was moved by the Honourable Senator Plett, seconded by the Honourable Senator Wells, that the Senate do now adjourn. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: Do we have an agreement on a bell?

Senator Plett: One hour.

Senator Mitchell: Fifteen minutes.

The Hon. the Speaker: Order, please.

Do we have an agreement on a bell?

Senator Plett: No. One hour.

The Hon. the Speaker: The vote will take place at 12:09 p.m.

Call in the senators.

• (0010)

Motion negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Manning
Batters	Martin
Boisvenu	Moncion
Dagenais	Neufeld
Deacon (*Nova Scotia*)	Plett
Housakos	Smith—13
Maltais	

NAYS
THE HONOURABLE SENATORS

Black (*Ontario*)	Klyne
Bovey	LaBoucane-Benson
Busson	Lankin
Cormier	McPhedran
Coyle	Mégie
Dalphond	Pate
Deacon (*Ontario*)	Petitclerc
Dupuis	Pratte
Forest	Ravalia
Forest-Niesing	Simons
Gagné	Sinclair
Gold	Woo—24

ABSTENTIONS
THE HONOURABLE SENATORS

Bernard	Wells—3
Saint-Germain	

(*At 00:15, pursuant to rule 3-4, the Speaker declared the Senate adjourned until later this day at 2:15 p.m.*)

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