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OFFICIAL REPORT
(HANSARD)

Thursday, December 8, 2016

The Honourable GEORGE J. FUREY
Speaker

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

Debates Services: D'Arcy McPherson, National Press Building, Room 906, Tel. 613-995-5756
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THE SENATE

Thursday, December 8, 2016

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

Prayers.

SENATORS' STATEMENTS

AMYOTROPHIC LATERAL SCLEROSIS

Hon. Jim Munson: Honourable senators, today I would like to speak about an issue that hits close to home. Earlier this year we lost our honourable colleague Mauril Bélanger. I can remember the day Mauril walked into my office, which is exactly a year ago, and told me his news; we cried a lot. He told me about having ALS, a neurodegenerative disease that causes nerve cells regulating muscle control to die. I remember that moment in my office he told me and we cried and cried and cried.

Mauril was not alone in his struggle against this frightening illness. There are currently 3,000 Canadians afflicted by ALS with 1,000 new cases being diagnosed annually. The condition is invariably fatal, and sadly 1,000 Canadians die from the disease every year.

Because ALS causes a progressive loss of movement, speech and respiratory function, there is a tremendous financial burden associated with the condition. Individuals and families living with ALS face difficult decisions about housing, whether to renovate or move knowing that most people succumb to the disease in just two to five years.

However, there is hope, honourable senators. I'm sure you will remember the Ice Bucket Challenge in the past few years. It raised much awareness and nearly $20 million for the cause. While donations were matched by Brain Canada with support from the federal Department of Health, the Canadian government's funding of ALS research remains otherwise limited, just $1.5 million to $2 million per year.

Inspired by Mauril's strength and determination, a group of parliamentarians formed the ALS caucus earlier this year. We want to continue building momentum and take up ALS Canada's challenge to make the condition treatable by 2024, a goal that can only be accomplished with greater investment in research.

To that end, the ALS caucus has drafted a letter to the Minister of Finance calling on the government to commit $25 million over five years to the ALS Canada Research Program and make a one-time investment of $10 million to permit the 3,000 Canadians living with ALS to voluntarily contribute samples of their DNA to Project MinE. The initiative will map the complete genetic profiles of 15,000 people with ALS and 7,500 control subjects worldwide.

Honourable senators, in closing, I will always remember when Mauril served as Honorary Speaker and walked down the Hall of Honour surrounded by applauding colleagues. We recognized his bravery and perseverance that day. Now it is time to honour it.

Honourable senators, please join me in calling on the government to support research by signing the ALS caucus letter to the Minister of Finance, which I have with me. We would appreciate it very much if you put your signature on this document. It would be a beautiful, wonderful Christmas thing to do.

[*Translation*]

ROBERT LAFRENIÈRE

Hon. Jean-Guy Dagenais: Honourable senators, fighting corruption has to be a priority for today's government, the keeper of the public purse. Although the results are not always obvious, the perseverance of the key players in the fight is a great quality worthy of acknowledgement. That is why I would take a few minutes of the time I have been given to talk about Robert Lafrenière, commissioner of the Unité permanente anticorruption, UPAC, which was created in Quebec six years ago already.

I want to begin by saying that I have known Robert Lafrenière personally for more than 40 years. We attended police academy together and began our careers at the Sûreté du Québec at the same time. Though we may have taken different paths over the years, our commitment to policing led us both to serving with distinction as members of this great force.

After an excellent run at the helm of the Sûreté du Québec's main squadrons, Robert Lafrenière retired from police work to become Quebec's deputy minister of public safety. In that position, he headed the cabinet's efforts to coordinate the various police forces in the fight against organized crime.

When the then Premier of Quebec, Jean Charest, decided to form an anti-corruption team, he entrusted Robert Lafrenière with the task. It was a major challenge considering all the revelations and allegations in the media at the time. Just like dealing with the mafia or biker gangs, it takes time, a great deal of time, to gather evidence and lay charges.

Since its inception, UPAC has conducted a number of operations, but high-profile commissions, search warrants, arrests and charges do not always result in convictions. Far from it. The number-one goal of the justice system is to convict white-collar criminals who abuse their power. The number of convictions is the yardstick by which people judge whether the work is being done well.

How many times has the UPAC commissioner had to answer questions from reporters accusing him of catching bit players while the headliners seemed to keep eluding his people?

Last week, Robert Lafrenière had good reason to celebrate when the former mayor of Laval, Gilles Vaillancourt, agreed to plead guilty. The man who reigned over Quebec's second-largest city for nearly a quarter-century was unable to slink out from under the UPAC's mountain of evidence of high-level corruption. Vaillancourt pleaded guilty and agreed to pay back the $9 million

that he pocketed illegally. The ex-mayor has been in jail since last Thursday. Mission accomplished. Such a thing hardly seemed possible just a few years ago.

Today I would like to recognize Robert Lafrenière's determination and that of his team. They deserve our utmost admiration. Still, UPAC's work is far from done.

That's not the only good news on the corruption front. On Friday, the Court of Appeal sent Jocelyn Dupuis, one of the leaders of Quebec's FTQ Construction union, to jail. For years, he defrauded his organization and its members and used workers' money to live like a king.

The Hon. the Speaker: Senator Dagenais, I'm sorry, but your time is up.

[*English*]

INTERNATIONAL HUMAN RIGHTS DAY

Hon. Thanh Hai Ngo: Honourable senators, I rise today to commemorate International Human Rights Day, which we will celebrate this Saturday, December 10. This year marked the sixty-eighth anniversary of the adoption of the Universal Declaration of Human Rights by the United Nations General Assembly. I invite all Canadians to join in celebrating the progress made in promoting the cause of human rights over the past 68 years, and to take action on the lengthy work that still lies before us.

• (1340)

[*Translation*]

The theme of this year's International Human Rights Day is "Stand up for someone's rights today!" This message reminds us that human rights are not abstract concepts.

In fact, they have an impact on our lives and those of the people around us every day.

All too often, we take for granted human dignity, the rule of law, an independent judicial system, a multi-party democracy, government accountability and transparency.

As senators, we must take a firm position and be vocal advocates of these rights in our country and elsewhere.

Today, I am thinking of the deteriorating human rights situation in some countries, including Vietnam. Despite the small steps it has taken in the fight for gender rights in recent years, that country's human rights record on freedom of expression and religion remains dismal.

[*English*]

To mark this yearly milestone, my office will release our annual report tomorrow on the status of human rights in Vietnam. This report studies the legal system of Vietnam and relates how the state is depriving Vietnamese citizens of their political freedoms and human rights.

The report also provides updates on the latest abuses of freedom of expression, of assembly and of religion in Vietnam, and mentions information on several Vietnamese prisoners of conscience that have been targeted by the state for peacefully speaking out against the government.

Honourable senators, let us recommit ourselves today and every day to guarantee fundamental freedoms and to protect human rights for everyone, both at home and abroad.

[*Translation*]

Honourable senators, we must renew our commitment, today and every day, to guarantee fundamental freedoms and to protect everyone's human rights.

Hon. Senators: Hear, hear!

[*English*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Anne, Mark, Chloé and Noah Laalo, an Ottawa family that ships items such as sporting equipment, school supplies, games and personal hygiene items to the children and youth of Attawapiskat. They are the guests of the Honourable Senator Sinclair.

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

Hon. Senators: Hear, hear!

[*Translation*]

PARLIAMENT BUILDINGS FIRE

ONE HUNDREDTH ANNIVERSARY

Hon. Paul E. McIntyre: Honourable senators, 2016 marks the 100th anniversary of an important event in the modern history of Canada, an event which forever changed the course of Canada's development and democracy but that we cannot celebrate with joy in our hearts.

I am referring to the tragic fire that happened on February 3, 1916, on Canada's Parliament Hill.

The buildings that housed the House of Commons and the Senate were reduced to smoking ruins overnight. Only the Library of Parliament was spared.

Despite the courage of the parliamentary staff and the firefighters who risked their own lives to save Canada's cultural heritage, hundreds of irreplaceable objects and priceless official documents could not escape the flames.

For the duration, the clock on the Victoria Tower rang out to alert the people of a fire that no one could have predicted. The work of parliamentarians proceeded normally that day, and there was nothing to suggest that Parliament would be reduced to ashes by the next day.

Theories abounded about the cause of the fire, including various conspiracy theories and other kinds of speculation, but

the most mundane theory seems most likely, namely, that the fire was caused by an improperly-extinguished cigar in the Parliamentary Reading Room.

A full century later, we look back at this event with sadness, since one moment of inattention cost seven people their lives and reduced one of our most important national symbols to ashes.

Nevertheless, we must recognize the efforts made by the Canadian nation to rebuild the Parliament buildings following this incident. It is worth noting that their reconstruction began during a tumultuous period, during the First World War, a time when all countries were experiencing tough socio-economic times, ours included.

Over a period of about 10 years, Parliament was carefully rebuilt, brick by brick, only to emerge from the ashes like a phoenix in 1920, to continue to serve Canadians.

The Parliament of Canada was rebuilt in its historic style, but is a more modern structure. The walls are more solid than before, and the new tower is a symbol of peace and serenity.

The will of the Canadian people was to rebuild this building in which we find ourselves now, where we study bills closely, and where we hold lively debates that contribute to changing the course of history.

Every detail included in the reconstruction of these new buildings serves to remind us why we are here. In this symbol of democracy, we work hard every day to embody its principles, represent Canadians properly, and protect their rights and interests.

[*English*]

ROUTINE PROCEEDINGS

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

BUDGET—STUDY ON THE EFFECTS OF TRANSITIONING TO A LOW CARBON ECONOMY—FOURTH REPORT OF COMMITTEE PRESENTED

Hon. Richard Neufeld, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, December 8, 2016

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

FOURTH REPORT

Your committee was authorized by the Senate on Thursday, March 10, 2016, to examine and report on the effects of transitioning to a low carbon economy, as required to meet the Government of Canada's announced targets for greenhouse gas emission reductions.

The original budget application submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee were printed in the Journals of the Senate of June 16, 2016. On June 20, 2016, the Senate approved a partial release of $119,143 to the committee and on November 1, 2016, the Senate approved an additional release of $30,792 to the committee.

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

Respectfully submitted,

RICHARD NEUFELD

Chair

(*For text of budget, see today's* Journals of the Senate*, Appendix A, p. 1101*.)

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

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

NATIONAL FINANCE

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—STUDY ON THE DESIGN AND DELIVERY OF THE FEDERAL GOVERNMENT'S MULTI-BILLION DOLLAR INFRASTRUCTURE FUNDING PROGRAM—TENTH REPORT OF COMMITTEE PRESENTED

Hon. Larry W. Smith, Chair of the Standing Senate Committee on National Finance, presented the following report:

Thursday, December 8, 2016

The Standing Senate Committee on National Finance has the honour to present its

TENTH REPORT

Your committee, which was authorized by the Senate on Tuesday, February 23, 2016, to study the federal government's multi-billion dollar infrastructure funding program, respectfully requests funds for the fiscal year ending March 31, 2017, and requests, for the purpose of such study, that it be empowered to engage services of such counsel, technical, clerical and other personnel as may be necessary.

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

Respectfully submitted,

LARRY SMITH

Chair

(*For text of budget, see today's* Journals of the Senate*, Appendix B, p. 1109*.)

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

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

CRIMINAL CODE

BILL TO AMEND—NINTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. Bob Runciman, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, December 8, 2016

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

NINTH REPORT

Your committee, to which was referred Bill S-230, An Act to amend the Criminal Code (drug-impaired driving), has, in obedience to the order of reference of October 26, 2016, examined the said bill and now reports the same without amendment.

Respectfully submitted,

BOB RUNCIMAN

Chair

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

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

CRIMINAL CODE

BILL TO AMEND—TENTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. Bob Runciman, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, December 8, 2016

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

TENTH REPORT

Your committee, to which was referred Bill S-215, An Act to amend the Criminal Code (sentencing for violent offences against Aboriginal women), has, in obedience to the order of reference of October 19, 2016, examined the said bill and now reports the same without amendment.

Respectfully submitted,

BOB RUNCIMAN

Chair

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

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

• (1350)

CANADA PENSION PLANCANADA PENSION PLAN INVESTMENT BOARD ACT INCOME TAX ACT

BILL TO AMEND—EIGHTH REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

Hon. Kelvin Kenneth Ogilvie, Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, December 8, 2016

The Standing Senate Committee on Social Affairs, Science and Technology has the honour to present its

EIGHTH REPORT

Your committee, to which was referred Bill C-26, An Act to amend the Canada Pension Plan, the Canada Pension Plan Investment Board Act and the Income Tax Act, has, in obedience to the order of reference of December 5, 2016, examined the said bill and now reports the same without amendment.

Your committee has also made certain observations, which are appended to this report.

Respectfully submitted,

KELVIN KENNETH OGILVIE

Chair

(*For text of observations, see today's* Journals of the Senate*, p. 1094*.)

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

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

[*Translation*]

THE SENATE

NOTICE OF MOTION TO AFFECT QUESTION PERIOD ON DECEMBER 14, 2016

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

> That, in order to allow the Senate to receive a Minister of the Crown during Question Period as authorized by the Senate on December 10, 2015, and notwithstanding rule 4-7, when the Senate sits on Wednesday, December 14, 2016, Question Period shall begin at 3:30 p.m., with any proceedings then before the Senate being interrupted until the end of Question Period, which shall last a maximum of 40 minutes;
>
> That, if a standing vote would conflict with the holding of Question Period at 3:30 p.m. on that day, the vote be postponed until immediately after the conclusion of Question Period;
>
> That, if the bells are ringing for a vote at 3:30 p.m. on that day, they be interrupted for Question Period at that time, and resume thereafter for the balance of any time remaining; and
>
> That, if the Senate concludes its business before 3:30 p.m. on that day, the sitting be suspended until that time for the purpose of holding Question Period.

NATIONAL FINANCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING 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, if Bill C-29, A second Act to implement certain provisions of the budget tabled in Parliament on March 22, 2016 and other measures, is read a second time and referred to the Standing Senate Committee on National Finance, that committee have the power to meet for the purposes of its study of the bill even though the Senate may then be sitting, with the provisions of rule 12-18(1) being suspended in relation thereto.

[*English*]

CONVEYANCE PRESENTATION AND REPORTING REQUIREMENTS MODERNIZATION BILL

BILL TO AMEND—FIRST READING

Hon. Bob Runciman introduced Bill S-233, An Act to amend the Customs Act and the Immigration and Refugee Protection Act (presentation and reporting requirements).

(Bill read first time.)

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

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

LEGAL AND CONSTITUTIONAL AFFAIRS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF THE REPORTS OF THE CHIEF ELECTORAL OFFICER ON THE FORTY-SECOND GENERAL ELECTION

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

> That, notwithstanding the order of the Senate adopted on Tuesday, November 1, 2016, the date for the final report of the Standing Senate Committee on Legal and Constitutional Affairs in relation to its study on the reports of the Chief Electoral Officer on the 42nd General Election of October 19, 2015 and associated matters dealing with Elections Canada's conduct of the election be extended from December 31, 2016 to March 31, 2017.

NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES RELATED TO THE GOVERNMENT'S CURRENT DEFENCE POLICY REVIEW

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

> That, notwithstanding the order of the Senate adopted on Thursday, April 21, 2016, the date for the final report of the Standing Senate Committee on National Security and Defence in relation to its study of issues related to the Defence Policy Review presently being undertaken by the government be extended from December 16, 2016 to June 30, 2017.

ABORIGINAL PEOPLES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF BEST PRACTICES AND ON-GOING CHALLENGES RELATING TO HOUSING IN FIRST NATION AND INUIT COMMUNITIES IN NUNAVUT, NUNAVIK, NUNATSIAVUT AND THE NORTHWEST TERRITORIES

Hon. Lillian Eva Dyck: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That, notwithstanding the order of the Senate adopted on Wednesday, October 19, 2016, the date for the final report of the Standing Senate Committee on Aboriginal Peoples in relation to its study on best practices and on-going challenges relating to housing in First Nation and Inuit communities in Nunavut, Nunavik, Nunatsiavut and the Northwest Territories be extended from December 31, 2016 to March 31, 2017.

[*Translation*]

REGIONAL UNIVERSITIES

NOTICE OF INQUIRY

Hon. Claudette Tardif: Honourable senators, I give notice that, two days hence:

> I will call the attention of the Senate to regional universities and the important role they play in Canada.

QUESTION PERIOD

JUSTICE

AMENDMENTS TO THE JUDGES ACT

Hon. Claude Carignan (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate.

Mr. Leader, yesterday, Quebec's Minister of Justice, Stéphanie Vallée, announced urgent measures to address the crisis around court delays in Quebec's justice system. The minister wants to put two more magistrates in the Court of Appeal and five more in the Superior Court. Those positions are under federal jurisdiction.

Is the federal Minister of Justice planning to amend the Judges Act to let Quebec do so? Will she allocate the necessary funds to make that happen? If so, when?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. As the minister in her appearance before the Senate earlier this week indicated, dealing with court delays is an important priority for all jurisdictions. She has worked diligently with her provincial counterparts, and I very much welcome, as I'm sure, the honourable senator does, the announcement made in Quebec.

With respect to the specific question that he asked about the request of the Government of Canada, I will note that question and respond in precise detail. I do want to emphasize that the priority of the government with respect to cooperating with and doing its part in dealing with this significant issue is very much on the minds of the minister.

NATIONAL SECURITY AND DEFENCE

SEVENTH COMMITTEE REPORT

Hon. Don Meredith: Thank you, Your Honour.

Senator Lang, you tabled a report here last week. If I can borrow words from Senator Baker, it was an excellent report, a report that again outlines the committee's views on engagement and deployment.

• (1400)

With respect to engagement, can you outline for us why this recommendation is so important for the men and women of the Canadian Armed Forces as they deploy, given what we heard from Senator Jaffer and given that in South Sudan again we saw a situation that was taking place and they couldn't engage? Could you elaborate for us a bit more on why the recommendation is so important?

Hon. Daniel Lang: I would like to thank the senator for the question because it's a very important one with respect to the possible deployment to Africa of the men and women who go out and do the job we ask of them with their military responsibilities.

I just want to say at the outset, colleagues, that during the course of our hearings, we had many witnesses appear before us to speak about the risks and concerns that are present in a possible deployment to Africa, especially in the area of Mali, where since 2013 over 106 UN personnel have lost their lives.

I should also point out that just yesterday in Mali there was an attack on one of the prisons, and 97 Islamic jihadists escaped. That demonstrates again the outstanding questions with respect to such a deployment into that area.

When we talked about Mali, so Canadians are aware —

BUSINESS OF THE SENATE

The Hon. the Speaker *pro tempore***:** Excuse me, Senator Lang. This report is, as you know, on the Order Paper for debate later this week. Perhaps you don't want to take up the time of Question Period to do something that we will debate at length later.

Senator Meredith: Point of order.

The Hon. the Speaker *pro tempore***:** I'm sorry, Senator Meredith, but there are no points of order in Question Period. If you would like to ask Senator Lang another question not dealing with that topic, by all means go ahead. Otherwise, debate will be next week.

DEMOCRATIC INSTITUTIONS

ELECTORAL REFORM SURVEY

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

Leader, the government's approach to consulting Canadians on electoral reform has taken a turn towards farce. The consensus of our national media is that the online survey, MyDemocracy.ca, which seeks to determine Canadians' individual democracy style, is about as scientific as a *People* magazine quiz that decides if you're more of a "Samantha" or a "Miranda."

Today the *National Post* offered Canadians a survey of their own. For instance, they asked Canadians to decide whether voting in federal elections is good or not so good. They also asked whether Canadians should be able to vote under water, even though they can't breathe under water.

I would argue these questions are no more or less absurd than the actual questions from the government's Web survey. The chief distinction is that the *National Post* survey doesn't require

respondents to disclose their income or education level or postal code and does not claim to have been reviewed by an academic panel. Yet we are informed by the Minister of Democratic Institutions that all the questions that appear on the government's survey, including those that have caught the attention of the Privacy Commissioner, were reviewed by an academic advisory panel.

Can the leader inform this chamber who specifically these academics were that the government consulted to develop the website? Is it actually true that each question was reviewed by this panel?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question and ongoing interest in democratic development.

Let me assure the honourable senator that I will inquire. I don't know the specifics about the question that she is asking, and I will respond as quickly as possible, without a survey.

Hon. David Tkachuk: Honourable senators, my question is also for Senator Harder.

I asked you yesterday about MyDemocracy.ca. On Monday we received an email from the Minister of Democratic Institutions, Maryam Monsef, asking us to help spread the word on this new initiative of the government. In that email, she asked all of us, "Please take action with us to get Canadians involved in the conversation," and that included three things we could do that very day. Those included taking the survey ourselves, sending to the media the press release the minister had prepared and considering recording a short video.

Senator Harder, have you done or do you intend to do any of these things to spread the word? And if you have, which ones?

Senator Harder: I thank the honourable senator for his question and encouragement.

I do think it's rather odd that a member of an unelected body would be so interested in responding to the request. I have not done so. I will defer to the elected chamber as it reviews this matter, and as it comes here, should it come here, we will have ample time to review it as a Senate.

Senator Tkachuk: Obviously the minister thought that unelected senators should have an interest in the democratic institutions of this country.

Senator Harder, the Minister of Democratic Institutions has established an account on Twitter called "Canadian Democracy." On December 5, the account tweeted the following:

> Unsure how your democratic values compare to other Canadians? Find out more on mydemocracy.ca.

Yesterday I quoted the minister as saying that the survey they are conducting is a conversation with respondents about values. She said at the time that:

> . . . over 8,000 unique users have participated in this conversation about the values they find most dear to them . . . .

She also said:

> . . . the best way to have an inclusive and accessible conversation about electoral reform with the citizenry is through a values-based approach.

My goodness. I can't believe this.

Senator Harder, would you agree with the minister and the Liberal government that through this tool, the government is able to have a conversation with Canadians about their values and determine how they compare to the values of other Canadians?

Senator Harder: I thank the honourable senator for his question on this subject yet again. I do think that the objective of the minister responsible is to have engagement across the country, particularly with social media, which perhaps the honourable senator and I are not as adept at as younger Canadians — I know I'm not — but it is an appropriate addition to more traditional methods of consultation, and I think it should be welcomed.

[*Translation*]

JUSTICE

RIGHTS OF VICTIMS OF CRIMINAL ACTS

Hon. Pierre-Hugues Boisvenu: My question is also for the Leader of the Government in the Senate.

Recently, a Court of Queen's Bench Justice in Edmonton withheld the identity of a 53-year-old man convicted of luring an 11-year-old girl. The judge said that he did not want the man identified fearing public reprisals. Neither the crown nor defense counsel asked for anonymity. The judge alone made that decision.

Here is another example. Last July, a provincial court justice in Calgary prevented an attorney from reading in court the impact statement of the victim, a 13-year-old girl who was raped by two men, even though the victim had requested that her statement be read by the crown attorney. As the Leader of the Government, you know very well that the Criminal Code now allows and even encourages victims to make such statements.

I am not asking you to comment on these two cases which, in my opinion, are shameful and disrespectful of victims of crime in Canada. Will the Leader of the Liberal Government publicly reiterate with assurance and resolve his support for the Canadian victims bill of rights, and the respectful and compassionate treatment that victims in Canada deserve, especially during this week when we recognize violence against women in all its forms?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question and his work in this area over many years. I appreciate he does not invite me to comment on the specific cases that he has referenced. They are obviously cases of high public interest.

• (1410)

The broader question is one that the Minister of Justice spoke to, both in this chamber and outside this chamber, about the importance of respecting victims' rights and Charter compliance, as well as ensuring that the Criminal Code is modern and efficient in the exercise of justice. The minister, as she indicated earlier this

week, is actively engaging with her provincial counterparts in just such an exercise over the coming months.

[*Translation*]

Senator Boisvenu: The Victims' Bill of Rights was adopted a year ago. We know that, in many provinces, the information has not made it all the way up to the Chief Justice, who is supposed to ensure that instructions are forwarded to Crown attorneys and that victims' rights are being respected, particularly with regard to the statements that are read following a ruling.

[*English*]

Senator Harder: I would be happy to inquire as to whether or not the directives have been provided and report to the honourable senator and the whole house.

INTERNATIONAL TRADE

CANADA-UNITED STATES RELATIONS

Hon. Don Meredith: Government Representative in the Senate, my question is with respect to Canada-U.S. relations. President-elect Trump will be inaugurated in January, and Vice President Biden is currently in Canada meeting with the Prime Minister.

My question relates to the NAFTA agreement, as well as the softwood lumber agreement. I understand there are issues in terms of the strategy with respect to our building strong relations with the U.S. going forward with this new president. Could the representative highlight the potential high-level discussions that might take place over the next two days?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question, although he did promise earlier in Question Period that I was off the hook.

Let me simply respond by saying that the Vice President's visit tonight and tomorrow is an important moment for Canada-U.S. to take stock. There are a number of issues that we, as a government, have been discussing with the Americans, and this is obviously part of an ongoing high-level dialogue on matters of interest shared between Canada and United States, irrespective of who is president.

I am sure the Government of Canada is preparing — as are many governments around the world — for the new administration that will take office at noon on January 20. I would expect that, at the appropriate time, the Government of Canada, along with the Government of the United States, will have a specific agenda and timetable of meetings, not only at the highest level but also at the ministerial level, on a broad range of issues, including the ones the honourable senator cited.

ORDERS OF THE DAY

INCOME TAX ACT

BILL TO AMEND—THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Harder, P.C., seconded by the Honourable Senator Black, for the third reading of Bill C-2, An Act to amend the Income Tax Act.

Hon. Nancy Greene Raine: Thank you, honourable senators, for the opportunity to speak to Bill C-2, An Act to amend the Income Tax Act. My comments will be brief.

This past Friday I had the opportunity to question officials from the Department of Finance on legislation that is now before this place. I am not a permanent member of the Finance Committee, but I take great interest in the proceedings and am always willing to accept the opportunity to replace colleagues when I can.

On that day we were working through the pre-study of Bill C-29, Part 2 of the 2016 budget bill, when I entered into a discussion with the official and Senator Mitchell about unintended consequences.

My initial question to the official had to do with the treatment of medical clusters — which, as many of us have heard, is a very serious issue. As I noted at the time, any extra taxation will definitely come from the income of the doctors, and that could have a serious impact on our supply of doctors in Canada.

When highly respected economist Jack Mintz from the University of Calgary testified before the committee on Bill C-2, he spoke of this phenomenon in terms of income flight and identified a very real concern with respect to the new 33 per cent tax rate that Bill C-2 will create. He spoke of his concern in terms of the outcome of the election in the U.S.:

> The top rate in Canada is now 53 per cent on average, which is fourth highest amongst OECD countries. This is going to have a significant impact on potential attraction of talent to Canada but also keeping our talent in Canada as the U.S. economy could potentially rev up as a result of these tax reductions.

Dr. Mintz added a historical perspective dating back to 1986, when the U.S. government undertook President Reagan's tax reforms. He reminded senators how these reforms led to substantial reductions in both the corporate rate and the personal tax rate in the U.S.:

> . . . there was quite a reaction in Canada that we had to do something to deal with the competitive pressures that the tax reform would have on Canada. We already planned on and in fact implemented half of the corporate tax reform that was consistent with the U.S. reform. That pushed us to make sure we did the rest of that reform after 1986, but we then engaged in personal tax reform that was not planned in Canada when the U.S. undertook such a dramatic reduction

> in their personal tax rates compared to what they previously had.

Dr. Mintz later added in an op-ed published in the *National Post*:

> Our recent raft of soak-the-rich policies will also look increasingly out of sync with the U.S. as Trump works to put tax reform at the top of his agenda.

For those who watched the television news show "60 Minutes" earlier this week, that is exactly what U.S. House Speaker Paul Ryan confirmed on Sunday night. So when I asked the official from the Department of Finance if his department undertook the due diligence required to assess the unintended consequences of Bill C-2, I was quite taken aback by his response. I want to share it with you here today, as I believe it is relevant to this debate:

> It's difficult to describe precisely the contents of what happened before the tabling, when it became public. I don't want to break any cabinet confidence rules by setting out what was in our advice to the minister or anything like that.

From this response, honourable senators, it's difficult to discern, as a legislator passing judgment on this bill, if indeed they did their homework. Did in fact the officials at the Department of Finance crunch the numbers to determine the unintended consequences of implementing this tax measure?

I remember being told this was a request Senators Mitchell and Bellemare posed to Senator Smith when he introduced his amendment to the bill. And as we have come to understand all too well from the Speaker's ruling, the term "unintended consequences" means something.

My point, honourable senators, is that we are being asked to pass a tax measure in Bill C-2 without knowing if the unintended consequences were properly considered. When challenged on this specific point, the government recedes to what I believe is an unacceptable position, citing cabinet confidences.

I have not heard anyone in this place question that the mandate of the Trudeau government was to introduce legislation that would give a tax break to those middle-income Canadians who need it and that this tax break be paid for by the wealthy.

What I have heard from colleagues is that the bill before us does not provide that opportunity. The only contribution I would like to make now to this debate is that the government has either not undertaken the necessary due diligence for legislatures to evaluate this bill, or if they have, they are not being open and transparent with their findings.

Honourable senators, I remind you that Chapter Two of the Liberal election platform "Growth for the Middle Class" is titled "Fair and Open Government."

> It is time to shine more light on government and ensure that it remains focused on the people it is meant to serve. Government and its information should be open by default. Data paid for by Canadians belongs to Canadians. We will restore trust in our democracy, and that begins with trusting Canadians.

Senator Day, with the greatest respect, I do not believe the Trudeau government has done what it said it would do with Bill C-2. It has not lived up to the commitment it made to Canadians during the election campaign.

• (1420)

As we heard, this bill is not revenue neutral. It is not fully costed. We do not know if it costs $1.3 billion, $1.5 billion or $1.7 billion, and a billion is a thousand million. As Senator Marshall pointed out during this debate, it could well cost even more than that.

The small contribution I would like to make today is that after weeks of hearings, we are no closer to understanding the unintended consequences of this bill and the impact it will have on some of our brightest, most productive and most innovative Canadians. And this, honourable senators, does not meet the threshold of an open and transparent government. I will be voting against Bill C-2. Thank you.

Hon. Yuen Pau Woo: Honourable senators, I rise to speak on Bill C-2, a bill which has been causing me some grief. I have listened closely to the remarks of colleagues in this chamber and, in particular, to admonishments directed at newly arrived senators such as myself, imploring us to study the documents, examine our conscience and to assert our independence.

Senator Tkachuk, you challenged us yesterday to consider what our grandchildren would think of this bill. I had a lot of trouble sleeping last night, because I was thinking about my yet-to-be-conceived grandchildren. Parenthetically, let me say that if any of my grandchildren were to develop an interest in fiscal policy, I would be a very happy grandfather.

Well, if my grandchildren did ask about Bill C-2, I would give them a simple math lesson. I would tell them about the way percentages work. A percentage change in a large number will yield a larger result than the same percentage change on a smaller number. Now, all of you know this because you learned it in elementary school, but the point is yet to be made in this chamber. Ten per cent of 1,000 is 100; 10 per cent of 100 is 10. This same percentage applied to different numbers yields different results.

From a tax perspective, and using Bill C-2 as a specific example, this means a 1.5 percentage point reduction in the income bracket $45,000 to $90,000 will result in larger savings for the person at the $90,000 end of the bracket, compared to the person at the $45,000 end.

What is more, since marginal tax rates cumulate as you move from one bracket to another, someone earning between $90,000 and $200,000 will gain even more in absolute terms, or dollar value terms, from the reduction in taxes from the $45,000 to the $90,000 bracket, even if there is no additional tax reduction in the higher bracket which they occupy.

Which is why the point that that is repeated over and over again — Canadians over $90,000 are benefiting more from the "middle class tax cut" than the middle class — is not the full story.

The fact is, honourable senators, any tax cut to the middle class tax bracket of $45,000 to $90,000 will result in higher savings for those who earn more than $90,000 than for those who are actually in the bracket. This is arithmetic. It's not some diabolical scheme to short change low income earners.

Tax experts, and I'm not one of them, understand this point very well, which is why there are other ways of describing the tax burden on different classes of taxpayers, for example, the concept of the average tax rate or the marginal tax rate, both of which increase as you move from one income bracket to another.

By my own simple calculations, the average tax paid by Canadians at the bottom end of the so-called "middle class bracket," under Bill C-2, would be 16 per cent. By contrast, the average tax paid by someone earning $200,000 would be 33 per cent, twice as high as the so-called "middle class Canadians."

The point, honourable senators, is that Canada already operates a progressive tax system, which takes more from higher earning Canadians in both absolute and relative terms. For example, the dollar value of taxes paid by the person earning $45,282 — the absolute value — would be around $7,041, whereas the person earning $90,500 at the top end of bracket will pay $20,236, three times higher.

The converse is also true. A reduction in the tax rate will lead to a larger dollar savings for higher income earners compared to lower income earners. As they say, what goes around comes around.

The way we should think about Bill C-2, therefore, is not that it is introducing progressivity into our tax system for the very first time but rather that it is a modest effort to build on the existing progressivity of the tax system without, I hope, damaging economic growth and job creation.

I accept for some colleagues, including Senator Lankin, that the existing tax system is not sufficiently progressive, and Bill C-2 does not go far enough.

It would seem that many Conservative senators are also now champions of more progressive taxation, which I welcome. In fact, Senator Smith's very well-intentioned amendment would have introduced even more progressivity into the tax system. His amendment, however, has been ruled out of order by the Speaker and hence is a non-option for this chamber.

I would point out, though, that the part of his amendment — clause 1 (a) (i) and (ii) —would presumably be an appropriate action in the Senate since it does not increase taxes, does not solve the very problem he has raised. In fact, by further reducing the tax rate between $45,000 and $53,000, the first part of that amendment would actually exacerbate the discrepancy between the benefits accruing to higher income earners compared to the target group of middle-income earners.

Again, I submit there is no ill intent here; it is simply a function of arithmetic. Much as we may not like this result, I regret to say that no amount of sober second thought can change the laws of mathematics.

In one very important respect, I am encouraged by the debate around Bill C-2 and the interventions of senators who spoke against it because of the attention they have drawn to the challenge of income and wealth inequality in Canada. I hope the Senate, led by perhaps by the Standing Senate Committee on National Finance, which I hope to be a member of, will conduct detailed investigations into the causes and consequences of inequality in Canada and possible remedies, including, perhaps, a more progressive tax system that does not inhibit personal initiative and economic growth.

But that is for another day. On Bill C-2, I want to assure colleagues that I have read the documents, considered the arguments, examined my conscience, interrogated my independence and even consulted my imaginary grandchildren. I am very comfortable supporting the bill, and I hope you will support it as well.

The Hon. the Speaker: It was moved by the Honourable Senator Carignan, seconded by the Honourable Senator Frum, 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: No.

Some Hon. Senators: Agreed.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

(On motion of Senator Carignan, debate adjourned.)

BUDGET IMPLEMENTATION BILL, 2016, NO. 2

SECOND READING

Hon. Peter Harder (Government Representative in the Senate) moved second reading of Bill C-29, A second Act to implement certain provisions of the budget tabled in Parliament on March 22, 2016 and other measures.

He said: Honourable senators, I rise today as Government Representative and sponsor of Bill C-29. This bill implements provisions of the government's budget tabled in Parliament on March 22, 2016. As you know, measures contained in that budget included the middle class tax cut, the new Canada child benefit, the enhanced Canada Pension Plan, an increase to the Guaranteed Income Supplement for seniors, measures to extend EI benefits in regions affected by changes to commodity prices, and service improvements for veterans.

• (1430)

The government received a democratic mandate to enact these policies, and passing budget legislation in the Senate is necessary to effect the government's commitments to Canadians.

[*Translation*]

To put my observations and this budget implementation bill into context, I want to point out that the overall objective of the government's policy is to promote economic growth in a way that strengthens the middle class and benefits Canadian families, workers and the most vulnerable members of our society. The

budget implementation bill that we are examining today contains measures that are key to meeting that objective.

[*English*]

For example, starting in 2020, Bill C-29 indexes the Canada Child Benefit for inflation to ensure that this tax-free benefit will continue to help Canadian families in the years and decades to come so that the benefit keeps pace with the rising costs.

This benefit means that nine out of 10 Canadian families are already receiving higher monthly benefits, almost $2,300 each on average for 2016-17 compared to the previous system. Parents with children under 18 will receive annually as much as $6,400 per child under the age of six and up to $5,400 per child for those aged six through 17. This is money that will help relieve the high cost of raising children, whether these funds are used for buying school supplies, covering grocery bills or buying warm coats for the winter.

Honourable senators, I am happy to say that the new Canada Child Benefit will lift hundreds of thousands of children out of poverty in 2017, compared with 2014. I am sure that particularly at this time of the year many of us will be reflecting on the importance of helping all Canadian kids have a happier childhood and a fair shot in life. From a personal standpoint, working on legislation that addresses issues like child poverty reaffirms the purpose and focus of our work here in Parliament.

With this second budget implementation act, the government is also following through on a Budget 2016 promise to support senior couples who face higher costs of living and increased risks of poverty as a result of living apart.

In Budget 2016, the government restored the age of eligibility for Old Age Security and Guaranteed Income Supplement benefits to age 65 and allowance benefits to age 60 over the 2023 to 2029 period.

This budget also increased the Guaranteed Income Supplement top-up benefit by up to $947 annually for the most vulnerable single seniors starting in July 2016. This change is helping those seniors who rely almost exclusively on OAS and GIS benefits to get by. It increased the maximum GIS by 10 per cent for the lowest-income single seniors.

Bill C-29 amends the Old Age Security Act to increase its flexibility. When a couple receives GIS and spousal allowance benefits and happen to be living apart for reasons they cannot control, each member of the couple would receive benefits that are based on their respective incomes.

By extending this treatment to couples receiving GIS and allowance benefits, the government is improving fairness for seniors and helping them enjoy a dignified retirement. The enhanced CPP enacted through Bill C-26 is of course an important part of meeting this goal in the future.

[*Translation*]

Bill C-29 strengthens the integrity of the tax system by eliminating the loopholes currently being used to avoid paying taxes in order to ensure that everyone pays their fair share of taxes to fund public investments and services. The bill reiterates the government's willingness to crack down on tax evasion and avoidance with provisions that implement country-by-country reporting standards and the common reporting standard. These policies were developed by the G20, the OECD, and here in this chamber by Senator Downe.

In the interest of transparency, I am going to briefly present the specific technical measures set out in Bill C-29. For a more in-depth analysis of these measures, I direct you to the legislative summary that was distributed to all senators and their staff yesterday.

Part 1 of Bill C-29 makes various amendments to the Income Tax Act. Some of the many amendments include the indexing of the Canada Child Benefit, technical amendments to the tax treatment of switching between mutual funds and the interest accumulated on sales of debt obligations, and the clarification of the tax treatment of emissions allowances. Bill C-29 also seeks to prevent a multiplication of access to the small business deduction through specific tax planning structures. Part 1 also provides for the implementation of country-by-country reporting standards by large multinationals as part of the OECD's base erosion and profit shifting project, and as I already mentioned, the implementation of the common reporting standard for G20 countries, effective July 1, 2017.

[*English*]

Part 2 of Bill C-29 makes additional technical amendments related to CRA assessments. Part 3 of the bill makes related changes clarifying that the CRA and the courts may increase or adjust an amount included in an assessment under the Excise Tax Act that is under objection or appeal at any time provided the total amount of the assessment doesn't increase.

Part 4 of Bill C-29 makes technical amendments to Employment Insurance provisions. Specifically, Bill C-29 would establish the specific concept of not suitable employment in legislation rather than in regulation. This would align more directly with previously existing jurisprudence. Part 4 also contains changes to the Old Age Security Act, which I have discussed. In addition, Part 4 modernizes the governance of the Royal Canadian Mint Act.

Part 4 also includes the financial consumer protection framework for the banking sector. I know this issue has caused concern to some in this chamber and generated some public discourse. Let me speak more extensively about this section of the bill to explain what it does and why it is good for Canadians. I will begin with the policy planks and then provide a few practical examples.

Honourable senators, Part 4, Division 5, enacts the financial consumer protection framework. This should not come as a surprise since in Budget 2016 the government announced its intent to modernize and enhance the financial consumer protection framework in the Bank Act.

Bill C-29 proposes to consolidate existing consumer provisions related to banking into a new part of that act, which helps to clarify the scope of the framework and facilitates its interpretation by eliminating discrepancies in how similar products and services are treated. In the specific, federally regulated sector of banking, new consumer-friendly principles are proposed that would guide the interpretation of specific provisions of the new part and help achieve better outcomes for consumers and the public with respect to banking.

To enhance the existing provisions and ensure that the consumer protections for banking are robust, the following targeted enhancements are proposed.

Regarding access to basic banking services, Bill C-29 makes amendments, including allowing the use of a broader range of personal identification documents to open an account or cash Government of Canada cheques.

Bill C-29 also makes amendments in relation to unfair business practices, including a new prohibition on applying undue pressure on a person and adding cancellation periods to a wider range of products and services.

Further, this framework makes amendments to disclosure in the banking sector, including expanding the use of summary information boxes for banking products and services.

It also makes amendments regarding the handling of complaints, including requirements for banks and external complaints bodies to report on the number and nature of complaints received.

The act also enhances accountability, with amendments including requirements for banks to report on measures to address the challenges faced by vulnerable Canadians. Now boards of directors of the banks will be directly responsible for ensuring that the banks comply with all these important consumer provisions.

Further, this consumer protection framework for banking asserts federal paramountcy over the banking sector, which is specified as an exclusive federal power in section 91(15) of the Constitution Act, 1867.

• (1440)

The paramountcy clause in Bill C-29 is intended to support the exercise of federal legislative jurisdiction over the incorporation of banks and banking in respect to new part 12.2 of the act.

The paramountcy clause states that the new part is intended to be, except where otherwise specified, paramount to any provision of a law or regulation of a province that relates to the protection of consumers or business practices with respect to consumers. The exclusivity provision is drafted very narrowly to apply only with respect to the new part of the act.

On the whole, the new part is intended to provide for an efficient national banking system and ensure that consumers have consistent and uniform protections across banking products and services, no matter where they bank.

The question follows: Why is this a good idea? The proposed amendments affirm that the Bank Act sets out a system of exclusive consumer protection rules for banks in order to ensure that Canadians benefit from the same rights and protections across the country, enhancing their financial mobility in our integrated national economy. This makes sense and speaks to the underlying rationale of having banking as a sector of exclusive federal jurisdiction.

Without a comprehensive and exclusive federal consumer protection framework, consumers would be subject to a patchwork and confusing array of protections. Bill C-29 provides the clarity and simplicity that Canadians deserve in their day-to-day use of bank products and services and provides for better outcomes.

Here are a few concrete examples: A resident in one province using a bank-owned automated teller machine in another province could potentially have to know and understand three sets of rules. How would this person know who to turn to for a complaint? The same could be said about any Canadian travelling in Canada or banking online. Which rules would apply? This bill would clarify that one set of rules would apply across the Canadian banking system.

Another example: The use of bank-issued prepaid cards is increasing. If a patchwork of different provincial regimes exists regarding the calculation and disclosure of costs, how could someone shop around and compare the relative costs of these products? The government is of the view, and the other place has agreed, that Canadians need a single set of information to make informed banking decisions. The alternative actually hurts Canadian consumers, which is no one's goal.

Multiple sets of rules, one provincial and one federal, applying to bank products and services would also mean longer and more complex legal contracts between consumers and banks. This bill cuts down the fine print, maybe at the expense of lawyers, but that helps Canadians understand what they are signing at the bank.

[*Translation*]

Honourable senators, overlapping rules and systems that apply simultaneously are not in the interest of consumers in the banking sector. Consumers are better protected when the rules and their rights are clear. Bill C-29 removes the burden of consumers having to understand a multitude of rules that apply to the same banking products and services.

As I said, the Canadian Constitution gives Parliament exclusive legislative jurisdiction over banking institutions and banking law. The proposed legislative measure affirms Parliament's constitutional authority over the banking industry.

[*English*]

An exclusive federal financial consumer framework provides an opportunity to hold banks to account and support a national system that supports consumers across the country.

The exercise of federal jurisdiction also holds the Government of Canada accountable to improved consumer protection as the needs of Canadians evolve.

Leaving aside the issue of legitimate exercise of federal jurisdiction of banking, we need to keep in mind what would be the best outcome for all Canadians.

Many assertions have been made to the effect that this bill would lower consumer protection standards, compared to what could be available in Quebec in particular. To the contrary, Bill C-29 is all about enhancing nationally and allowing consumers to access the benefits of those high standards.

Some suggest that this bill would allow banks to hide their fees. The fact is that this bill prohibits the imposition of fees unless they are provided for in an agreement. Others suggest that the banks could make misleading advertisements. The fact is that this bill

requires banks' advertisements to be clear, simple and not misleading.

It has been asserted that banks don't have to comply with the recommendations of external complaint bodies. Banks do follow their recommendations. The fact is that of the hundreds of complaints that have been examined since their creation, their recommendations were followed in every single occasion. This delivers results for Canadians quickly and free of charge, without lawyers. I would emphasize this point.

To put this in practical terms, the median complaint that proceeds to the last stage of complaints, meaning it could not be resolved at the bank, is for amounts less than $1,000. In practice, the external complaint bodies deal with these complaints in 60 days or less, and again, that is free of charge. Contrast that with the experience of litigation as a resolution with its associated costs, time frames and other barriers of access to justice.

It is important to bear in mind that litigation is still available as a remedy for breach of contract under common or civil law, including through class action. However, this framework is intended to provide a comprehensive, customer/consumer-oriented regime for solving issues quickly and to consumers' satisfaction. The government wants banks to address consumer issues early, up front and proactively.

Could this new framework, once enacted, be enhanced, improved and strengthened for all Canadians? This is something to consider, and Canadians would benefit from a deep think in a Senate committee on this issue. The government would certainly welcome such a study with an eye to the future.

The government believes deeply in cooperative federalism, as symbolized by the two first ministers' meetings held in the first year of its mandate and the Prime Minister's invitation to premiers and territorial leaders to attend the United Nations Climate Change Conference in Paris. A third first ministers' meeting is being held today and tomorrow to work on the national plan on climate change, and the premiers have also been invited to discuss health care at a working dinner hosted by the Prime Minister tomorrow night.

This government wants to do more with provinces and territories, not less. By contrast, the previous government convened two first ministers' meetings in almost 10 years. So yes, this government is committed to cooperating with all provinces and territories, but federalism also means that there will be instances where the Parliament of Canada will seek to fully occupy its exclusive field of competence in the national interest. This is such a case.

In the government's view, and in the view of the other place, it is in the national interest in an increasingly complex global financial landscape that the Parliament of Canada fully occupies its exclusive federal jurisdiction over the banking industry in Canada by providing for clear, comprehensive, exclusive national standards applicable to the banking industry. Sometimes in our confederation, governments must take difficult decisions that may not be welcomed in every region but that in its view are in the national interest. Canadians elect their federal governments and their elected representatives to make those difficult choices. Again this is such a case.

In our work in this chamber, honourable senators, as you know, while local interests should never be neglected, neither can we neglect our responsibility to consider local interests in the context of the national good.

To summarize, the policy objective is for this Parliament to affirm its exclusive federal jurisdiction over banks and banking and support a national banking system to the benefit of all Canadians. The alternative would be a multiplicity of rules that for consumers would be confusing, complex and opaque. The alternative would mean that rather than counting on a dedicated and efficient federal supervisor, consumers would have to rely on lawyers providing complex advice on which rules potentially apply and defend their interests in protracted court proceedings.

Now, quite aside from the merits of Bill C-29 and the policy rationale for the budget measures it seeks to implement, I want to take a few moments to speak on the role of the Senate with respect to legislation such as the bill that is before us.

Bill C-29 is a classic example of a question of confidence in the other place. In its pith and substance, it is a budget bill that seeks to implement the explicitly announced budgetary program of a freshly elected majority government.

Despite this, as you all know, there is has recently been talk of a Senate amendment.

• (1450)

But amending or obstructing Bill C-29, a budget implementation bill, would run counter to the historical practice in this chamber and, in this particular case, constitute an overreach of the Senate's role in Canada's parliamentary democracy.

Honourable senators, I freely acknowledge that, by and large, the formal powers of the Senate are equal to those of the other place, but with two exceptions. Section 53 of the Constitution Act, 1867, directs that money bills and tax measures are to originate in the other place; and section 47(1) of the Constitution Act, 1982, provides that amendments to the Constitution can be made without the consent of the Senate. Beyond those limitations, the formal powers of the Senate are virtually unrivalled for an unelected body among the world's democracies.

But the crux of the matter, in this instance, is not whether we have the constitutional power to amend Bill C-29. We all know that we do, just as we can collectively defeat any and every democratically mandated piece of legislation that comes our way. Doing so, however, would be the undoing of the fine balance between power and legitimacy that Canada's founders established at Confederation.

The essential question is more complex: Should we exercise these awesome powers in the case under study? Honourable senators, I submit to you that we should not.

In the exercise of its powers, the Senate must act in accordance with its intended role as an appointed body in Canada's constitutional architecture. The framers of our Constitution envisioned the Senate as a complementary body in Parliament to the elected house that would not have a popular mandate to rival the other place, the exclusive confidence chamber.

So while the formal powers of the Senate are vaster than any other unelected chamber in the world, such extensive powers require caution, restraint and wisdom in their exercise. As the Supreme Court put it in 2014:

> . . . the choice of executive appointment for Senators was also intended to ensure that the Senate would be a *complementary* legislative body, rather than a perennial rival of the House of Commons in the legislative process. Appointed Senators would not have a popular mandate — they would not have the expectations and legitimacy that stem from popular election. This would ensure that they would confine themselves to their role as a body mainly conducting legislative review, rather than as a coequal of the House of Commons.

Indeed, in our parliamentary, bicameral system of responsible government, matters of confidence are resolved in the other place. As my friend, mentor, teacher and Professor Emeritus Ned Franks notes in the collection of essays compiled by the Honourable Senator Joyal, and here I quote Professor Franks:

> The key functions of the Commons lie in the making and unmaking of governments, that is, in supporting a government that retains its confidence . . . . The notion of "confidence" . . . is the key to Westminster-style parliamentary democracy . . . .

Professor Janet Ajzenstat wrote about the origins of the Senate, also included in Senator Joyal's compilation of essays. She noted the following:

> Why did Liberals like Brown, traditionally more inclined to identify with the popular element, support appointment? Christopher Moore suggests that Brown for one favoured an appointive upper chamber because he believed it would have less legitimacy and would therefore be less forward politically and less inclined to interfere with responsible government, the principle for which Liberals had successfully campaigned for so many years.

Speaking about the Senate in his book entitled *The Canadian Senate in Bicameral Perspective*, Professor David Smith stated the following:

> . . . [S]enators see themselves as parliamentarians, as an integral part of the legislative process. They also realize that, notwithstanding the absolute veto given them by the constitution, it is the House of Commons that is the confidence chamber. Members of the lower house are elected by and accountable to the people.

I would add that George Brown summed it up quite neatly when he spoke in the Canadian Legislative Assembly on February 8, 1865:

> . . . [What] was most feared was that the legislative councillors would be elected under party responsibilities; that a partisan spirit would show itself in the chamber; and that the right would soon be asserted to an equal control with this house over money bills.

Hence, the Senate was never intended by the architects of Confederation to be a perennial rival and co-equal to the lower chamber. This is particularly true when it comes to budget bills that seek to implement policies have been explicitly articulated and subsequently passed by the elected chamber. And in Bill C-29, what is before us is a framework implementing budget policies that have been adopted by the elected chamber in a vote of confidence. These are matters in which the Senate must exercise a very high degree of restraint.

In the case of Bill C-29, as you know, some of our colleagues have spoken favourably about amending a policy option that has been explicitly announced in the first budget of the democratically elected government.

To be clear, all the measures contained in Bill C-29 were announced in the government's 2016 Budget. Most relevantly, at page 222 of the budget tabled in the other place by the Minister of Finance on March 22, 2016, the government clearly announced its intention relating to the assertion of federal power over banking, and here I quote the budget:

> Canadians deserve financial consumer protection that keeps pace in meeting their needs. In addition, the financial consumer protection framework must provide clarity to guide the operations of federally regulated banks.
>
> Amendments to the *Bank Act* will be proposed to modernize the financial consumer protection framework by clarifying and enhancing consumer protection through a new chapter in the Act. They will reaffirm the Government's intent to have a system of exclusive rules to ensure an efficient national banking system from coast to coast to coast.

That was the budget.

Following through on such a commitment in a budget implementation bill is entirely consistent with parliamentary practice. Indeed, it would be wrong to claim that clarifying and modernizing the framework to protect Canadians in the banking sector is not a budget measure. It is.

A manual which I'm sure that we all keep on our bedside table, *Senate Procedure in Practice*, describes the diversity of financial issues typically found in a budget implementation bill. I want to quote it:

> After pre-budgetary consultations and preparation, the Minister of Finance delivers the budget speech in the House of Commons . . . . It outlines the financial situation of the government and the economic condition of the country. It also announces policy priorities and strategic initiatives for upcoming years.
>
> Once a motion to approve the budgetary policy of the government has been adopted in principle by the House of Commons, it is usually followed by one or more budget implementation bills. These bills establish or modify structures, programs, services and other measures announced in the budget.

It is also important to distinguish between a budget implementation bill and a supply bill. As is explained in *Senate Procedure in Practice*:

> A budget implementation bill must be distinguished from an appropriation bill. The former implements the measures contained in the budget, while the latter is related to the

> statutory and non-statutory spending required for the proper functioning of the government, providing funds to existing structures, programs and services.

[*Translation*]

Also, an article published in 2011 in the *Canadian Parliamentary Review* informs us that it is perfectly normal for a budget implementation bill to contain various socio-economic measures, and not just fiscal measures. Penned by Michael Lukyniuk, a former clerk in the other place, that article on budget bills states the following, and I quote:

[*English*]

> The Budget Implementation Bill contains the principal measures announced in the Budget. This includes amendments to taxation statutes as well as amendments to other statutes involving socio-economic measures. Occasionally new statutes may also be included.

Honourable senators, there is no controversy and there can be no doubt that a budget implementation bill may provide for various policies related to the functioning of the financial sector and how it interacts with Canadians, particularly where those policies were articulated in the budget itself.

Moreover, this is not a case where a policy that did not form part of the government's budget, or is entirely unrelated to financial matters, has been quietly inserted into the budget implementation bill in an ominous or omnibus fashion.

And in my view, absent an apparent abuse of process through the manipulation by the government of questions of confidence in the House of Commons, it is not appropriate for the Senate to defeat or insist upon its amendments to a bill that has passed as a matter of confidence in the House of Commons

This is likely why I have yet to find a precedent of a budget implementation bill having been amended by the Senate and sent back to the House of Commons.

The only precedent of which I am aware of a budget implementation bill having been defeated by the Senate is over 20 years old, in 1993, when a budget implementation bill was famously defeated though a tied vote. This is hardly strong precedent upon which to rely to posit that the Senate should obstruct Bill C-29.

The bottom line is this: It is not the role of the Senate to defeat or fundamentally amend a budget implementation bill.

• (1500)

The provisions of Bill C-29 which have been the subject of recent controversy are measures that implement the government's budget as tabled on March 22, 2016. Canadians have spoken and have given the government the right and privilege to present its budget to the other place, Canada's confidence chamber. Once that confidence has been given by the other place, the Senate must respect that choice and the choice of Canadians.

Having said this, there are alternative ways for the Senate and senators to make their voices heard and shape policy on this issue. For example, strong observations could be integrated in the report of the committee that will study Bill C-29.

In the spirit of finding a solution with respect to Division 5 of the Budget Implementation Act, the Standing Senate Committee on Banking, Trade and Commerce issued on Monday the following pre-study of Bill C-29 and proposed:

> Because witnesses had contrasting views about the financial consumer protection framework proposed in Division 5, the committee believes that . . . the proposed framework should be comprehensively examined as part of the 2019 review of the Act.

Another option would be for the Senate to study the issue in greater detail and eventually make recommendations through a focused report. In this regard, yesterday Senator Ringuette gave notice of a motion that would authorize the Standing Senate Committee on Banking, Trade and Commerce be authorized to:

> (a) Review the operations of Financial Consumer Agency of Canada (FCAC), the Ombudsmen for Banking Services and Investments (OBSI) . . .,
>
> (b) Review the agencies' interactions with and respect for provincial jurisdictions;
>
> (c) Review and determine best practices from similar agencies in other jurisdictions;
>
> (d) Provide recommendations to ensure that the FCAC, OBSI . . . can better protect consumers and respect provincial jurisdiction . . . .

This would seem like an elegant and reasonable approach and one that the government would welcome. In this same spirit, the government is willing to consider committing to delaying the entry into force of Division 5 until such time as the Senate Committee on Banking issues its recommendations no later than May 31, 2017, as would be consistent with Senator Ringuette's motion.

Following the study of the policy issue at hand and based on its report, the government will consider recommendations from the Senate to make further legislative changes to the Bank Act as part of the 2019 legislative review of the act. Moreover, some recommendations could also be considered earlier as part of the government's supporting regulations to the regime that the government will be consulting on in the course of 2017.

To conclude, honourable senators, these are all options to consider as we proceed on Bill C-29, and I would urge all honourable senators to keep an open mind about solutions while remaining mindful of the role of the Senate with respect to a Budget Implementation Act such as this.

Honourable senators, I trust you will support Bill C-29, both on its merits and bearing in mind our complementary role as a chamber of reflection. If that weren't enough, it is Christmas.

Some Hon. Senators: Hear, hear.

Hon. A. Raynell Andreychuk: Senator Harder, perhaps you can clarify. You made your case as to why the budget implementation bill should not be interfered with and that it is not our role to do so. However, there are instances when it has been done. Certainly one can just look at the record of what the opposition has done and what the government has done. We have new factors now.

You are looking to an option that would delay the banking part of Bill C-29. I'm not sure whether you're saying that we should not interfere with the budget bill or implementation bill and then you are saying well, maybe we could and you'll accept it. I'm just not sure what you said at the end. I want to be very clear, and it may be Christmas.

Senator Harder: I thank the honourable senator for the question because it gives me the opportunity to be absolutely clear to all honourable senators.

What I am suggesting is that the government is willing to commit to delaying the entry into force of Division 5 should it be adopted by this chamber until such a time as the Banking Committee issues its recommendations should the Senate decide to proceed with the review that is before the Senate in at least one motion of section 5, no later than May 31, which is the reference point of the motion. Further, that the government would harvest those recommendations as it looked at the regulations that need to be developed in the course of 2017 for immediate implementation, and should there be recommendations for legislative action, they could form part of the government's consideration of the Banking Act review of 2019, which is the recommendation also from the Banking Committee of the Senate.

So we are seeking to accommodate the recommendations coming from Standing Senate Committee on Banking, Trade and Commerce, coming from Senator Ringuette and respecting the government's role in a confidence measure of a budget to advance its adoption in this chamber.

Senator Andreychuk: I'm still not clear. Are you giving that undertaking? I recall your role at the start was styled as representative and leader now. What is the assurance I guess that this will occur? Is it some undertaking by a minister? Is it a government undertaking? How will that be translated to this chamber? I guess it's the mechanics that I'm trying to get at.

Senator Harder: I would like to indicate that I am making my comments on behalf of the government. Should the Senate in its wisdom seek to have a minister or a higher being assert this commitment, I'm sure that could be arranged at an appropriate time in the Senate's consideration.

Senator Andreychuk: It was simply the clarification that you are doing this on behalf of the government.

Senator Harder: Absolutely.

[*Translation*]

Hon. Claude Carignan (Leader of the Opposition): Leader of the Government, it seems that one of the problems with this section is its constitutionality. Many believe the federal government is encroaching on provincial jurisdiction. What you are suggesting is delaying this encroachment by a few months, but that won't solve the problem, including the constitutional challenges that will be raised, which will cause uncertainty over the plan for at least 10 years.

[*English*]

Senator Harder: The Government of Canada is of the view that it is acting entirely appropriately and constitutionally within its exclusive jurisdiction and is asserting that authority with the bill that the House of Commons has passed and we are presently dealing with.

This is a subject area that has had significant litigation over the last number of years. I would suspect that it will continue to have litigation no matter what solutions are brought forward. The offer that I make is only with respect to the work being done that could be done should the Senate wish to undertake on the policy issues surrounding the consumer protection of the banking sector.

[*Translation*]

Senator Carignan: Is Senator Harder aware of the fact that the fundamental role of senators when it comes to our control over constitutionality, as defined at Confederation in 1867, has to do with the division of powers? As representatives of our respective regions, it is our fundamental role to ensure that federal legislation does not encroach on provincial jurisdictions.

[*English*]

Senator Harder: I thank the honourable senator for his question. It is certainly the view of the government that it is acting entirely and consistently within its constitutional obligations and rights, and I asserted that in my speech with respect to the banking sector.

It is also certain that courts and certainly the Supreme Court of Canada may or may not have a case before it in this area. Ultimately it is the Supreme Court of Canada that is the arbiter. I recognize that senators have from time to time quite properly reflected on the constitutionality of bills before it, and I would expect them to do that in reference to this measure as well. I am only asserting that it is strongly the view of the Government of Canada that it is acting well within its constitutional jurisdiction and obligations.

• (1510)

[*Translation*]

Senator Carignan: In the spirit of federal-provincial collaboration, can Senator Harder tell us which provinces the government consulted before introducing this bill, which encroaches on provincial jurisdiction?

[*English*]

Senator Harder: Let me remind all honourable senators that I think the first budget to speak about action in this area was in 2013. It was repeated in 2014 and 2015, and this government made a similar commitment in 2016 and acted on it.

In acting on this legislation, it is not usual for governments to consult in areas of exclusive jurisdiction — the banking sector — but it is also obvious that the government has consulted with stakeholders and other groups as it has developed its framework. It's in the regulatory process that further consultations with other jurisdictions and stakeholders will take place.

Hon. Art Eggleton: If the Senate wishes to acknowledge what you suggested in terms of that section, does it express that through an amendment, through an observation or in what way?

Senator Harder: I would not want to prejudge how the Senate might want to deal with this, but I could make a suggestion, if that's appropriate.

I would suggest that it be done as an observation so that we can move forward in as expeditious a fashion as possible. If the senators would like a confirming letter, I'm sure a confirming letter could be utilized as well. But with my comments today, I make that commitment.

Hon. David Tkachuk: Honourable senators, I'm a little confused. There is a motion by Senator Ringuette on this matter, which was tabled yesterday, I think. So is she working cooperatively with the government on this bill? She is a member of our Banking Committee. We've had no indication from her or anybody. Normally if a minister wants the Banking Committee to study something, they meet with the members of the committee and we have a discussion, but certainly we are not there at the behest of the government. We're there at the behest of the Senate, but it seems to me here that we are being asked to work at the behest of the government.

Senator Harder: I want to be very clear — and Senator Ringuette can speak for herself, obviously; she usually does. I had no notice or knowledge of Senator Ringuette's motion until she tabled it. I was seeking to utilize the document from the Banking Committee that was before me, and I quoted that, as well as yesterday the Notice of Motion to try to find a way forward that would be respectful of Senate concerns and help us advance this bill that is important for Canadians in a jurisdiction that has federal exclusivity.

Senator Tkachuk: Just so I'm clear, this was all accidental? Would you have us believe that this didn't happen with any discussion between you and her? It just happened that it was tabled yesterday, and all of a sudden you are fortuitously going to be making use of it?

Just to ask a little further on this, we have already been asked by the Senate to table a report by May 30. We have had a private member's bill referred to us, Senator Plett's bill. We have another bill referred to us. I can't even remember the name of it, but that's going to be determined in February. It's a bill on tariffs. We have two weeks off in March and two weeks off in April. I don't see how this will be done within the time that we have.

Senator Harder: Obviously I can't speak to the agenda or work program of the committee. What I am seeking — and if it sounds incredulous to the senator, it is the truth, and I would ask him to accept it as truth — is a way forward utilizing the material in front of me, both from the Banking Committee and from the motion yesterday, to find a way to move this bill forward while allowing the Senate to inquire into and make recommendations on this matter.

Hon. Dennis Glen Patterson: My question is to the Government Representative in the Senate. I want to say that I do appreciate his lecture on the role of the Senate with respect to money bills and actually also the mathematics lesson we got earlier today from one of our new colleagues.

I think there have been only two instances, as Senator Andreychuk mentioned, in about 150 years when a budget bill has been defeated. So I guess I would like to ask the Government Representative, isn't there a long tradition in this place where Her Majesty's Loyal Opposition gives every bill — including, of course, a money bill — careful scrutiny, including as to its constitutionality and compatibility with the Charter? And after that careful scrutiny, the government votes for the bill and the opposition often votes against the bill. What happens is the whips make sure that nothing untoward happens and the bill passes or passes on division.

So I'm not sure if the Trudeau government actually believes there is still a place for the official loyal opposition in an increasingly independent Senate. I guess I would like to ask the Government Representative respectfully if you might not be somewhat alarmist in warning this chamber not to consider defeating or amending this bill.

Senator Harder: I thank the honourable senator for his question. My intention is not to be alarmist at all but to seek a path forward that is respectful of our role and obviously legitimate commentary and views of all senators. It is in that context that I offered my comments.

Hon. Larry W. Smith: Honourable senators, I have just a few comments on our work in committee on Bill C-29, on which we are doing a pre-study. Bill C-29 was introduced in the House of Commons on October 25, 2016. It is budget implementation act 2016, No. 2. The bill contains significant foundational amendments, some of which are quite controversial within the business, medical and tax communities. We have heard from witnesses who have reinforced their concerns.

As well, there are concerns regarding consumer protection that affect banking practice being set to a lower standard at the federal level relative to some of the provincial laws.

[*Translation*]

Bill C-29 is divided into four parts. Part 1 amends the Income Tax Act with respect to rules governing tax avoidance.

Parts 2 and 3 amend the Excise Tax Act with respect to goods and services tax and harmonized sales tax measures.

Part 4 amends other measures in the following acts: the Employment Insurance Act, the Old Age Security Act and the Bank Act.

[*English*]

Bill C-29 is divided into four parts. Part 1 focuses on amendments to the anti-avoidance rules in the Income Tax Act. Parts 2 and 3 focus on amendments to the GST/HST — the goods and services and harmonization taxes — and excise measures. Part 4 implements various other measures by amending several acts, including the Employment Insurance Act, the Old Age Security Act and the Bank Act. We had federal officials in to go through each of these divisions, which was quite an interesting exercise.

• (1520)

The committee is currently studying Bill C-29 under the motion to allow pre-study. We have had four meetings to date, heard from officials, the Minister of Finance and eight outside witnesses. I can report some of what we have heard but will report in greater detail when the committee has completed its study.

In Part 1, the bill amends the small business deductions and back-to-back arrangements, eliminates the eligible capital property deduction and replaces it with a new class of

depreciable property. Part 1 also implements the OECD's common reporting standards and a host of other technical amendments to the Income Tax Act.

Mr. Kim Moody, a tax specialist from the Canadian Tax Advisory, testified last night. He stated that there is merit in restricting some of the technical issues related to the small business deduction allowance; however, the proposals contained in Bill C-29 go far beyond simple targeting. He stated:

> The proposals are very far-reaching and apply to many routine situations where . . . they should not. . . . and will likely have many unintended consequences.

Mr. Moody also stated that the current system is complex.

> However, the amendments make such rules horrifically complex.

Because of the new breadth and depth of the amendments, many may no longer qualify for the small business deduction. In his opinion, this new legislation, without a doubt, is within the top five in complexity. The average small business owners will not have the capacity that large corporations can afford to manage this level of complexity.

Mr. Moody's final comment was that:

> . . . the new small business deduction proposals are simply unworkable, mark my words.

We did have members from the medical community present to us last night. They of course have a very compelling case. We will discuss that further at a later date.

To date, we have more to learn. Some very serious concerns, such as the impact to our medical professions and impacts to small businesses, have been brought to our attention.

Also discussed, as mentioned earlier, is the impact of such activity on banks in the provincial versus federal jurisdiction.

I look forward to sharing the findings of the Standing Senate Committee on National Finance with my honourable colleagues in this chamber in the coming days.

Again, that is just a brief introduction to what we are doing because we are in the midst of it, and I think it is a little premature to get into the guts of the matter right now.

Hon. André Pratte: Honourable senators, since I do not have much time, I will only comment on the consumer regime put forward in the bill by amendments to the Bank Act.

I share the objective of the amendments, that is, to create a national framework for consumer protection in relation to banks. There are new protections, but mostly it takes elements that were already scattered in the Bank Act that now are put into a coherent ensemble. That's a good thing. It makes for a much similar reading by banks and consumers and people that will have to interpret the act. So I share that objective.

Obviously in the regions of the country where consumer protection is rather weak, it will strengthen consumer protection in regard to banks. That's a very good thing.

The system encourages the recourse to either ombudsmen who are bank employees or national ombudsmen organizations approved by governments who are financed by banks and can make recommendations. The system usually works rather well, but it's a weak protection regime. However, when you live in a province where there is weak protection or practically no protection, it's much better than nothing and better than what exists at present.

So where is the problem? The problem is with subclause 627.03(2). That is the "Paramountcy" clause. I will read it:

> This Part is intended to be . . . paramount to any provision of a law or regulation of a province that relates to the protection of consumers or to business practices with respect to consumers.

I will read it in French.

[*Translation*]

> This Part is intended to be, except as otherwise specified under it, paramount to any provision of a law or regulation of a province that relates to the protection of consumers or to business practices with respect to consumers.

[*English*]

This means that if in a particular field of consumer protection related to banking, credit for example, a provincial regime offers better protection, the consumer will not be able to use it. He will be limited to the federal framework which is in some cases much weaker.

[*Translation*]

Quebec consumers will be the biggest losers. Quebec's Consumer Protection Act is much more comprehensive and provides legal recourse for a consumer who believes he has been wronged, especially by a financial institution, and obviously, the banks. These courts are not expensive to run. Small claims courts usually hear such cases. There is no charge to have a case heard and there are no lawyer fees to contend with.

I would like to quote the president of the Chambre des notaires du Québec, which is not known to be very right-leaning. Gérard Guay had this to say:

> The consumer is faced with a range of sophisticated, even complex, credit instruments. When taking out a bank loan, the consumer must have all the information needed to make an informed decision. The consumer must also have impartial and binding legal recourse when he believes that he has been wronged. Bill C-29 throws into question these rights that protect Quebeckers.

[*English*]

Marc Lacoursière, Professor of Law at Laval University, who specializes in bank and consumer law, wrote that Bill C-29:

> . . . represents a set-back for the rights of all Canadians consumers. In general, provincial law gives consumers a better protection.

[*Translation*]

Professor Lacoursière also wrote:

> The federal bill has several shortcomings compared to the provincial legislation. In Quebec, the Consumer Protection Act protects the consumer with respect to banking products and services in many ways . . .

The professor gave too many examples to list here.

> Will the courts decide that the Quebec provisions that are not covered by federal law still apply . . .? Some doubt remains. However, if these Quebec measures cease to apply, it would mean that this federal law disrupts the balance in the relationship between customers and businesses, in this instance, banks . . . .

[*English*]

Now, this is now not only a Quebec issue but an issue for all Canadian consumers. It is in their interests that there exists a financial consumer protection framework and it should be actually stronger than in the proposed bill. It is also in their interests that they benefit from the stronger protection regime that exists in their province if it is stronger in their province.

When I met the Minister of Finance, he said if someone lives in Chicoutimi, Quebec, and moves to Fort McMurray, he should benefit from the same protection regime. I replied that if he lives in Chicoutimi, Quebec, and the regime is stronger, why deprive him from that regime? What if he eventually moves to Fort McMurray, then he has the same regime. What is the logic there? We should be working so the regime in Fort McMurray is as strong as it is presently in Chicoutimi, Quebec, not make it weaker in Chicoutimi so it is the same as in Fort McMurray. It seems quite logical.

We talk about complexity of the present regime. There are so many different regimes at the provincial and federal levels. Apparently we seek uniformity. Uniformity is very nice, but honourable senators, we live in a federation. Obviously if we did not have a federation, it would be much less complicated, but there are reasons why we live in a federation. Living in a federation may be more complex, but that's the beauty of Canada.

Now we've been told today that Ottawa has exclusive jurisdiction on banks. That is correct. Therefore Ottawa argues that it should also have exclusive jurisdiction on consumer protection. That is called interjurisdictional immunity. In a decision called *Marcotte* two years ago, the Supreme Court said that:

> . . . the doctrine is in tension with the modern cooperative approach to federalism which favours, where possible, the application of statutes enacted by both levels of government.

• (1530)

Consumer protection in regard to banks is now regarded as a shared jurisdiction, as stated by the Supreme Court.

[*Translation*]

As it states in *Marcotte*, and I quote:

> Consumer banking products are federally regulated under the *Bank Ac*t . . . . Consumer protection is provincially regulated . . . .

The current government says that it believes in cooperative federalism. When announcing the implementation of the new financial consumer protection framework, the government stated, and I quote:

> The government will collaborate with provinces, territories, and stakeholders to support the implementation of the financial consumer protection framework.

[*English*]

A few minutes ago, Senator Harder said the government believes deeply in cooperative federalism. Well, telling your provincial counterparts that their laws and regulations are null and void is certainly not a good start on your way to cooperative federalism.

Now, what should the Senate do? Well, given its impact on consumer protection and provincial rights, what should we do? This part of Bill C-29 appeals to two fundamental roles for the Senate of Canada: protecting the interests of the regions of the country and exercising sober second thought.

[*Translation*]

One of the reasons why the Senate was created in 1867 was because there was a need to protect the interests of the regions and the provinces. That is one of the fundamental reasons why we are here. Each of us represents our region while trying to reconcile regional interests with the national interest. That is what makes Canada a federation. It is not about the federal government dominating the provinces but rather the reconciling of regional interests for the common good.

We have before us an obvious attempt on the part of the federal government to infringe on the provinces' jurisdiction over consumer protection. This is not a power struggle. Some provinces have a solid consumer protection regime in place that is consistent with the needs of their populations. Others may want to set up such a regime in the future. The Government of Canada should not deprive consumers in these provinces of that protection just to make things consistent across the country, particularly not when powerful players like banks are involved. There is an alternative that would meet both objectives.

[*English*]

The federal government can very well put in place the framework for consumer protection for banks, as it does in the bill, and leave open the possibility of having access to that regime for consumers in provinces where there are stronger regimes. That has been done in other fields and can easily be done in this field without interfering with the exclusive jurisdiction of the federal government in the banking sector.

Our other fundamental mission, of course, is exercising sober second thought. The reality is that even with pre-study of Bill C-29, a very complex bill, we have had very little time to study that particular part of the bill. The committee on banking looked at it briefly but heard only one consumer group, no expert on constitutional law, no consumer group from the province of Quebec and no representative of provincial governments.

Complex issues are raised. How will the new provisions be interpreted by the courts? What will the impact be on consumers in different provinces? What will the impact be on civil law in Quebec? We don't know, and we won't have time to hear enough witnesses to know before the holiday break. Everyone knows that.

With the time left, we simply have no time to exercise sober second thought. Yet there is absolutely no rush to pass this legislation, except for the artificial timeline decided by the government. If it is not passed before Christmas, the government will not run out of funds. No tax measure will be affected. It was announced in the budget, but it is not a budget measure. It can wait a month or two. Meanwhile, we can make this part of the law better.

The government should take this part of the bill, Part 4, Division 5, out of Bill C-29 in order to give itself more time to work on it.

Now, a new proposal suddenly appears asking us to vote for the principle of the paramountcy clause. To vote for that part of the bill is voting for the principle of the paramountcy clause. That is voting for excluding provinces from a field of jurisdiction that is theirs; moreover, it is voting for the principle of depriving consumers of the possibility to access a stronger protection regime for their rights in their province, if it is stronger in their province.

I profoundly disagree with that because there is an easier, more efficient solution that protects both consumers and provincial rights. It is simply taking that part of the bill out of Bill C-29 and giving the government and the Senate time to study it in a stronger fashion and taking the time to make the federal part of it better, because most people agree it is still too weak, and make it conform to provincial rights. So it would be a stronger protection regime for consumers from coast to coast, and a regime that respects provincial jurisdiction over consumer protection.

[*Translation*]

Let us give the government time to improve this part of Bill C-29. That is how the Senate of Canada can fully play its fundamental role of protecting regional interests and sober second thought.

Hon. Senators: Hear, hear!

Senator Carignan: You make some interesting arguments. However, I have some concerns about the bill, including two concerns that I will put forth and on which I would like to hear your comments.

Credit unions operate under a different system than the banks, so different rules apply to their users. They exist in Quebec, but other provinces have credit unions as well. Can you say a few words about the challenge of having a dual system, one for credit unions and another for banks?

I have here a ruling dated October 31, 2016, in a case where a consumer filed a class action suit against a telecommunications company. The company claimed that it could not be sued under Quebec's class action regulations, allegedly because it had an entire entity, the CRTC, which governed its federally regulated activities. Fortunately, that argument was dismissed.

I am concerned that this is a slippery slope. If we allow this for the banks, next will be the telecom companies, and this time, their consumers will be deprived of their rights. We know that there have been many problems in this sector, especially with cell phones.

• (1540)

Senator Pratte: Those are two fairly complex questions. The first deals mainly with the right of mobility of the consumer who uses banks. However, what is strange is that we will be creating a very bizarre situation where a client of a credit union, whether in Ontario, New Brunswick, out west, or in Quebec, will have more rights with respect to their financial institution, which is governed by provincial laws, than the client of a bank. Oftentimes, people deal with both types of institutions, which would put financial institutions governed by provincial laws in a situation of unlawful competition. They are often very dynamic financial sectors. Needless to say this could lead to serious problems.

Your second question has two sub-questions. First, opinions vary greatly about the impact of the bill on class action lawsuits, depending on whether you ask the federal government or consumer rights experts. Many consumer rights experts are telling us that the new regime will make class action suits much more difficult. The government is claiming the opposite, but that has yet to be proven. It is one of the reasons why this bill needs to be thoroughly studied.

The paramountcy clause does represent an important test. If the Supreme Court were ever to rule that the federal government can effectively declare paramountcy in law, that would mean the federal government has the power to make it so by saying it is so. There could be no doubt that the federal government would then be very tempted to proceed in the same way in other sectors where it has jurisdiction.

[*English*]

The Hon. the Speaker: Do you have a question, Senator Lang?

Hon. Daniel Lang: I wonder if the honourable senator would take another question?

Senator Pratte: Of course.

Senator Lang: I want to go back to the government leader's premise that any amendment would be seen as a vote of non-confidence for the purposes of the bill with respect to the actions this chamber would take. You have indicated you feel they should be amended and that section should be removed and then the Senate could study that particular area in its entirety.

Can you bring anything forward to the Senate floor in respect to the question of whether an amendment to that section of the bill would be seen as a vote of non-confidence, or would it just be seen as an amendment that would be part of normal business for any piece of legislation that we dealt with?

[*Translation*]

The Hon. the Speaker: I am sorry, Senator Pratte, but your time has expired. Would you like to request five more minutes?

[*English*]

Senator Pratte: I would like to have one minute to answer that question.

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

Hon. Senators: Agreed.

Senator Plett: Only that answer.

Senator Pratte: Come on. I'm having so much fun.

Senator Plett: I'm not.

Senator Pratte: I can't quote authorities, but frankly, between you and me, I would be very surprised that a matter of framework for consumer protection in banks would be considered a confidence issue in the lower house.

[*Translation*]

Hon. Raymonde Saint-Germain: Honourable senators, I would like to take the opportunity afforded by my first intervention, one week after I was sworn in, to personally thank you, my colleagues, all senators on both sides of the chamber, as well as the Senate staff, for your tremendous professionalism and the support you have shown me.

As I pledged my oath, I was very mindful of the fact that my first duty is to uphold the rights of our fellow Canadians, and more importantly, to promote those rights. That is why I want to comment on Bill C-29, more specifically on item 627.03 of Division 5 of Part 4. I was concerned about some questions to which, after a few working sessions, I could not get any answers that reassured me that the rights of Quebecers, as well as the rights of people from other provinces, who of course use banking services, will be fully respected.

In my previous role as the Quebec Ombudsperson, I helped train my peers as well as individuals known as "organizational ombudspersons", that is, the ombudspersons of corporations that have a different status than that of independent ombudspersons.

During the training I delivered, whether it was at Osgoode Hall in Toronto or at the Université de Sherbrooke in Quebec, those ombudspersons told me what they could not say publicly, that is, that they are not independent and they are bound by the directions of their corporation. They said that the widely-available annual reports on the banks address some complaints, but they do not address what they consider to be a general sense of dissatisfaction or a measure of improvement that has not been investigated. This often allows banks to state that all complaints were dealt with and recommendations were made.

With that in mind, and being fully aware of our obligations and the limits of our power over budgetary measures, I agree that it would behoove us to spend more time thinking about this and looking for a solution that would be good for Quebec. I find the government's statement, which was conveyed by the government leader, the Honourable Senator Harder, reassuring. I would be terribly disappointed if the people of Quebec lost rights in this area because I know that, in banking in particular, the relationship is often reminiscent of David and Goliath. That's why I think more time to consider this particular provision, which is not, in my opinion, a budget measure, could serve us all well.

I want to point out that the ombudsman of a bank, a federally chartered institution, is the same for all Canadians, be they Quebecers, Newfoundlanders or British Columbians. There is just one ombudsman, usually located in Toronto. That means everyone across Canada gets the same treatment.

We should be able to examine and assess all constitutional, legislative, public administration, and even bureaucratic considerations with a fully open mind. Our goal should be to ensure that all bank customers across Canada are protected by a fair and equal system and to improve the law to that effect.

I think that in legislation as in all things, we should eschew the lowest common denominator. Instead, we should aim for the best practice and ensure that everyone benefits. That is why I support any amendment that, without jeopardizing adoption of the budget implementation bill, would enable senators to collaborate with the House of Commons and the government to improve this bill and ensure that our work will have enhanced respect for and promotion of our fellow citizens' rights.

Thank you.

Some Hon. Senators: Hear, hear!

[*English*]

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

Hon. Senators: Question.

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

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

REFERRED TO COMMITTEE

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

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

• (1550)

CITIZENSHIP ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Omidvar, seconded by the Honourable Senator Gagné, for the second reading of Bill C-6, An Act to amend the Citizenship Act and to make consequential amendments to another Act.

Hon. Linda Frum: Honourable senators, I rise today to speak on Bill C-6, An Act to amend the Citizenship Act. It gives me pleasure to have this opportunity to speak if only to have the chance to formally say hello and welcome my newest colleagues to this chamber, the most recently appointed group of independent senators.

I look forward to getting to know each of you better and to having the chance to work together with all of you. There's no question when Prime Minister Trudeau selected each of you he fulfilled his promise to send to the Senate of Canada Canadians of high accomplishment and character.

I also know you have been sent here to dispatch your duties in a non-partisan fashion, and so it seems apropos to be discussing Bill C-6 so early upon your arrival here, for if there was ever a bill that existed purely for partisan purposes, it is this one, which is why I must urge you, as you consider your own positions on Bill C-6, to apply independence of mind towards this bill's ill-conceived measures.

Bill C-6 seeks to reverse or abolish immigration reforms that were put into place by the previous Conservative government in Bill C-24. The rationale for these reforms seems to be no more complicated or thought through than that they are the opposite of what was done before. They do not stand on their own merit; they do not reflect evidence-based policy; they do not make Canada more secure or more just, nor do they seek to give immigrants to Canada the best conditions for successful integration. But rather they appear to be motivated purely by political expediency and therefore are much deserving of sober second thought.

As we review Bill C-6, let us remember that our prime responsibility here is to protect the best interests of Canada and Canadians, new and old. The best-known and least-popular of the measures contained in Bill C-6 is the one that will remove the grounds for the revocation of Canadian citizenship for reasons related to national security. This is the so-called "a Canadian is a Canadian is a Canadian" measure.

The Trudeau government's concern that convicted terrorists should always be made to feel equal and welcome in their adopted land is at odds with the policies of at least 22 other Western European nations, including the United Kingdom, Switzerland and Germany, as well as nations such as Australia and New Zealand. In those countries, convicted terrorists of dual nationality can have their citizenship revoked for the purposes of national security.

We have heard the argument in this chamber and in the other place that a two-tiered citizenship principle is fundamentally unfair and that a criminal justice system that treats dual citizens differently from citizens of Canadian birth is a mockery of natural justice.

Such an argument is poorly considered. It has always been Canada's law that those who obtain citizenship fraudulently will be stripped of it when the fraud is discovered. It was on this basis that Nazi war criminals who lied their way into Canada were denaturalized and deported.

Bill C-24 did not impose a two-tier criminal justice system. Any crime committed in Canada, whether it be as small as jaywalking or as serious as murder, is punished exactly the same way whether the offender is a citizen by birth or by naturalization.

What Bill C-24 did, however, was extend our pre-existing law against citizenship granted on fraudulent grounds beyond the Nazi era to those who, in our time, have waged criminal war on civilians, the same atrocity for which Nazis were hunted down after 1945.

A naturalized citizen makes a very specific promise to his or her new country — to bear true faith and loyalty. A jihadist who then wages war on Canada violates that most sacred of all promises. It is that lie and betrayal which is punished by loss of citizenship across the Western world.

A very humble analogy may help clarify the legal principle. When a con man dupes victims into giving him their money or other valuables, we are not satisfied by sending the con man to prison. We don't say serve your 5 or 10 years in prison and then when you emerge the benefits you gain by lying and cheating are yours to enjoy. No, we punish the crook for his crime and we also remove from the crook the goods he obtained by false pretenses.

If that's how the law treats the wrongful gain of money or valuables, how much more emphatically should we demand restitution from a criminal who has deceitfully tricked his way into the most precious benefit of them all — Canadian citizenship?

A person who comes among us, who pledges faith to us, then breaks that faith to wage war on us, and not even the recognized war of the uniformed soldier but a war of stealth and terror, is outside the common law of all humanity. And it is that person who has broken the bond with Canada, not Canada with him.

We have heard the argument here that treating jihadis born abroad differently from jihadis born inside Canada is unfair. Those who advance this argument seem to be saying we want no first-class terrorists and second-class terrorists. In Canada all terrorists are first class.

I think we need to approach this matter differently. It is a fundamental aspect of the law of citizenship that no criminal, no matter how bad, should be rendered stateless. A born Canadian terrorist is, inescapably, our problem. A naturalized terrorist, however, is one who possesses a second and prior citizenship. Denaturalizing him from Canada does not render him stateless. It puts him in the same position as most Canadians. It reduces him to the same one citizenship he was born with before he lost his second citizenship that he himself asked for by the extreme act of waging war on his adopted country.

Bill C-24 was a sober and responsible response to the post-9/11 world that we inhabit, where terrorist threats against Canada are all too real. As a resident of both Toronto and Ottawa, I do not easily forget the al Qaeda-inspired terrorist plot of the Toronto 18. Thankfully, this plot was foiled by law enforcement officials.

In 2006, 11 would-be terrorists were convicted of plotting to truck bomb the CBC, CSIS and the very place we are gathered at this moment, our beloved symbol of our cherished freedom, our Parliament.

Although Prime Minister Trudeau has made it a personal priority to reinstate the citizenship of the convicted ringleader of the Toronto 18, Jordanian-born Zakaria Amara, he, the Prime Minister, is way offside with the wishes of ordinary Canadians. A 2016 Angus Reid poll showed that only 21 per cent of Canadians agreed with the Trudeau government that restoring citizenship to convicted terrorists is the right thing to do. Canadians do not support this measure, and I hope my honourable colleagues will not either.

With his slogan "a Canadian is a Canadian is a Canadian," our Prime Minister shamefully preyed on the fears and insecurities of the 20 per cent of Canadian citizens who are foreign born. Canadians by choice often understand better than those born to Canada why Canada should be cherished and defended. It is the terrorist who breaks his vow and wages war on the country he asked to join, who, by his own act, has declared, "You may be Canadians; I am not."

Another ill-considered measure in Bill C-6 is the one that changes the requirements for new citizens to have, in advance of being granted citizenship, a knowledge of Canada and a working ability to speak one of its official languages. Previously, applicants between the ages of 14 and 65 had to demonstrate reasonable language ability and a knowledge of the history and culture of the new country they were about to embrace as their own. The Liberal government has reduced that expectation so it only applies to those between the ages of 18 and 54.

The previous standard set by the Conservative government had a clear and credible logic. It sought to ensure that those of working age were able to work. It sought to encourage social and cultural integration in order to make an authentic truth, and not merely a campaign slogan, out of the commitment that a Canadian is a Canadian is a Canadian.

The new standard suggests that we are ready to allow people in their 50s to settle in Canada, despite lacking the language skills necessary to support themselves. It suggests that Canada will accept its citizens, 17- and 18-year-olds, who do not understand our institutions and cannot demonstrate a commitment to our values of democracy, tolerance and mutual respect.

It suggests above all that this government regards even the most basic readiness to make a successful life in Canada as an easily dispensable formality. After all, if we don't expect a 55-year-old newcomer to show proficiency in English or French, why a 54-year-old? The old standard pegged to the retirement age was logical. This new standard is arbitrary, even whimsical, and I suspect it has more to do with focus groups in the ridings of vulnerable Liberal MPs than any concern for the best interests of Canada and Canadians.

When speaking to Bill C-6 in the other place, the Minister of Immigration admitted:

> . . . I have to acknowledge that there's a whole lot of evidence suggesting that skill in English or French is a critical determinant of economic success in Canada . . . .

You know what? He's right. Canada has suffered neither the economic nor cultural isolation of immigrants that is such a troubling feature of many European societies. We have not been disgraced by the xenophobic backlash also witnessed elsewhere.

• (1600)

Canada does not owe this success to good luck, nor should we smugly assume that Canadians are immune to the political upheavals that have convulsed almost every other advanced democracy.

We owe our success to wise decisions made by wise previous governments. We risk our success with the foolish decisions of unwise governments who would risk the economy and security of our country for short-term partisan political advantage.

I hope independent senators can tell the politicians in the other place: "We understand why you are doing what you are doing. We get it. Your business is the next movement in the polls and the next by-election in a marginal seat. Our duty is to see a little further and to think of what is best for all of Canada and not just a single party or single party leader."

I look forward to seeing this bill receive a thorough review during committee hearings, and I hope my colleagues will join with me in applying scrutiny for the measures contained inside Bill C-6 and will consider the potential harm this bill will do to Canada.

Some Hon. Senators: Hear, hear.

(On motion of Senator Lang, debate adjourned.)

[*Translation*]

THE SENATE

MOTION TO AFFECT QUESTION PERIOD ON DECEMBER 13, 2016, WITHDRAWN

On Government Business, Motions, Order No. 56, by the Honourable Diane Bellemare:

> That, in order to allow the Senate to receive a Minister of the Crown during Question Period as authorized by the Senate on December 10, 2015, and notwithstanding rule 4-7, when the Senate sits on Tuesday, December 13, 2016, Question Period shall begin at 3:30 p.m., with any proceedings then before the Senate being interrupted until the end of Question Period, which shall last a maximum of 40 minutes;
>
> That, if a standing vote would conflict with the holding of Question Period at 3:30 p.m. on that day, the vote be postponed until immediately after the conclusion of Question Period;
>
> That, if the bells are ringing for a vote at 3:30 p.m. on that day, they be interrupted for Question Period at that time, and resume thereafter for the balance of any time remaining; and
>
> That, if the Senate concludes its business before 3:30 p.m. on that day, the sitting be suspended until that time for the purpose of holding Question Period.

(Motion withdrawn.)

ADJOURNMENT

MOTION ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of December 7, 2016, moved:

> That when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Monday, December 12, 2016 at 6 p.m.;

That committees of the Senate scheduled to meet on Monday, December 12, 2016 be authorized to sit even though the Senate may then be sitting and that rule 12-18(1) be suspended in relation thereto; and

That rule 3-3(1) be suspended on that day.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*English*]

CANADIAN JEWISH HERITAGE MONTH BILL

SECOND READING—DEBATE ADJOURNED

Hon. Linda Frum moved second reading of Bill S-232, An Act respecting Canadian Jewish Heritage Month.

She said: Honourable senators, it is an honour to rise today to speak in support of Bill S-232, the Canadian Jewish heritage month act.

To begin, I wish to thank Liberal Member of Parliament Michael Levitt, who initiated this bill, along with the support of Conservative MP Peter Kent and NDP MP Randall Garrison.

As a very proud member of Canada's Jewish community, I am delighted to have the privilege of bringing forward an act that will formalize the month of May as a time to celebrate Canadian Jewish culture and to honour the significant contributions that have been made by Canadians of Jewish faith in Canada beginning from the earliest days of colonial settlement.

The story of the Jewish people in Canada has been, by and large, a story of acceptance, tolerance and mutual embrace. While not without blemish, Canada has been a country where Jews have been able to enjoy religious freedom, safety and prosperity.

As early as 1768, the first Jewish settlers to Lower Canada established a synagogue in Montreal. Jews were the first non-Christian, non-Aboriginal community to put down roots in what would eventually become Canada.

In 1832, in the Legislative Assembly of Lower Canada voted to politically enfranchise Jews, making Quebec the first jurisdiction in the British Empire to do this.

However, it was not until the end of the 19th century that Jews began to arrive in Canada in significant numbers. Typically, these most impoverished refugees were fleeing pogroms and murderous anti-Semitism in Russia and other areas of Eastern Europe.

They settled in Canada from coast to coast, from Victoria, B.C., to Sydney, Nova Scotia, in the hope of making better lives for themselves and their families and with the strong desire to contribute energetically to the communities which welcomed them.

In Europe, Jews had been prohibited from owning farmland and thus had little experience or aptitude for farming. Instead, most Jewish immigrants became storekeepers, tradesmen or labourers.

My own family fits this matter exactly. My great-grandfather on my mother's side arrived from Poland with his family at the turn of the 20th century. He settled his family in Niagara Falls, Ontario, drawn there by the opportunity to sell clothing and supplies to the men digging the Welland Canal. After a time, the family opened a small clothing store, which eventually became a department store, anchoring Niagara Falls' downtown boulevard.

My mother's father, who arrived in Canada as a seven-year-old boy in 1911, enjoyed only a rudimentary education. Even so, he managed to build a well-respected business and became a leader in his community.

However, typical of Jewish immigrants of his era, his most cherished aspiration was that his children would become well educated, thoughtful members of Canadian society, giving back the very best of their intellects and talents to the country that had welcomed them so warmly. His own children did, and so did tens of thousands of others like them.

For more than two centuries, Jewish Canadians have had a profound impact on the fields of business, medicine, justice, the military, academia, journalism, politics and the arts. It can even be said in sports, although in that case, admittedly, mostly from the back office.

As tempting as it is for me to try and list here the names of the greatest Jewish Canadians, they are, in fact, too numerous to attempt to detail. That's precisely the value of holding an annual Jewish heritage month, so that the many achievements, accomplishments and discoveries of Jewish Canadians can be properly honoured through events, exhibitions, concerts, readings, festivals and other organized activities.

Canada today is home to the fourth largest Jewish community in the world. Many of those are the descendants of the 35,000 Holocaust survivors whom Canada accepted after World War II.

It is my hope that Canadian Jewish heritage month will give all Canadians, Jewish and non-Jewish alike, the opportunity to better understand the culture and history of Jewish Canadians, as well as to appreciate the integral role that the Jewish community has played in shaping Canada into one of the very best countries in the world in which to live.

Thank you, honourable senators. I hope you will see fit to give your unanimous support to this worthy initiative.

(On motion of Senator Wetston, debate adjourned.)

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Joyal, P.C., for the second reading of

Bill S-206, An Act to amend the Criminal Code (protection of children against standard child-rearing violence).

Hon. Murray Sinclair: Honourable senators, I note that this matter is at day 15, and I had undertaken to speak to it and to take over sponsorship. I have finished my research but I have not yet completed by notes.

I would therefore ask, with leave of the Senate and notwithstanding Rule 4-15(3), that the clock be reset with respect to this matter.

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

Hon. Senators: Agreed.

(On motion of Senator Sinclair, debate adjourned.)

BUSINESS OF THE SENATE

Hon. Pierrette Ringuette: Your Honour and honourable colleagues, I don't know if this is a point of order. I do believe this is a precedent, though.

• (1610)

I want to highlight the fact that last Monday, Reports of Committees, Item No. 5, which was on the Senate budget for this fiscal year and the amendment that I proposed, was dropped from the Order Paper because it was on day 15. Therefore, we are in a situation where the Senate has no report from the Internal Economy Committee in regards to the Senate budget for this fiscal year and the amendment that I tabled.

I don't know whether this is a point of order, but I think it needs to be reintroduced as it stood as of Monday night, if possible on day 1, because we need to discuss and vote as a chamber on our own operating budget.

Maybe asking for leave is an option. I was supposing that the Chair of Internal Economy was going to see this, but it seems that has not been done yet. As of Monday night, we didn't have the report, and we were unable to vote as a chamber on our own operating budget.

Maybe one way to proceed — and I seek your guidance, Your Honour — is to seek unanimous consent to reintroduce the Internal Committee's report on our budget with the amendment as it stood on the Order Paper on Monday night.

The Hon. the Speaker: Thank you, Senator Ringuette. The matter was properly dropped by the Senate following the Rules. If you are asking now for leave to have the matter reintroduced, you can, but there will have to be unanimous consent of the Senate to do so. Are you asking for leave?

Senator Ringuette: Yes.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: I hear a "no." Leave is not granted. Sorry.

Senator Ringuette: Therefore, honourable colleagues, we do not have a budget to function. We have not voted on our budget.

The Hon. the Speaker: Senator Ringuette, this is not a matter for debate. Unfortunately, the matter dropped off, in your opinion, of course. You asked for leave to have it reinstated today. It cannot be reinstated because I heard a "no," so I suggest that you rethink the matter, and if you want to address it again on Monday night, we can revisit it then.

SENATE MODERNIZATION

NINTH REPORT OF SPECIAL COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the ninth report (interim) of the Special Senate Committee on Senate Modernization, entitled: *Senate Modernization: Moving Forward (Question Period)*, presented in the Senate on October 25, 2016.

Hon. Linda Frum: Honourable senators, I do note that this report is on its fourteenth day. I will be prepared to speak to it next week, so I would ask that I be able to do that for the remainder of my time then.

(On motion of Senator Frum, debate adjourned.)

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of the guests of the Honourable Senator Pate, including her daughter, Ms. Madison Pate; Ms. Jennifer Vincent; Ms. Cathy Robinson, a representative of the Canadian Association of Elizabeth Fry Societies; Ms. Jessica Hawkins, a representative of Senator Pate's prison law class at the University of Ottawa; as well as representatives of the Canadian Human Rights Commission.

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

Hon. Senators: Hear, hear!

INCREASING OVER-REPRESENTATION OF INDIGENOUS WOMEN IN CANADIAN PRISONS

INQUIRY—DEBATE ADJOURNED

Hon. Kim Pate rose pursuant to notice of December 5, 2016:

> That she will call the attention of the Senate to the circumstances of some of the most marginalized, victimized, criminalized and institutionalized in Canada, particularly the increasing over-representation of Indigenous women in Canadian prisons.

She said: Honourable senators, thank you very much. I think I'm on dangerous ground because I understand I now stand between all of us and a party, so I will get to it.

Honourable senators, as this is my first speech in the upper chamber of our Parliament —

Hon. Senators: Hear, hear!

Senator Pate: Thank you very much. I wish to begin by acknowledging that we have the privilege of being and meeting on the traditional, unceded territory of the Algonquin peoples.

Today I am both honoured and humbled to rise in this chamber to call attention to the circumstances of some of the most marginalized, victimized, criminalized and institutionalized in our country and to encourage us to focus in particular on the increasing overrepresentation of indigenous women in Canadian prisons.

Honourable senators, I take this opportunity to speak in anticipation of International Human Rights Day, which will be on December 10, the anniversary of the adoption of the Universal Declaration of Human Rights.

This year's Human Rights Day campaign is "Stand up for someone's rights today." It underscores the declaration's fundamental proposition that each one of us — everywhere and at all times — is entitled to the full range of human rights and that it is everyone's responsibility to take a stand, to defend the fundamental human rights of those at risk of discrimination and violence. By so doing, we reaffirm our humanity.

• (1620)

I believe that by being welcomed into this place, a forum like no other, I have been afforded an incredible opportunity to champion the issues that I hold dear. And it is my intention to do just that, for I firmly believe that it is our responsibility to work with and for those whose voices are too often not heard or, worse still, silenced or ignored.

Honourable senators, the overrepresentation of indigenous peoples in our prison system, particularly the overrepresentation of indigenous women, is rooted in the historical systemic discrimination that is our racist and sexist legacy of colonization.

Indeed, every day of the 35 years that I have had the opportunity and the privilege to walk in but, most importantly, to be able to walk out of prisons for youth, prisons for men and prisons for women, I'm painfully reminded of the impact of colonization on our indigenous peoples.

I would like to take the opportunity to commend all indigenous leaders for the vital work they have been doing on behalf of our indigenous peoples, most especially that of our former and our current esteemed colleagues. Thank you.

Honourable senators, so many of you have devoted yourselves to addressing the adverse impact of discriminatory child welfare and protection services, the lack of economic, educational and employment opportunities, and many other serious issues related to discrimination, whether in policing, prosecutorial, immigration, judicial and correctional practices endured by many people, but most particularly those endured by our First Nations, Inuit and Metis men women and children. I consider it a privilege to join each of you here in this place as we continue this important work.

Honourable senators, the facts I am going to present to you today may be tough to hear. They are not convenient, but they are our reality, and they must be shared. This conversation must be had, and I can think of no better place than right here in the Senate of Canada.

For the past 35 years, I have often found myself driven either by rage or despair as I've tried to address that which I could not and will never accept, that which I observed all around me, the suffering that I've had to witness first-hand. I thank you for allowing me this opportunity to share just a few of those examples.

I'll start with "D," an indigenous woman who was forcibly removed from her family and adopted out of birth, in front of whose segregation cells I spent countless hours over the better part of two decades, kneeling so that I might talk to her through a meal slot, pleading with her to stop slashing all parts of her body, trying to gouge out her eyes, or to smash her head into cement wall. "D" asked my mother if she could write to her and call her "mum," after my mother generously gave up her time and went to the prison for women in Kingston, just before it closed, when there was nobody left to provide services to the women. It was about this time of year, and my mum, who was a hairdresser, had come with me to do the women's hair so that the very few who might receive visitors and the rest who might help to entertain them could feel better despite being in prison over the holidays. "D" had no family, and aside from her lawyers, Elizabeth Fry volunteers and former prisoners, she was devoid of community support.

We were able to convince a filmmaker to produce a documentary about her life, and the publicity around that film — *Sentenced to Life/Sentence Vie* — put pressure on the correctional service to transfer her to a psychiatric hospital, which is where she needed to be.

The result? After more than 25 years in prison, most of it in segregation, she commenced her gradual integration into the community from the hospital. She eventually moved out the Elizabeth Fry-run transition home where she had been living and now lives in the community, where, the last time I visited, the owner of the local dépanneur where she lives thinks she is joking when she tries to convince him that she used to be considered a dangerous criminal.

Then there is "L," another indigenous woman, another member of the stolen generation, who was in fact labelled a "dangerous offender" based on what she said and what the Court of Appeal of Alberta said she wrote, but not actually anything she did. I first met her when she was 12. She will soon be 44. She had been raped and then prostituted. When she anesthetized herself to those realities by drinking, child welfare authorities were notified. When she resisted state intervention, police were called. She was charged with assaulting child care workers and police when she fought those who subsequently executed strip searches. Brilliant and stunning, she was penalized for fighting back and resisting the violence to which she was subjected on the street, in our communities, as well as at the hands of the state. For instance, when she — correctly, as it turned out — identified one of the prison psychologists as a sexual predator, she ended up barred from treatment and then segregated for allegedly threatening him by making those allegations. It took six and half years to overturn her sentence and designation as dangerous offender. She spent all

but six months of that time segregated. This past July 1 marked the seventeenth anniversary of release from prison.

Ten years in custody, 20 shock treatments, countless suicide attempts and incidents of self-injury have left their irreparable physical and psychological scars, but she now volunteers in her community and mentors other young people. She is a trusted advocate and adviser and has prevented many others from experiencing the horrors that were hers.

Last night, as I was walking home, she called me, as she has nearly every day for the last 25 years, and asked me how "senatoring" is going and suggested I take all of you to jail next time I go. I said I'd be happy to do that. She also urged me to seek your support to free our friend "S."

"S," also an indigenous woman, is currently the longest serving woman prisoner. She and I are the same age, but our opportunities and consequent life circumstances are not at all the same. After 10 years of horrendous physical, sexual and psychological abuse in residential school, she was rendered easy prey for a number of abusive men. Initially jailed as an accomplice to her abusive partner's drug trafficking, in prison she accumulated many more convictions and has spent most of the past three decades in segregation in many different prisons, in torturous isolation that generated her now disabling mental health issues. There is so much more I could say about the injustices she has endured and the stark reality of her lived inequality.

And then there are the children. Women describe the separation from their children as the hardest part of doing time. I am still moved every time I think of one particular visit to prison with two young girls. It is the first and, tragically, remains the only visit to the indigenous woman, mother to one of the girls and aunt to the other, from whom they were separated as infants. I was privileged to introduce them also to their first experience on an airplane. I can't tell you what it was like as we were taking off, ascending up through and over top of the cloud cover, to hear them start oohing and whispering to each other. Eventually the eldest turned to me and whispered, "Kim, Auntie Kim, are we in heaven?"

It is women and children like these, as well as many local, regional, national and international anti-violence, anti-poverty, anti-racism, women's, human rights, indigenous advocates and activists, as well as academics and allies whose expertise and experiences underscore the gravity of this issue.

Many have come before me in calling attention to the need for a collaborative effort to address human rights abuses happening in our midst and in our collective names. For instance, like other provincial and federal inquiries, the calls to action of the Truth and Reconciliation Commission, specifically call to action number 30, calls upon federal, provincial and territorial governments to commit to eliminating the overrepresentation of Aboriginal people in custody over the next decade and to issue detailed annual reports that monitor and evaluate progress in doing so.

Our Prime Minister has also mandated our first indigenous Minister of Justice to reduce the rate of incarceration of indigenous peoples and has called on her to work collaboratively to address the gaps in services to Aboriginal peoples and those with mental health issues.

Senator Ringuette:

These are indeed tall orders, but they are not unachievable.

• (1630)

In fact, although I was in the Joliette prison for women when she visited this place on December 6, I was pleased to hear that our Minister of Justice acknowledged that we need to do better and make concerted efforts to redress and remedy past and current wrongs.

According to the most recent report from the Auditor General, indigenous women make up 36 per cent, more than one in three, of imprisoned women in federal prisons in Canada. Countless other reports of the Office of the Correctional Investigator and the Canadian Human Rights Commission as well as mounting court decisions also confirm the troubling fact that indigenous women, especially those with disabling mental health issues, are the fastest-growing prison population in this country, despite the reality that they make up only 2 per cent to 3 per cent of the Canadian population.

In fact, in his 2013 report, *Spirit Matters*, the Correctional Investigator spoke of a whopping 85.7 per cent increase over the prior decade when it came to the rate of incarceration of indigenous women in federal prisons. That's almost 86 per cent.

Equally troubling is the fact that 91 per cent of the indigenous women serving sentences of two or more years have histories of physical and/or sexual abuse. In addition, most live in poverty and have limited educational and employment opportunities, and the majority are mothers.

Honourable senators, by and large it is not those who pose the greatest risk to public safety who are being imprisoned for longer periods of time. It is our most vulnerable, our most marginalized, our victimized.

According to the Parliamentary Budget Officer, in 2010, the annual cost of incarcerating a woman in a federal penitentiary, taking into account all of the costs, was $348,000. Most of the women who are jailed are poor and are the sole support of their children.

When they are jailed, their children are too often taken into care. I believe that we can, and that we must, address the human, social and fiscal costs of our current problematic use of the criminal and penal systems to address what are actually issues related to social and economic inequality and injustice, such as poverty, homelessness, colonization, and violence against women and those suffering from mental health issues.

Indeed, in 2010, Kevin Page, then the Parliamentary Budget Officer, identified a $7 million price tag for what Louise Arbour called the correctional interference and mismanagement of not all but just one indigenous woman's sentence. That is $7 million for one indigenous woman's sentence.

I leave it to all of us to imagine the difference that $7 million could make had it been invested instead in community-based supports and services such as child care, housing, mental health and social services, guaranteed liveable incomes and other economic and educational endeavours.

Jails are not, nor should we accept that they continue to be used as, substitute shelters for battered women, nor are they treatment

or mental health centres, and they most certainly are not appropriate responses to inadequate housing and social services.

In terms of human, social and fiscal costs, prisons are the least effective and the most costly means of responding to substantive inequality and injustice.

Honourable senators, we have to ask ourselves some very difficult questions, but first we must start an honest dialogue.

In this new role, I look forward to building capacity and forging partnerships with you to identify and address the many facets of this very serious problem. I urge us to work together and ask ourselves the key question: Where do we go from here?

It is our responsibility to investigate the interconnectedness of the economic, social, legal and political decisions that continue to contribute to and affect the increasing overrepresentation of indigenous women in our prisons.

Honourable senators, I'm under no illusion that any of us achieves anything alone. This is why I rose today to call upon you, my new colleagues, and to request that you join in this collaborative effort to stem the tide of imprisoning some of our most disadvantaged.

I will conclude today with a quote that was shared with me over 25 years ago by another woman who from her isolation in a segregated cell touched me deeply when she urged me to heed the words of Lilla Watson, an indigenous woman from Australia, when she said:

> If you have come to help me, you are wasting your time. If you have come because your liberation is bound up with mine, then let us work together.

Honourable senators, I ask that we work together to bring to light truths that have long been ignored. I ask that we work together to remedy this desperate situation. I ask that we work together to give a voice to those who have too long been rendered voiceless. Thank you for your patience.

Hon. Senators: Hear, hear!

(On motion of Senator Omidvar, debate adjourned.)

(The Senate adjourned until Monday, December 12, 2016, at 6 p.m.)

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