SENATE SÉNAT

CANADA

DEBATES OF THE SENATE

1st SESSION • 42nd PARLIAMENT • VOLUME 150 • NUMBER 86

OFFICIAL REPORT
(HANSARD)

Monday, December 12, 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
Publications Centre: Kim Laughren, National Press Building, Room 926, Tel. 613-947-0609

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

The Senate

Monday, December 12, 2016

The Senate met at 6 p.m., the Speaker in the chair.

Prayers.

[*Translation*]

ROYAL ASSENT

NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

December 12, 2016

Mr. Speaker,

I have the honour to inform you that the Right Honourable David Johnston, Governor General of Canada, will proceed to the Senate Chamber today, the 12th day of December, 2016 at 6:15 p.m., for the purpose of giving Royal Assent to a certain bill of law.

Yours sincerely,

Stephen Wallace

Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

THE SENATE

MOTION TO PHOTOGRAPH ROYAL ASSENT CEREMONY ADOPTED

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

That photographers be authorized in the Senate Chamber to photograph the next Royal Assent ceremony, with the least possible disruption of the proceedings.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to.)

The Hon. the Speaker: Is it your pleasure, honourable senators, that the Senate do now adjourn during pleasure to await the arrival of His Excellency the Governor General?

Hon. Senators: Agreed.

(The Senate adjourned during pleasure.)

• (1820)

ROYAL ASSENT

His Excellency the Governor General of Canada having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, His Excellency the Governor General was pleased to give the Royal Assent to the following bills:

An Act to amend the Food and Drugs Act, the Hazardous Products Act, the Radiation Emitting Devices Act, the Canadian Environmental Protection Act, 1999, the Pest Control Products Act and the Canada Consumer Product Safety Act and to make related amendments to another Act (Bill C-13, Chapter 9, 2016)

The Commons withdrew.

His Excellency the Governor General was pleased to retire.

(The sitting of the Senate was resumed.)

[*English*]

SENATORS' STATEMENTS

DRUG CRISIS

Hon. Vernon White: Honourable senators, last week in Calgary, a 14-year-old phoned 911 to say that his parents were deceased and that he and his three siblings were at home with them. A couple was using a recreational drug and both had subsequently died as a result of an overdose, leaving behind four children between the ages of 4 and 14. I wish I could say this is an isolated incident, but I know of a number of such accidental overdose deaths. The two who died were not drug traffickers or distributors; they were recreational users.

Now, many will blame the two individuals, but we need to remember that fentanyl — and, most recently, carfentanil — is seldom distributed under that name but, rather, is mixed with other drugs to make a drug that looks like oxycodone or added to drugs such as cocaine, ecstasy or marijuana to increase effect — often tragically costing lives.

We have seen the growth of opioid use, in particular the use of fentanyl, which is 100 times stronger than morphine and can be fatal to an average-sized adult who ingests as little as two milligrams, or four grains of salt.

Honourable senators, 2015 saw approximately 2,000 fentanyl overdose deaths in Canada. That's expected to be exceeded this year.

Now we are facing the drug carfentanil, which is an analog of the synthetic fentanyl. Carfentanil is a general anaesthetic agent for large animals and in fact has been referred to and is used as a horse tranquilizer. It is estimated to be up to 100 times stronger and more powerful than fentanyl. As an example, in one four-day period in Hamilton County in the U.S., with a population of 800,000 people, we saw more than 200 people overdose on carfentanil.

That is our future without aggressive action, legislation and leadership.

I have raised the issues surrounding opioids many times in the past year. One of my concerns is that pill press machines that are being used to turn raw drugs like fentanyl into counterfeit tablets for sale on the streets can and are being legally bought and sold in this country. To have these machines regulated would be one step for us. The use of pill presses must be limited and regulated, as it is in the United States.

To be fair, the Minister of Health has stated that she thinks something needs to be done. Today there was an announcement identifying that this is now a priority and that something will be done; legislation will be introduced. The truth is we don't need legislation to do this. Health Canada can do this right now. We don't have to wait to do the right thing.

Honourable senators, should we not see strong and decisive action in this regard, alternative drug therapy, as well as increased funding for treatment and education — each of these are essential to any solution to our drug crisis — we can only expect what we've seen in the past two years.

VIOLA DESMOND

Hon. Terry M. Mercer: Honourable senators, last week was a proud moment for women in this country. For the first time ever, a bank note will feature a Canadian woman. We Nova Scotians are especially proud to call that woman one of our own.

Black civil rights activist Viola Desmond, who was jailed — listen to this — for sitting in the "wrong part" of a movie theatre in New Glasgow, Nova Scotia, in 1946 will be the first woman to grace a Canadian bill.

Viola Desmond was a Nova Scotian businesswoman who was convicted of minor tax evasion because of her actions on that fateful day in the theatre. In fact, her challenge of that conviction was one of the first known legal challenges against racial segregation in Canada. She is often referred to as the Rosa Parks of Canada.

Only last year, Nova Scotia Heritage Day occurred for the first time. Celebrated on the third Monday in February, it is a holiday that will celebrate provincial heroes and events throughout our proud Nova Scotian history. In 2015, that person was Viola Desmond.

Honourable senators, as much as we may not want to admit it, racial prejudice occurred in our past and, unfortunately, still exists in our present. We all must remember that there were people who had to fight for their rights in this country — people like Viola Desmond. She was a pioneer not only for Black rights but for women's rights as well.

Every time you spend one of the new $10 bills, please remember the sacrifices that Viola Desmond made, but also remember the struggle that many others have gone through to fulfill the dream of an equal and just society.

INCORPORATION OF BELLEORAM

SEVENTIETH ANNIVERSARY

Hon. Elizabeth (Beth) Marshall: Honourable senators, I rise today to celebrate the seventieth anniversary of the incorporation of the town of Belleoram in Newfoundland and Labrador.

The beautiful community of Belleoram, located on the south coast of Newfoundland, is nestled between the sea and the steep hills behind it. Settlement at Belleoram dates back to the early years of the 18th century; the French used the harbour extensively and referred to it as "Bande de Laurier" or "Belorme's Place."

However, the Treaty of Utrecht in 1713 forced the French to leave the Belleoram area, although France retained the islands of Saint-Pierre and Miquelon, just to the south of Belleoram. Saint-Pierre and Miquelon continue to this day to be part of France.

After the French left Belleoram, some English fishermen wintered there, but there was no permanent settlement at that time. Settlers arrived shortly after, and a small community developed by 1800. The settlement developed with the herring fishery, and the economy was and still is determined by the success of the fishery.

In 1946, Belleoram became one of the first towns in Newfoundland to be incorporated. Laws against settlement, foreign treaties and a small population scattered in tiny remote outports contributed to delay the development of local government. In the face of continuing problems convincing outport residents of the benefits of local government, the Commission of Government in 1944 undertook an extensive educational program by radio, press and public meetings; incorporation increased with this approach.

• (1830)

In 1946 Belleoram, Lewisporte, Fortune and the rural district of Badger's Quay-Valleyfield-Pool's Island joined the rapidly growing ranks of incorporated communities.

Local government in Newfoundland and Labrador has become a major participant in my province's social and economic development and an important and vital third level of democratic participation in public affairs.

Rural communities in Newfoundland and Labrador have been challenged in recent years with the cod moratorium in the 1990s and other changes in the fisheries.

Mayors and councillors throughout the province are to be congratulated for their contributions to their communities, and Belleoram is no exception.

Honourable senators, please join me in congratulating Mayor May and his council as well as all residents of Belleoram as they celebrate the seventieth anniversary of the incorporation of their community.

GOVERNMENT OF THE RIGHT HONOURABLE LESTER B. PEARSON

FIFTIETH ANNIVERSARY

Hon. Wilfred P. Moore: Honourable senators, I rise today to mark the fiftieth anniversary of the remarkable accomplishments of the Liberal minority government of the late the Right Honourable Lester B. Pearson. Between 1965 and 1966, the Pearson government laid down the foundations of a Canadian society which cares for its own.

The Canada Labour Code was passed in 1965, creating working standards within federal jurisdiction. It created a 40-hour workweek. It put into law overtime pay. It created paid statutory holidays. It created vacation pay. It put into law a minimum wage.

The Canada Assistance Plan, negotiated deftly and cooperatively with the provinces, developed a cost-sharing agreement between the two levels of government which, as the legislation states, would "further the development and extension of assistance and welfare services programs throughout Canada by sharing more fully with the provinces in the cost," which was based on a concern for "the provision of adequate assistance to and in respect of persons in need," and for "the prevention and removal of the causes of poverty and dependence on public assistance."

The Old Age Security Act was amended in order to provide for a Guaranteed Income Supplement, which was directed at those who needed it the most. This enabled some 600,000 pensioners to receive an extra $30 a month and a guaranteed income of $1,260 per year.

The Health Resources Fund laid down the physical foundation providing for the delivery of the Medical Care Act. The fund provided assistance to the provinces to build the infrastructure needed to make medicare function properly. This resulted in the construction and renovation of hospitals, training facilities and research institutions.

The Medical Care Act, which was passed in the House of Commons 50 years ago this past Thursday, December 8, laid out the four guiding principles of universal coverage, public administration, portability and comprehensiveness which formed the basis of Canada's public health system. This of course is the program that Canadians remain most proud of for it has changed for the better so many lives.

Senators, many people played important roles in these great achievements. I'd like to point out one particular individual who was the minister responsible for all of the portfolios involved, the Honourable Allan J. MacEachen. He turned 95 years of age this past July 6, and I can report that he is well and is ensconced in Lake Ainslie, Nova Scotia. I would like to recognize him for a lifetime of dedicated service and devotion to the public good.

ROUTINE PROCEEDINGS

BUDGET IMPLEMENTATION BILL, 2016, NO. 2

ELEVENTH REPORT OF NATIONAL FINANCE COMMITTEE PRESENTED

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

Monday, December 12, 2016

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

ELEVENTH REPORT

Your committee, to which was referred Bill C-29, A second Act to implement certain provisions of the budget tabled in Parliament on March 22, 2016 and other measures, has, in obedience to the order of reference of December 8, 2016, examined the said bill and now reports the same with the following amendment:

1. *Clauses 117 to 135, pages 181 to 228*: Delete Division 5 of Part 4.

Respectfully submitted,

LARRY SMITH

Chair

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.)

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

TENTH REPORT OF COMMITTEE PRESENTED

Hon. Leo Housakos, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Monday, December 12, 2016

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

TENTH REPORT

Your committee, which is authorized by the *Rules of the Senate* to consider financial and administrative matters now reports that it has approved the Senate Main Estimates for the fiscal year 2017-18 and recommends their adoption. (Appendix A and B)

Your committee notes that the proposed total budget is $103,152,365.

Respectfully submitted,

LEO HOUSAKOS

Chair

(*For text of budget, see today's* Journals of the Senate*, Appendix, p. 1132*.)

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

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

PARLIAMENT OF CANADA ACT

BILL TO AMEND—FIRST READING

Hon. Wilfred P. Moore introduced Bill S-234, An Act to amend the Parliament of Canada Act (Parliamentary Artist Laureate).

(Bill read first time.)

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

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

• (1840)

SENATE MODERNIZATION

MOTION TO AFFECT SPECIAL COMMITTEE MEMBERSHIP ADOPTED

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, with leave of the Senate and notwithstanding rule 5-5(j), I move:

That the number of members of the Special Senate Committee on Senate Modernization be increased by three senators for the duration of the operation of the order of December 7, 2016, respecting committees, with the additional members to be recommended to the Senate by the Committee of Selection; and

That the terms of paragraph three of the said order of December 7, 2016, also apply to recommendations from the Committee of Selection for the additional members of the Special Committee on Senate Modernization or membership changes thereto.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to.)

ETHICS AND CONFLICT OF INTEREST FOR SENATORS

MOTION TO NAME SENATORS SINCLAIR AND WETSTON AS MEMBERS OF COMMITTEE ADOPTED

Hon. Elaine McCoy: Honourable senators, pursuant to the order adopted by the Senate on December 7, 2016, I move:

That the Honourable Senators Sinclair and Wetston be named members of the Standing Committee on Ethics and Conflict of Interest for Senators.

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

(Motion agreed to.)

QUESTION PERIOD

ANSWER TO ORDER PAPER QUESTION TABLED

FOREIGN AFFAIRS—DIPLOMATIC PROPERTIES

Hon. Peter Harder (Government Representative in the Senate) tabled the answer to Question No. 12 on the Order Paper by Senator Downe.

[*Translation*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that, as we proceed with Government Business, the Senate will address the items in the following order: consideration of the ninth report of the Standing Senate Committee on National Finance, followed by second reading of Bill C-35, followed by all remaining items in the order that they appear on the Order Paper.

THE ESTIMATES, 2016-17

SUPPLEMENTARY ESTIMATES (B)—NINTH REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on National Finance, entitled: *Final Report on Supplementary Estimates (B), 2016-17*, tabled in the Senate on December 7, 2016.

Hon. Larry W. Smith moved the adoption of the report.

He said: Supplementary Estimates (B), 2016-17, were tabled in the Senate on November 3, 2016, and referred to the Standing Senate Committee on National Finance for consideration.

[*English*]

The Supplementary Estimates (B) 2016-17 were tabled in the Senate on November 3 and referred to the Standing Senate Committee on National Finance for review. On behalf of the committee, I report our findings back to the chamber in order for senators to review the justifications for requested funds.

There is an annex appended to the Supplementary Estimates (B) 2016-17. This annex lists all funds requested in the schedule of votes found in the appropriation act No. 4, Bill C-35.

Supplementary Estimates (B) 2016-17 provides information in support of $3.9 billion in voted budgetary expenditures, which represents an increase of 4.3 per cent in Main Estimates of 2016-17, and $375 million in statutory expenditures for a total of $4.3 billion.

Of the $3.9 billion in voted budgetary expenditures, $1.7 billion or 44 per cent of this amount relates to approximately 50 measures announced in Budget 2016. The balance of $2.2 billion relates to measures announced in previous budgets for which funding lapsed and the government is seeking permission to spend in this fiscal year. The 2016-17 Main Estimates were tabled on February 23, 2016, supporting the government's request to Parliament for authority to spend $89.8 billion in voted budgetary expenditures and $26.7 million in voted non-budgetary expenditures.

The Main Estimates 2016-17 also presented information on statutory amounts of $160.3 billion in budgetary expenditures and $338.8 million in net non-budgetary outlays.

The Supplementary Estimates 2016-17 were tabled on May 10, 2016, and provided information in support of $7 billion in voted budgetary appropriations and a $30.4 million increase in non-budgetary expenditures.

To summarize where we are in terms of spending to date, the total for Main Estimates and Supplementary Estimates (A) and (B) brings the government to $256 billion for 2016-17.

Our committee had three meetings on Supplementary Estimates (B) 2016-17, and we heard testimony from 11 of 68 government organizations that have identified additional spending requirements. Just for your information, there are 131 different government organizations that form government.

Our goal was to assess a significant portion of the funding requested. We evaluated $2.5 billion or 64.8 per cent of the total Supplementary Estimates (B) 2016-17. I'll provide a few details from some of the major voted requests.

The Department of Indian Affairs and Northern Development has a total of $593 million for five major initiatives, two of which involve Health Canada; $245.8 million in funding for additional investments in First Nations elementary and secondary education, which is part of the $2.6 billion announced in Budget 2016; $115.7 million, Department of Indian Affairs and Northern Development; $58 million, the Department of Health; $57 million for funding to fulfill Canada's obligations under the Indian Residential Schools Settlement Agreement and will provide compensation and support services for claimants and their families; $88.4 million, Department of Health, Department of Indian Affairs and Northern Development for the funding for Jordan's Principle interim reforms which will increase social and health services for First Nations children.

There's $72.1 million, Department of Indian Affairs and Northern Development, towards funding specific claim settlements, and also $71 million, Department of Indian Affairs and Northern Development, for funding to support urgent investments in First Nations child and family services programs.

• (1850)

A figure of $375.5 billion is shown for Department of Foreign Affairs, Trade and Development, as well as the Department of National Defence, $142 million for funding to address the crisis in

Iraq and Syria and the impacts on the region. This funding will support Canada's response in the Middle East crisis and the needs of conflict-affected people in Iraq, Syria, Jordan and Lebanon. This includes military resources to train, advise and assist Iraqi forces in their efforts to degrade and defeat Daesh; stabilization, humanitarian and development assistance in Iraq and the region to address short-term needs and support resiliency, stability and prosperity over the long term; as well as diplomatic engagement.

A figure of $207.3 million is shown for the Department of Foreign Affairs, Trade and Development for funding for the Peace and Stabilization Operations Program as part of the $450 million commitment over three years to the UN. The program aims to take concrete actions to prevent and respond to conflicts abroad and to support UN peace operations. Through the program, Canada works with its ally partners in the UN to help stop violence, foster stability and create the necessary conditions for dialogue and conflict resolution. The program funds projects to advance key peace and security priorities, including support for peace building efforts in the Middle East, as well as for the deployment of civilian experts to work in areas of fragility.

An amount of $350.6 million is shown for the Windsor-Detroit Bridge Authority, known as the Gordie Howe International Bridge, for funding to address operating and capital requirements. This funding will be used to advance early works and land acquisition in Michigan for the bridge between Windsor, Ontario, and Detroit, Michigan. This project includes construction of the new international bridge, border plazas in both countries and a connection to Interstate 75 in Detroit. We can expect to see additional funding requests for this organization in the future.

A figure of $249.3 million is shown for the Department of Industry, which is part of $2 billion over three years announced in Budget 2016 for funding of the Post-Secondary Institutions Strategic Investment Fund. This is a time-limited program that provides funding to accelerate infrastructure projects at post-secondary institutions across Canada while providing economic stimulus. The program will support projects with the anticipated date of substantial completion before April 30, 2018. That meets at least one of the following criteria: first, to improve the scale of quality of facilities for research and innovation, including commercialization spaces used by industry; second, to improve the quality of scale of specialized training facilities at colleges focused on business needs; and third, to improve the environmental sustainability of research and innovation infrastructure at post-secondary institutions and college infrastructure.

Supplementary Estimates (B) also contains $113.8 million shared by 10 organizations towards funding for the Youth Employment Strategy. There is also $75 million for the Canadian Broadcasting Corporation for funding to disseminate and support world-class Canadian content and to provide Canadians with better access to programs and services in the digital area. There is another $150 million promised in 2017-18 as part of the budget.

Honourable senators, when the departments come before the committee, we ask them to demonstrate what they are doing to show accountability for the money spent. We look at how objectives are achieved, how they can evaluate if the funding has generated results. For example, we learned that the Department of Finance is asking for an additional $124 million in these estimates to cover interest charges that are due to increased financing requirements related to more debt. We also learned that Employment and Social Development has planned to spend $43 million on the Youth Employment Strategy, which seems like a good idea. The problem we discovered is that they have not designed any performance indicators to assess the results.

As you consider voting on Bill C-35, I would ask that you review the annex appended to Supplementary Estimates (B) 2016-17 as they are the same as the schedules of votes that authorize the government to proceed with spending.

If you have any questions, I will be pleased do my best to try to answer them. Thank you.

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

Hon. Senators: Question.

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

Some Hon. Senators: On division.

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

(Motion agreed to and report adopted, on division.)

[*Translation*]

APPROPRIATION BILL NO. 4, 2016-17

SECOND READING

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate) moved second reading of Bill C-35, An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2017.

She said: Honourable senators, I will be fairly brief because Senator Smith listed and explained most of the votes in Bill C-35. However, Bill C-35, Appropriation Bill No. 4, 2016-17, before us would grant supplementary funds to cover 2016-17 expenditures and seeks Parliament's approval to spend $3.9 billion in voted expenditures.

Before discussing the details, I would like to take this opportunity to thank the members of the Standing Senate Committee on National Finance, the chair of the committee and the clerk, and of course the staff of the Library of Parliament, who work with us regularly. You may know this already, but this committee has done a great deal of work and sat for countless hours during the year to fulfil its mandate of overseeing national spending, and spending by the government and the executive.

Members will recall that the committee was established in 1919 and that, since its inception, its main mandate has been to analyze government spending. It fulfils its mandate by rigorously examining the Estimates, which are tabled every year by the President of the Treasury Board, at about the same time as the budget is tabled by the Minister of Finance. The Finance Committee is also mandated to study certain bills referred by the Senate.

Let us come back to the estimates. They set out all of the amounts granted to the departments and agencies for the fiscal year, and are basically a budget that is drawn up during the year but that does not take into account the budget that is then tabled by the Minister of Finance. That is why, after the budget is tabled, we always receive supplementary estimates. Generally, there are three: the Supplementary Estimates (A), (B) and (C).

Today, we received the committee's report on the Supplementary Estimates (B), and we are asking you to pass Bill C-35, which is associated with the estimates and sets out the requested amounts.

The request for authority to spend public funds presented here as a supply bill and tabled in Parliament, the Main Estimates and Supplementary Estimates are tabled in the House of Commons by the President of the Treasury Board, and then examined and passed by the Senate. The purpose of the Supplementary Estimates is to present to Parliament information on the expenses of the Government of Canada that were not adequately defined in the Main Estimates or that were later fine-tuned to take into account changes made to specific programs or services.

The Supplementary Estimates (B), 2016-17, were tabled in the Senate on November 3, 2016, and referred to the Standing Senate Committee on National Finance. These estimates are the second supplementary estimates for the fiscal year ending on March 31, 2017.

• (1900)

[*English*]

Supplementary Estimate (B) 2016-17 reflect an increase of $4.3 billion in budgetary spending, which consists of an increase of $3.9 billion in voted appropriation and $4 billion in statutory spending. Statutory spending was previously authorized by Parliament and the detailed forecasts are provided for information purposes only.

[*Translation*]

I will stop there because Senator Smith has already covered the details of the spending. I therefore ask you to support Bill C-35.

[*English*]

Hon. Anne C. Cools: Honourable senators, I rise to speak to second reading of Bill C-35, An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2017. In short, colleagues, I rise to speak to the public expenditure and the public finance, widely known as the national finance.

Bill C-35 is normally referred to as a supply bill or the appropriation bill. The short title of Bill C-35 is Appropriation Act, No. 4, 2016-17, and it is the fourth supply bill of the annual supply cycle, which is April 1, 2016, to March 31, 2017.

Colleagues, you should understand very carefully what supply means and what appropriation means. The sums of money are huge and way beyond anything many of us have ever heard. This particular bill, Bill C-35, is appropriating $3.8 billion, and that is only a portion of the $56 billion, if you include the Main Estimates as well as the supplementary estimates.

In the lexicon of Parliament, the terms "supply bill" and "appropriation bill" mean the same thing. These bills convey supply, which is Parliament's grant of sums of money to Her Majesty to finance the expenses of the public service and the public administration. Appropriation bills are adopted in the two houses of Parliament and given Royal Assent by Her Majesty's representative, the Governor General. The appropriation act is the high authority for payments out of the Consolidated Revenue Fund. I am taking a little bit of time to see if I can acquaint new colleagues with some of this terminology.

The appropriation act is the high authority for payments out of the Consolidated Revenue Fund for the public expenditure, which sums are for the purposes expressly declared by and voted in the appropriation bill.

Bill C-35 sums and votes were first defined in Supplementary Estimates (B), called Supps B. Chaired by Senator Larry Smith, our Senate National Finance Committee studied them, and Senator Smith presented our report and spoke to it.

As we know, Bill C-35 cannot be referred to our committees, and this is why the report is presented here and debated and spoken to by the chairman because the intense study of the estimates is actually done not on the bill but on the estimates. I have just provided my friend here with a copy of the supply bill, Bill C-35, so he can see the schedules and the sums of money carefully itemized and laid out vote by vote, one after another. It's a pretty impressive system.

Honourable senators, "appropriation of supplies" is a phrase of Parliament's lexicon and Parliament's law, the *lex parliamenti*. It is also the foundation of the public and national finance. Jowitt's 1959 *Dictionary of English Law* defines "appropriation" at page 140 and 141 at:

> In the primary sense of the word, to appropriate is to make a thing the property of a person. . . . so that the appropriator becomes the owner. . . . Appropriation of supplies is the mode by which Parliament regulates the manner in which the public money voted in each session is to be applied to the various objects of expenditure (e.g. the army, navy, civil service etc.) and the Appropriation Act is an annual Act passed for the purpose.

It used to be an annual act.

L.A. Abraham and S.C. Hawtrey's 1964 *A Parliamentary Dictionary* defines "appropriation" at page 21 that:

> It is one of the cardinal rules of the system of public finance that no money may be spent for any other purpose than that for which it was authorized by Parliament. The allocation of a sum of money for expenditure on any object is called "appropriation," and money is said to be "appropriated" by Parliament for a particular purpose.

Honourable senators, the jealous diligence of the British Commons House to oversee the national and public finance, once legendary, was called "the power of the control of the public purse." This public purse control was the cornerstone of the British Commons and also Canada's Commons House. In 1791, the Constitutional Act granted Upper and Lower Canada representative government, meaning the right by electoral franchise to choose their representatives to the assembly. Prompted by the bitter conflicts between the legislative assembly and the legislative council on "the control of the public purse," in taxation, supply, public finance and public expenditure, the 1840 Union Act granted responsible government to Canada West and Canada East as the United Province of Canada.

In 1864, at their Quebec Conference, the Confederation Fathers agreed to their 72 Quebec resolutions. These amended, perfected and adopted by the U.K. Parliament became the British North America Act, 1867, now renamed the Constitution Act, 1867. This British statute constituted the Dominion of Canada in governance by our sovereign Queen, the Senate and the House of Commons, the one Parliament of Canada. The Queen is the actuating and enacting power in our Constitution. Nothing is law without her consent and assent.

Our Constitution Act, 1867, Part IV, headed "Legislative Power," enacts and defines the legislative power, meaning the one parliament for Canada's two houses' powers in legislation, and their privileges, immunities and powers in legislation. Sections 17 and 18 state:

> 17. There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.
>
> 18. The privileges, immunities, and powers to be held, enjoyed and exercised by the Senate and by the House of Commons, and by the members thereof respectively, shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities and powers shall not confer any privileges, immunities or powers exceeding those at the passing of such Act held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the members thereof.

Honourable senators, section 18 is firm that this Senate and the Commons are equal and coordinate houses with equal and coordinate privileges, immunities and powers in legislation, both limited to those of the British Commons powers. Our Commons has no more nor less privileges, immunities and powers in financial legislation than the Senate. Many people think that is the case, but this is the truth.

The Constitution Act, 1867, sections 53 and 54 state:

> 53. Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons.
>
> 54. It shall not be lawful for the House of Commons to adopt or pass any Vote, Resolution, Address or Bill for the Appropriation of any Part of the Public Revenue, or of any Tax or Impost, to any Purpose that has not been first recommended to that House by message of the Governor General in the Session in which such Vote, Resolution, Address or Bill is proposed.

Honourable senators, section 53 enacts that tax and appropriation bills must begin in the Commons. This is the Senate's sole limitation, but this is also a limitation on the House of Commons and Crown ministers to the ancient founding constitutional agreements between the King and the Commons, being representation by population, no taxation without representation and the financial initiatives of the Crown.

• (1910)

I just want to repeat those three so people can get them. The basic principles that were part of the constitutional agreements between the sovereign King and the Commons were representation by population, no taxation without representation and the financial initiatives of the Crown, which means that only a Crown minister can move in the House of Commons a bill to appropriate monies or to raise taxes. It must be in the House of Commons. Very complicated stuff, but over time many of the new members will understand it better.

All parliamentary taxation is based on the raising and spending of monies to sustain the public service. Section 54 also limits the Crown and the Commons because only Crown ministers may move motions, as I just said before, for tax and appropriation bills. In other words, colleagues, no backbenchers, please. No backbenchers may move any of these bills.

The Confederation Fathers well knew the British Commons' efforts and motions of 1661, 1671, 1678 and 1861 to overpower the Lords House. Of these motions, the 1678 motion was the most notorious. The British North America Act, section 53, accepted only the 1661 resolution, which said partly:

> . . . that no Bill ought to begin in the Lords House which lays any charge or tax upon any of the Commons.

Section 54 dictates the Royal Prerogative and the predominance of the Crown and ministers in the public revenue and the public expenditure called "the financial initiatives of the Crown."

Honourable senators, Britain was a unitary state in a legislative union, and Canada's Dominion confederation constitution was wholly new in British colonial constitutions. The Fathers

constituted this Senate to embody and actuate the confederation. I want new colleagues to understand that when anybody challenges you and says that the Senate is not legitimate because the Senate is not elected — there's so much nonsense — you just remind them that the Senate embodies and actuates the confederation.

The Fathers' intention was that this Senate would last as long as the federation would last. In the carving out of the Senate and in the scripting and the creation of the Constitution, they hinged the existence of Canada to the existence of the Senate. Make no mistake about that. Abolition of the Senate means abolishing Canada.

The Senate's and Canada's federation in perpetuity were the goal. To this end, wholly unlike the Lords House, the Fathers gave the Senate a set of wholly new, binding and distinctly federal features. These were property qualifications, residence in the province of appointment, minimum age for appointment, life estate tenure in office — that is the tenure of the senators; the British North America Act still says senators hold their appointments for life — and most important of all, a fixed number of senators, then in 1867 capped at 78, and this was done to eternally defeat swamping by ministerial whim and decree. Wholly constituted to meet the new Confederation's challenges, this Senate was constitutionally armed to defeat, as needed, the actions of a numerically larger and overbearing Commons if and when it acted against the provinces' interests. Senators' first duties are the protection of their provinces. For that reason, under the legislative power, section 18, the Senate's powers, privileges and immunities are equal to those of the House of Commons. That is why senators ignore our Commons House rule 80(1), based on the British Commons odious 1678 resolution, that:

> All aids and supplies granted to the Sovereign by Parliament of Canada are the sole gift of the House of Commons, and all bills for granting such aids and supplies ought to begin with the House, as it is the undoubted right of the House to direct, limit, and appoint in all such bills, the ends, purposes, considerations, conditions, limitations and qualifications of such grants, which are not alterable by the Senate.

What nonsense. Have you heard such rubbish? But the thing about it is that there are many people who still hold these beliefs.

Colleagues, our Commons House rule 80(1) is of no force over the Senate. No Commons rule dictates Senate actions. The Constitution Act, 1867 is clear on our powers in legislation. We fight these things out every few years. We have to dust them off a bit and so on.

Honourable senators, many great thinkers have long expressed much concern about the diminishing attention of parliamentarians to the public and national finance. One ancient caution is that of the great British Liberal leader, William Ewart Gladstone, called the Great Commoner for his work on the control of the public purse. Four times Prime Minister, four times Chancellor of the Exchequer, Gladstone's labours shaped the British Commons House's constitutional mastery in the control of the public purse, by which all appropriation and tax bills must begin in the Commons House by a Crown minister's motion. At Hastings on March 17, 1891, speaking to the "control of the public purse," Gladstone said:

> I must remind you of that which is apt to pass away from recollection, for the finance of the country is intimately associated with the liberties of the country.

The Hon. the Speaker: Your time has expired, Senator Cools. Are you asking for five more minutes?

Senator Cools: Yes, please, Your Honour.

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

Hon. Senators: Agreed.

Senator Cools: Thank you.

> It is a powerful leverage by which English liberty has been gradually acquired. Running back into the depths of antiquities for many centuries, it lies at the root of English liberty, and if the House of Commons can by any possibility lose the power of the control of the grants of public money, depend upon it your very liberty will be worth very little in comparison. That power can never be wrenched out of your hands. That powerful leverage has been what is commonly known as the power of the purse — the control of the House of Commons over public expenditure — which not only is your main guarantee for purity, and which has been, certainly, in other times a very effective guarantee for economy, but which likewise lies at the root of English liberty, and if the House of Commons could by any possibility lose the power of controlling the granting of public money for carrying on the affairs of the Government, depend upon it your other liberties would be worth but very little in comparison.

Honourable senators, the strong role of our Commons House is a lot weaker than it used to be, but the Senate, ever concerned about the numerical majority of the Commons, was constituted to have a strong role in the national finance, particularly for the smaller provinces.

I come now to Bill C-35, appropriation act No. 4, and I wish to share with colleagues some of the charges and sums. As I said before, this is $3 billion we're talking about towards defraying charges and expenses at the federal public administration for the fiscal year ending March 31.

The Department of Employment and Social Development sought $59,650,446 in appropriations for two items, being $43.1 million for the Youth Employment Strategy, and $16.5 million for the Old Age Security Increased Workload and Enhanced Program Integrity Measures.

The Windsor-Detroit Bridge Authority sought $350,584,925. This authority is a public-private partnership for the design, building, financing, operating and maintenance of the new Gordie Howe International Bridge between Windsor and Detroit.

The Department of Foreign Affairs, Trade and International Development sought $555,084,609 in appropriations to fund projects that include $233 million for diplomatic security and humanitarian assistance and engagement in the Middle East, of

which $165 million is for humanitarian assistance, $9 million for counter-terrorism, $44 million for missions abroad and $15 million for other development assistance.

Honourable senators, one issue that I want to raise with you, which hurt me a lot, was about a terrible tragedy. The Department of Indian Affairs and Northern Development sought total appropriations of $639,268,659, being 17 items that include $245.8 million for First Nations education; $25.5 million for construction and repair of affordable housing in Nunavik, Nunatsiavut and the Inuvialuit Settlement Region; and $28 million to extend the Nutrition North Canada Program to an additional 37 communities. This will hurt us in a way. I come to the Department of Health in appropriation for eight items, $123 million and change, including $88.2 million for something called "Jordan's Principle." This was named after a First Nations child who sadly died in hospital as the authority disputed with each other over who should pay for the cost of the services. This principle holds that in a jurisdictional dispute between federal government and provinces over responsibility for payment of social and health services for the child, treatment of the child must come first. This appropriation also includes $57.6 million for obligations under the Indian Residential Schools Settlement Agreement for cultural, spiritual and counselling services to former residents and families.

• (1920)

Honourable senators, I say again to you that this Senate was constituted to have a meaningful role in Canada's national finance and public expenditure. Attorney General John A. Macdonald, as he then was, on February 6, 1865, speaking to the Confederation debates at page 38 said the following:

> To the Upper House is to be confided the protection of sectional interests; therefore is it that the three great divisions are there equally represented, for the purpose of defending such interests against the combinations of majorities in the Assembly. It will, therefore, become the interest of each section to be represented by its very best men, and the members of the Administration who belong to each section will see that such men are chosen in case of a vacancy in their section. For the same reason each state of the American Union sends its two best men to represent its interests in the Senate.

I thank honourable senators for their attention. I hope that some of you glean something from what I have said. The national finance sounds very complicated, and it is, but it is not so complicated as to elude the great talent bank that contributes in this chamber.

I look forward to each of you taking your rightful role and showing that the mastery of these talents, skills and knowledge are within your reach.

Hon. Larry W. Smith: Honourable senators, I will be very brief. I thank Senator Cools, our deputy chair. It is important that we have people connected with history. We look at Senator George Baker, Senator Anne Cools and other people inside the Senate; they play a pivotal role to help us learn many of the key ingredients to successful work.

To summarize, with the additions of Supplementary Estimates (A) and (B), 2016-17, that will bring government spending to $256 billion. To put that in context, last year the government spent $251.6 billion over the fiscal year; in 2014-15, it spent $241.4 billion. Although we are at $256 billion, we expect one more request for spending prior to the end of the fiscal year, which will be Supplementary Estimates (C), 2016.

It is important to note that the government's spending must be carefully managed. Deferring debt to future generations is not a viable solution. As senators, we need to speak on behalf of hardworking Canadians to demand that spending be balanced with foreseeable revenues and results.

As chair of the Finance Committee, I'd like to thank our members who took the time to attend every meeting and assist in questioning the spending of departments and inquiring about the impact of legislation from witnesses. I'm grateful for the outstanding job the group does on behalf of all Canadians.

That's short and sweet. Thank you.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

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

THIRD READING

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

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, with leave of the Senate and notwithstanding rule 5-5(g)(1), I move that Bill C-35 be read a third time now.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read third time and passed.)

[*Translation*]

INCOME TAX ACT

BILL TO AMEND—THIRD READING—
VOTE DEFERRED

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. Claude Carignan (Leader of the Opposition): I want to thank my honourable colleagues for giving me this opportunity to speak to Bill C-2, An Act to amend the Income Tax Act.

My speech was ready last Thursday, but I was surprised by some of the comments made by the Honourable Senator Woo, so I wanted to take some time to carefully reread my speech and add a few points. I don't think that Senator Woo's comments contributed in any way to people's understanding of Bill C-2.

Honourable colleagues, as senators, we must be aware of the weight of our words and the consequences of our actions. The legislation we debate and sometimes pass has a genuine impact on real people. It does not do justice to the arguments made against Bill C-2 to simply say, "Oh, well, that's mathematics."

[*English*]

Let me quote Senator Woo:

> 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 law of mathematics.

[*Translation*]

The role of the Parliament of Canada is certainly not to debate the laws of physics or the laws mathematics; that is obvious. However, it's important to remember that we are talking about the Income Tax Act. No, this is not a law of nature or a divine law, but rather something that was created by human beings and that can be changed by human beings. Tax rates are not simply a function of arithmetic; they are government decisions that are approved by Parliament. That is what we are talking about in this debate on Bill C-2. Senator Smith illustrated this really well with the amendment he proposed. It is entirely possible and realistic to amend the Income Tax Act in order to relieve the strain on the middle class. It is possible to achieve the objectives promised by Mr. Trudeau during the election campaign, but we need to have the courage to do so.

With all due respect to Senator Woo, his speech was a bit over the top. Canadians earning $45,000 to $90,000 annually deserve better than that in response to the fear that the Trudeau government is failing them with Bill C-2.

For a week now, we haven't heard any serious argument in defence of Bill C-2.

[*English*]

When the Trudeau government came to power just over a year ago, they made many claims about how they were going to turn the economy around: More jobs, more economic growth, more everything for everyone.

[*Translation*]

They talked about sunny ways.

At the beginning of his term, the Minister of Finance, the Honourable Bill Morneau, kept telling his officials and anyone who would listen that the big bad Conservatives had left the Trudeau government with an enormous $3-billion deficit. As we know, the minister made up that claim. It was fiction that had no foundation in fact.

The Minister of Finance's officials told him the truth, but the minister turned a deaf ear. He refused to believe that there wasn't a deficit when Justin Trudeau's Liberal government arrived. There was no deficit in November, December, January or February.

What the Liberals found when they formed the government was substantial budgetary surpluses that continued to grow to reach $2.2 billion in December, $4.3 billion in January, and $3.2 billion in February.

• (1930)

So you see, honourable senators, we have reason to worry when the Minister of Finance gets his calculator out.

Everyone knows what happened next. In March, the Trudeau government spent $9.4 billion, and then another $7.8 billion between April and September. By November, according to economists, the spending spree had reached $31 billion and the $6-billion contingency fund for a rainy day had evaporated.

[*English*]

So no to the Trudeau promise to cap the deficit at $10 billion, and no to the Trudeau promise of adding a plan to balance the books.

Worse — since taking office, the Trudeau government has not produced one real job. According to Statistics Canada's monthly labour report released this past Friday, the Trudeau government's fiscal plan has "eliminated 30,500 full-time positions" over the past year.

[*Translation*]

Who would have believed that in less than 12 months, over 30,500 jobs would disappear and Canadian taxpayers would be saddled with such an enormous burden?

[*English*]

I don't recall seeing a promise in the Trudeau Liberal election platform to "grow the middle class" using deficit-financed tax cuts to the tune of $1.5 billion with negative job growth — because that's where we have ended up, despite all the promises.

[*Translation*]

That's why I congratulate Senator Smith and his Standing Committee on National Finance colleagues, who gave the government a blueprint showing how Bill C-2 could enable it to achieve its goal of growing the economy and helping middle-class Canadians who need help. It goes without saying that the government has all the power and authority it needs to achieve both those goals.

I can well imagine how difficult our stubborn Minister of Finance would have found squaring harsh economic realities with

his obstinate desire to give someone earning $180,000 a year an $800 tax break that future generations will end up paying for.

[*English*]

Bill C-2 represents all that is wrong with the Trudeau government's fiscal framework: There is no collective understanding of the middle class; the bill is not properly costed; the bill is not revenue neutral; we do not know whether Bill C-2 is part of the current deficit and therefore cannot make an informed decision about the unintended consequences.

[*Translation*]

Honourable senators, we are now at the stage of the parliamentary process where the government requires that you approve, without any debate, what it has asked of you. That is exactly what it expects of you.

The Minister of Finance knows very well that many taxpayers who work hard and make up the true middle class — taxpayers with income between $45,000 and $50,000, as Senator Smith clearly explained — will get a big tax break of $21 to $80.

Unfortunately, the minister made a mistake when he replied to the question of whether a single mother with an income of $45,000 would receive the same benefit, percentage-wise, as a single mother earning $200,000.

[*English*]

It was not a trick question. The single mom earning $45,000 and aspiring to move up into the middle class will receive zero benefit from Bill C-2.

And, of course, everyone knows that if this bill passes in its current form, the elephant in the room is the $800 tax benefit that each and every senator will receive, warranted or not.

There is a particularly poignant note for those regional senators from Atlantic Canada, where a recent report out of Nova Scotia released a few days ago noted the rate of child poverty at 22.5 per cent, reaching almost 33 per cent on parts of Cape Breton Island and 40 per cent in and around the community of Yarmouth.

[*Translation*]

Honourable senators, the time has come for the Senate, this chamber of sober second thought, to examine the options in light of the following: this bill gives very little to those who aspire to become or remain members of the middle class; measures in place since January 1 have had little or no impact on economic growth and even less impact, if that is possible, on job creation; and, finally, your grandchildren are going to foot the bill. As you can see, this is a far cry from the promises of the last election campaign.

[*English*]

And with the greatest of humility, please allow me to conclude with a quote of my own based on decades of public service, both as an elected official and as student of administrative and labour law: Passing bad legislation can only lead to bad outcomes.

[*Translation*]

Therefore, I invite you, honourable senators, to vote against Bill C-2 in order to force the government to go back to the drawing board.

Thank you.

Some Hon. Senators: Hear, hear!

[*English*]

Hon. Stephen Greene: Honourable senators, I rise today to put a few words on the record with respect to Bill C-2.

Let me begin by saying that I cannot support this bill because I hate deficit financing — unless it is to pay for war, famine or pestilence. We have no war; we have no famine. And as for pestilence, nobody really knows what it is.

As our colleagues Senators Smith, Marshall and Neufeld — and now Carignan — in excellent speeches have pointed out, this bill was promoted as being revenue neutral and that it would help the middle class — except that it does not. And it is not revenue neutral, either. As we heard from Senator Day, there is at least a $1.5 billion shortfall in this bill. That amount of red ink is enough to keep the Senate Chamber's carpet dyed red through Canada's one hundred and fiftieth birthday, all the way to its two hundredth.

I have some sympathy for senators who say that because this bill is a major component of the government's election platform, they cannot vote against it. And there are senators who say that we can simply vote no and send this bill back to the House of Commons. These senators are, of course, wrong, because if a majority of senators vote no, we do not simply send the bill back to the house but we defeat the bill, which I'm not sure is a wise course, especially given the various parliamentary conventions raised earlier in the debate.

Colleagues, I'd like to offer a third alternative, which I call in this instance — for me, anyway — an indirect no, and that is abstention. I will be abstaining at third reading because I cannot put aside my principles and vote for such a poorly written bill, nor can I vote against it and risk a bill being defeated that was a central part of the government's platform and that passed the House of Commons.

For if ever we do — and I hope we do at some point — defeat a house bill, I want that bill to be worse than this one. I want to save my "no" vote for a vote that really challenges the house, and I think these are coming — the election reform bill that we expect, the marijuana bill, and who knows what else. This terrible bill is not worth my "no," so I shall abstain, and I hope others do too.

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?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: Do we have agreement on the bell? Honourable senators, the vote is deferred until 5:30 tomorrow.

• (1940)

CANADA PENSION PLAN
CANADA PENSION PLAN INVESTMENT BOARD ACT
INCOME TAX ACT

BILL TO AMEND—THIRD READING—
DEBATE ADJOURNED

Hon. Tony Dean moved third reading of Bill C-26, An Act to amend the Canada Pension Plan, the Canada Pension Plan Investment Board Act and the Income Tax Act.

He said: Honourable senators, it's a pleasure to rise and speak on Bill C-26 at third reading. I want to start by thanking the Standing Senate Committee on Social Affairs, Science and Technology for their analysis of the bill and for the opportunity to participate in their hearings.

I also want to acknowledge Senator Stewart Olsen's collegiality in her role as critic.

As you know, in June of this year in Vancouver, Canada's governments agreed to enhance the Canada Pension Plan to provide for greater retirement security for Canadians.

Honourable senators, achieving a secure and dignified retirement is among the most important goals of Canadians as they plan ahead for their future. The challenge is that we're not on track to seeing this achieved, and that's why we're talking about this this evening.

Extensive analysis conducted by Finance Canada found that around one quarter of families nearing retirement — that's 1.1 million families — are currently facing a drop in their standard of living when they retire. Middle-class families without workplace pension plans are at a particular risk of under-saving for retirement; in fact, one third of these families are at risk.

We also know that young Canadians in particular are facing the challenge of securing adequate retirement savings at a time when fewer can expect to work in jobs that will include a workplace pension plan. Further, many young people will move through a number of workplaces during their working lives. It's critical that retirement savings are portable and that they move with individual workers to adapt to changing norms.

Canada's finances ministers acknowledged these issues in working towards consensus on enhancements to the CPP. This is indeed the challenge that Bill C-26 is designed to address.

Taken together, Bill C-26 provides for a comprehensive package that will increase CPP benefits while striking an appropriate balance between short-term economic considerations and long-term gains.

Once fully in place, the CPP enhancement would increase the maximum CPP benefit by up to 50 per cent. The current maximum is $13,110. In today's dollar terms, the enhanced CPP represents an increase of nearly $7,000, to a maximum benefit of nearly $20,000.

The gradual implementation of the enhancement, with a two-year notice period and a seven-year phase-in, greatly mitigates any negative impact on employment. It also gives struggling provinces adequate time to prepare for the gradual increases in contributions, alleviating financial strain for all Canadians.

In the short term, the impact on jobs is expected to be minor and wage growth is expected to remain positive. Over the long run, once businesses fully adjust to the enhancement and people begin to receive higher benefits, the impact on jobs is expected to become positive.

Bill C-26 would increase the share of annual earnings received during retirement from one quarter to one third. This means that an individual making $50,000 a year in today's dollars over their working life will receive about $16,000 per year in retirement instead of roughly $12,000 today.

And second, it will increase by 14 per cent the maximum income range covered by the CPP so that those who earn more will receive more in retirement.

The positive impact of these changes is significant. It will meaningfully reduce the share of families at risk of not saving enough for retirement as well as the degree of under-saving.

Finance Canada has estimated that by strengthening the CPP we would reduce the share of families at risk of not having adequate retirement savings by about one quarter when considering the income from three pillars of the retirement income system and savings from other financial and non-financial assets.

Honourable senators, a strong CPP is the right tool at the right time to improve the retirement income security of younger workers. It's an opportunity for today's hard-working Canadians to give their children, their grandchildren and future generations a more secure retirement.

The Department of Finance has concluded that retiring in comfort could be even more of a challenge for these future generations, in part because they're expected to live longer than previous generations. But also, if current trends continue, younger Canadians will be less likely than previous generations to work in jobs where retirement benefits are offered by their employers. And if the current low interest rate environment persists, their savings might also grow more slowly than previous generations.

For most Canadians, all of these increased CPP benefits will come from only a 1 per cent increase in contribution rates. For example, an individual with earnings of $50,000 will contribute about $6 more a month in 2019. By the end of the seven-year phase-in period, contributions for that individual would be about $40 more per month.

I'd like to take a moment to address a concern that has been raised about the "drop-out" provision, which in the base CPP plan permits those taking time off to raise families or because of disability to drop out low or nil earnings when CPP benefits are being calculated.

There has been a fairly broad view that the drop-out provisions should also be considered for inclusion going forward in the proposed supplementary plan. We learned last week that the Minister of Finance has committed to raising this issue with the provincial finance ministers at their next meeting dealing with the CPP. As a result, I'm confident this issue will be addressed appropriately in order to ensure the CPP is inclusive for all Canadians.

In addition, in 2016 the Government of Canada has made significant new investments to support Canadians in their retirement years. This includes increasing the Guaranteed Income Supplement top-up benefit for single seniors by up to $947 annually to help lift low income single seniors out of poverty. This measure represents an investment of over $760 million per year and will improve the financial security of about 900,000 single seniors across Canada, most of whom are single women.

The government has also restored the eligibility age for OSA and GIS benefits to 65 from 67.

As a result of the increased retirement benefits flowing through the enhanced CPP, retirees would have more money to spend on things like healthy food, transportation, housing costs and other goods and services that enhance their quality of life.

Today's legislation, as agreed upon with the provinces, would also ensure that low-income Canadians are not financially burdened as a result of making additional contributions. It would do that by enhancing the Working Income Tax Benefit to roughly offset incremental employee CPP contributions, leaving eligible low-income Canadians with little to no change in disposal income while securing higher retirement income for them.

[Senator Dean]

The enhanced CPP benefits in Bill C-26 will be available to all workers who participate in the plan from January 2019 onward.

Honourable senators, I'd like to address the issue that has been raised in some quarters that this measure is a "payroll tax." It clearly is not. The CPP is a savings program, and its enhancement will continue to build savings. Workers can expect to receive their contributions back in retirement with substantial interest. This is an investment in our collective future. Contributions will not and cannot be used for other objectives.

In fact, as set out in legislation, CPP contributions are held in a segregated account. Funds would be invested by the arm's-length Canada Pension Plan Investment Board, with the central goal of achieving a good return for contributors while minimizing risk.

• (1950)

Honourable senators, for 50 years the CPP has been helping to ensure that all workers in Canada have a minimum level of financial security in retirement. The most recent statistics tells us that 5.2 million people in Canada receive $37.3 billion in benefits from the CPP.

The Conference Board of Canada reports a dramatic 25 per cent decrease in the poverty rate among Canadian seniors over the past four decades, from 36.9 per cent in 1976 to 12.3 per cent in 2010, an achievement largely attributable to the establishment of the CPP and, in Quebec, the Quebec Pension Plan.

Bill C-26 would make amendments to the Canada Pension Plan Investment Board Act to make the CPPIB the manager of the improved CPP. Finance ministers will continue to review the performance of the CPP and the CPPIB every three years, supported in each case by a current actuarial evaluation from the Chief Actuary.

The CPP Investment Board is well regarded around the world for its impressive record of investment performance and management excellence. It operates at arm's length from government. It has a mandate to invest CPP funds in the best interests of plan members. It has been acclaimed by international bodies such as the World Bank as a model of an independent, transparent and accountable public pension fund management organization.

As the manager of a large fund program with millions of contributors, the CPP Investment Board is able to take advantage of economies of scale in order to deliver strong net returns. With this solid investment structure as its foundation, the CPP provides a safe, secure and predictable benefit, which means that Canadians can worry less about outliving their savings or having their savings impacted by significant market downturns. CPP benefits are also fully indexed to prices, which reduces the risk that inflation will gradually erode the purchasing power of their retirement savings.

And the CPP is a good fit for Canada's changing job market. It helps to fill the gap left by declining workplace pension coverage, and it is portable across jobs and provinces, which promotes labour mobility and reflects how Canadians currently live, work and retire.

With the automatic collection of contributions for all workers, the CPP is a simple way to save for retirement.

Honourable senators, Bill C-26 would boost how much each Canadian will get from their CPP pension in the future and help to strengthen the CPP program as a whole. Seventy-five per cent of Canadians support a stronger CPP. Thus, we are in a position to act on one of the highest priorities of Canadians who are looking to ensure a more secure retirement.

While there has been consensus on the challenge before us — few dispute that — some have argued that Bill C-26 goes too far, too fast, while others have made a strong case for doubling the income replacement rate from 25 per cent to 50 per cent.

Senators, our finance ministers found compromise in the middle ground and in achieving beneficial policy outcomes for Canadians by moving the level of income replacement from one quarter to one third. Their agreement especially targets intergenerational equity, something everyone in this room has been positively impacted by since the creation of the CPP 50 years ago.

Honourable senators, I encourage you to support Bill C-26.

(On motion of Senator Stewart Olsen, debate adjourned.)

[*Translation*]

THE SENATE

MOTION TO AFFECT QUESTION PERIOD ON DECEMBER 14, 2016, ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of December 8, 2016, moved:

> 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.

She said: Honourable senators, we will have the honour of welcoming Minister Catherine McKenna on Wednesday.

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

Hon. Senators: Agreed.

(Motion agreed to.)

NATIONAL FINANCE

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

On Government Business, Motions, Order No. 59, by the Honourable Diane Bellemare:

> 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.

(Motion withdrawn.)

[*English*]

THE SENATE

STATUTES REPEAL ACT—MOTION TO RESOLVE THAT THE ACT AND THE PROVISIONS OF OTHER ACTS NOT BE REPEALED ADOPTED

On the Order:

> Resuming debate on the motion of the Honourable Senator Bellemare, seconded by the Honourable Senator Harder, P.C.:
>
> That, pursuant to section 3 of the *Statutes Repeal Act*, S.C. 2008,c. 20, the Senate resolve that the Act and the provisions of the other Acts listed below, which have not come into force in the period since their adoption, not be repealed:
>
> 1. Parliamentary Employment and Staff Relations Act, R.S.,c. 33(2nd Supp):
>
> Parts II and III;
>
> 2. *Contraventions Act*, S.C. 1992, c. 47:

-paragraph 8(1)(*d*), sections 9, 10 and 12 to 16, subsections 17(1) to (3), sections 18 and 19, subsection 21(1) and sections 22, 23, 25, 26, 28 to 38, 40, 41, 44 to 47, 50 to 53, 56, 57, 60 to 62, 84 (in respect of the following provisions of the schedule: sections 1, 2.1, 2.2, 3, 4, 5, 7, 7.1, 9 to 12, 14 and 16) and 85;

3. Agreement on Internal Trade Implementation Act, S.C. 1996, c. 17:

-sections 17 and 18;

4. Comprehensive Nuclear Test-Ban Treaty Implementation Act, S.C. 1998, c. 32;

5. *Preclearance Act*, S.C. 1999, c. 20:

-section 37;

6. Public Sector Pension Investment Board Act, S.C. 1999,c. 34:

-sections 155, 157, 158 and 160, subsections 161(1) and (4) and section 168;

7. Modernization of Benefits and Obligations Act, S.C. 2000, c. 12:

-sections 89 and 90, subsections 107(1) and (3) and section 109;

8. Marine Liability Act, S.C. 2001,c. 6:

-section 45;

9. *Yukon Act*, S.C. 2002, c. 7:

-sections 70 to 75 and 77, subsection 117(2) and sections 167, 168, 210, 211, 221, 227, 233 and 283;

10. An Act to amend the Canadian Forces Superannuation Act and to make consequential amendments to other Acts, S.C. 2003, c. 26:

-sections 4 and 5, subsection 13(3), section 21, subsections 26(1) to (3) and sections 30, 32, 34, 36 (with respect to section 81 of the *Canadian Forces Superannuation Act*), 42 and 43;

11. Assisted Human Reproduction Act, S.C. 2004, c. 2:

-sections 12 and 45 to 58;

12. Public Safety Act, 2002, S.C. 2004,c. 15:

-section 78;

13. Amendments and Corrections Act, 2003, S.C. 2004, c. 16:

-sections 10 to 17 and 25 to 27;

14. Budget Implementation Act, 2005, S.C. 2005, c. 30:

-Part 18 other than sections 124 and 125; and

15. An Act to amend certain Acts in relation to financial institutions, S.C. 2005, c. 54:

-subsections 1(1) and 27(2), sections 29 and 102, subsections 140(1) and 166(2), sections 168 and 213, subsections 214(1) and 239(2), section 241, subsection 322(2), section 324, subsections 368(1) and 392(2) and section 394.

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, I asked for the adjournment of this matter because it was not clear to me how this particular statute works, and I also wanted to make sure that it was working as it was intended.

Honourable colleagues will recall that this was an initiative of then Senator Tommy Banks, and the purpose of this bill was to have removed from the books the statutes, laws and bills that we passed that never were brought into force. At the beginning, the books were replete with statutes that had never been brought into force.

If you look at Motion No. 55 on page 6 of the Orders of the Day, you will see what this particular motion does. I got the bill out and compared it to this motion, which is a motion to not repeal certain bills that have been around in statute form. They were passed by both chambers but never brought into force or effect. There is a list of 15 different statutes here.

The request is not to have those statutes removed from the books. Departments that have statutes that were never brought into force are supposed to review these statutes on an annual basis. One of the chambers, either this chamber or the other place, is to go through that list and debate and accept the fact that the department thinks these are still worthwhile and hopes to implement them.

I was interested in how many of these statutes were actually removed from the books, because that was part of the objective, not just to repeat the same list year after year. I took a look at the list, and I want to thank Senator Bellemare for providing me with background information to help me understand how things were working, and I compared over a three-year period those bills that were repeated on the list and those that were not repeated that the department let go. There were a few of those, as well as those that had in fact been implemented. They'd be off the list if they became the law of the land as well.

• (2000)

It is interesting to see this list, honourable senators. Of the 15 that we see here in this particular motion, many were on the list last year.

December 31 is the determining date for those laws that should be struck off the rolls, so to speak, and in December 31, 2015, last year, there were three different statutes whose provisions were repealed. Eighteen were preserved by virtue of a motion, like the

one we're looking at, saying "please don't take these away." We see 15 here today. It's pretty close, and a lot of those 15 were around a year ago as well.

Some were taken away, and that's good, because that's the purpose. If they're not of any use, they shouldn't be on the books. It makes law students' job of researching the law a lot easier if they're taken off the books.

As occurred in 2015, this year's proposed motion does not save every provision outlined in this particular list. Rather, 20 provisions from five different acts will be repealed under the operation of the Statutes Repeal Act on December 31 of this year, so the system is working. I can tell you that the Canada Grain Act, An Act to amend the Canada Grain Act, another provision; Public Safety Act, there are some provisions there; Budget Implementation Act of 2005, still hanging around. We passed it in an omnibus budget implementation bill over 10 years ago. There is also the Canada Marine Act.

Some of these particular provisions listed in the annual report were brought into force in the course of 2016, and those that were brought into force are off the list. We have about five different statutes in addition to the 15 statutes that we're keeping by virtue of the department asking that they be kept. We have five that are dropping off from previous years.

Then each year, because they become 10 years, that's when the flag goes up. They'll be added to the list if they're not dropped, so it's a 10-year provision. They can be there for 10 years without anything happening. After 10 years we start looking at them and asking if it is necessary.

I'm satisfied, looking over three years and looking at what happened, even though there's a lot of repetition here year after year, that there is a slow realization by the departments that they don't need to keep all of these, and if we start seeing them three or four years in a row, we should start asking questions. They know that and the department heads know that.

I'm satisfied, honourable senators, that this motion is in order for adoption. Thank you.

Hon. Daniel Lang: Colleagues, I would like to refer to the sections that refer to the Yukon Act, and there are a number of sections enumerated, 70 to 75 and 77, subsection 117(2) and sections 167, 168, 210, 211, 221, 227, 233 and 283. I'm not conversant with that particular section of the motion, and I wonder if the honourable senator can clarify for me what these particular sections do.

Senator Day: Thank you, Senator Lang, for your question. With all the other things going on, I didn't have a chance to check on all these different provisions, and there are many of them.

What you just read out in the Yukon Act is part of the list that will not be removed. They will stay as the law because the responsible department has said that although they haven't been brought into force and haven't been declared law, they are passed statutes that perhaps will be addressed in the future and will be looked at again next year if they are not brought into force during the year.

Senator Lang: Thank you very much for the clarification.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*Translation*]

CRIMINAL CODE

BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

Hon. Claude Carignan (Leader of the Opposition) moved third reading of Bill S-230, An Act to amend the Criminal Code (drug-impaired driving).

He said: Honourable senators, I am pleased to rise today to speak at third reading to Bill S-230, An Act to amend the Criminal Code (drug-impaired driving).

Bill S-230 is a very important piece of legislation intended to fill a significant gap in the area of road safety, that is, the absence of an approved screening device to detect the presence of drugs in the body of a person suspected of drug-impaired driving.

Bill S-230 essentially aims to achieve three things. I would like to explain them to you now based on what we heard in the committee evidence.

First, Bill S-230 grants the Attorney General of Canada the power to authorize, by way of an order in council, the use of an approved roadside screening device to detect the presence of drugs in the body. The device would be approved by the Attorney General of Canada based on consultations with forensic science experts. The same process is already used to approve alcohol detection devices.

The use of screening devices to combat drug-impaired driving is long overdue. In fact, Canada is lagging far behind many other jurisdictions that already use these screening devices, particularly the United States, Australia, Germany, France, Belgium, Spain, Italy and the United Kingdom, Authorities in Australia have been using these devices for at least a decade.

This type of device detects the presence of drugs in the subject, but not the amount. I would like to quote Dr. Miles, a scientist who has testified at more than 300 trials:

[*English*]

A roadside oral fluid instrument has shown more robust articulation of drug impairment and offered further support for law enforcement officers to pursue and arrest for driving under the influence of drugs.

[*Translation*]

These devices would be programmed to detect categories of drugs. We know that the authorities in the United Kingdom have chosen to detect the presence of two drugs that are causing carnage on the roads, namely marijuana and cocaine.

• (2010)

[*English*]

Dr. Miles has added that these devices "are designed and established to indicate a recent use . . . ." Dr. Miles continued: "Therefore, these devices will detect the drug if it's there, but will also be programmed to detect only recent use of drugs."

[*Translation*]

Second, the bill states that a peace officer who has reasonable grounds to suspect that a driver is drug-impaired may request that the driver take a drug test. The device would not be used without reasonable grounds to suspect impaired driving.

Honourable senators, this clause is modelled on the existing ALERT-type alcohol test. Under the Criminal Code, peace officers who have reasonable grounds to suspect drunk driving may require the driver to take a sobriety test. If the driver fails the test, that is not a crime, but it does give peace officers important evidence about whether the driver is actually intoxicated.

Because there is currently no drug testing device available, peace officers have to send the driver to a police station for a 12-step, 45- to 60-minute test administered by an evaluating officer. This bill would enable a peace officer to ensure that he or she is not making a mistake by confirming the presence of drugs in the driver's body before taking the driver to the police station and having his or her car towed.

If the test result is negative — perhaps the person was just tired, for example — the driver is exonerated and need undergo no further testing. In other words, the device can corroborate reasonable grounds to believe that drugs are present. An innocent person will be able to drive away sooner with his or her car. Failing the test is not a crime, but it gives peace officers one more piece of evidence and makes it easier for them to determine whether they have enough objective proof to establish reasonable grounds to suspect that a person is on drugs that are impairing his or her abilities.

[*English*]

Mr. Gerald Chippeur, a constitutional expert, wrote a legal opinion on this bill, and I quote:

> This particular bill makes these sections of the Criminal Code, section 253 and 254, more compatible with the Charter because it creates a situation that is less intrusive for the individual motorist. In fact, for the person who is not impaired in any way by drugs, this test will immediately end an inquiry that could take longer if this test was not available. . . . it's my opinion that this bill is both consistent with the Charter and in fact will improve the compliance of the Criminal Code with the Charter.

[*Translation*]

Bill S-230 would also allow a police officer who has reasonable grounds to suspect that a driver is showing clear signs of drug-impaired driving, to demand that the driver go to the police station for further testing with an evaluating officer, as was the case under the Criminal Code. The bill does not make changes to the work of the evaluating officers. They remain the only individuals with the authority to conduct the 12 screening tests of 45 minutes that I was talking about earlier. I had the opportunity to talk to an evaluating officer. She told me that her work was quite laborious and that she was overwhelmed. She confided that there are not enough evaluating officers, that the screening device would be a supplementary tool for police officers and that it would buy them precious time.

In obvious cases of drug-impaired driving, when there are clear signs of consumption such as a red face, odour of alcohol or drugs, red eyes, confusion or lack of coordination, then a peace officer could ask for a sample of bodily substances at the police station without having to go through the evaluating officer's 12 stages.

Honourable colleagues, Bill S-230 has the support of the Canadian Association of Chiefs of Police and victims' advocates associations. The Federal Ombudsman for Victims of Crime supports the public protection goals in this bill. The Canadian Association of Police Governance also supports this bill. The Katherine Beaulieu Foundation, which conducts prevention campaigns, is urging us to pass the bill. What is more, a pharmacist, Magali Cyr, whose mother was killed by a driver who was impaired by cocaine, is asking you to support this bill so that Canada can modernize its approach to drug-impaired driving. Canada is lagging behind.

The most vulnerable drivers on the road, adolescents, tend to believe that driving after consuming drugs is not dangerous. In fact, young people tell each other that if they are intoxicated by alcohol then they can get caught. They know that if they use drugs, there is very little chance they will get arrested.

This bill could save lives. The latest data show that drivers between the ages of 16 and 24 are responsible for 26.9 per cent of fatal accidents involving drugs in Canada. In committee, many witnesses explained why police officers do not currently have the tools they need to get drug-impaired drivers off the road. The number of drug-impaired drivers is underestimated because of a lack of screening tools. Statistics show that only five of the millions of motorists on the road each day are charged with drug-impaired driving. It is simply unrealistic to think that the existing system is working.

All scientific evidence shows the dangers of driving under the influence of drugs. Drug-impaired drivers may have a slower reaction time, be sleepy or disoriented, and have difficulty concentrating, judging distances, staying in their own lane and maintaining a constant speed. These factors increase the number of accidents, injuries and deaths. However, we can help prevent such tragedies by passing this bill, which provides for additional

screening tools. One witness from the Traffic Injury Research Foundation who appeared before the committee had this to say, and I quote:

[*English*]

— the Traffic Injury Research Foundation stated that in 2012, 40 per cent of fatally injured drivers tested positive for drugs — 40 per cent — and in 2013 it will be 45 per cent. The police cannot screen these drivers before they die or kill somebody.

[*Translation*]

According to the Canadian government, in 2013, 97 per cent of prosecutions caused by impaired driving in Canada were alcohol-related, while only three per cent were drug-related. That three per cent represents approximately five cases a day of drug-impaired driving across the country. These statistics clearly do not represent the reality in Canada.

According to MADD Canada, in 2012, there were 614 road fatalities where drivers had drugs present in their system, compared to 475 fatalities where drivers had alcohol in their system. The Canadian Centre on Substance Abuse confirmed that finding.

• (2020)

I would remind senators that many organizations are urging that this legislation be passed. Consider that the Canadian Association of Chiefs of Police adopted Resolution 2014-01 at its 109th annual conference in 2014 calling on the government to urgently approve tools that, by the way, are not invasive because they use oral fluid used to screen drivers for drugs.

Establishing mandatory drug testing is within the purview of Parliament. In *R. v. Bernshaw*, [1995] 1 S.C.R. 254, the Supreme Court stated the following in paragraph 49 of its ruling:

> The roadside screening test is a convenient tool for confirming or rejecting a suspicion regarding the commission of an alcohol-related driving offence under s. 253 of the *Code*.

The victims are counting on your support.

Honourable senators, I hope that you will join me in supporting Bill S-230 so that it can be sent to the House of Commons to be passed as quickly as possible on behalf of all victims of impaired driving.

[*English*]

Hon. Vernon White: Honourable senators, I stand today to speak to Bill S-230, An Act to amend the Criminal Code (drug-impaired driving), which has been brought forward by Senator Carignan, the Leader of the Opposition here in the Senate.

This bill looks at a growing problem in Canada, from a safety and security perspective, the problem of drug-impaired driving.

To give clarity, I'll take a moment to walk through an intoxicated driver scenario.

In Canadian law we have two separate and distinct offences that are referred to in relation to individuals who are impaired by alcohol or drug. A police officer will typically engage a suspected impaired driver as a result of driving evidence, and it is described in the Criminal Code as the offence of operating or having care or control of a motor vehicle while the person's ability to operate the motor vehicle is impaired by alcohol or a drug. Impaired driving is punishable under multiple offences in the Criminal Code, with greater penalties depending on the harm caused by the impaired driving, for example, impaired driving causing death.

There is a related, parallel offence of driving with a blood alcohol level which exceeds 80 milligrams of alcohol in 100 milliliters of blood. The penalties are found within the Criminal Code of Canada for impaired driving and for driving with a blood alcohol content, or BAC, greater than .08.

Impaired driving is not limited to cars. Impaired driving applies to all motor vehicles, including snowmobiles, all-terrain vehicles, boats and even aircraft and railway equipment. In fact, in Yellowknife a number of years ago, an air traffic controller was convicted of care and control of aircraft while impaired, even though he wasn't operating the aircraft and was sitting in the tower.

If you are operating or have the care and control of any of the above and you have consumed alcohol, a police officer may make a demand on you to provide a sample of your breath at roadside on an approved screening device, and I will talk about this again later.

After providing a breath sample, the results of that test will determine what, if any, further actions are taken.

An individual who submits a breath sample in the "warn" range can be subject to an administrative penalty, such as roadside suspension. That's typically in the 50 to 80 milligrams of alcohol in 100 milliliters of blood.

An individual who submits a breath sample and registers a "fail" will be required to provide further breath samples at the police station, and subsequent breath samples will be taken.

Just for clarity, the Parliament of Canada first created a summary conviction offence for drinking and driving in 1921. It was called "driving while intoxicated." At the time, the courts interpreted intoxication to mean substantial inebriation, more than just being under the influence of alcohol. The minimum penalty for the first offence was seven days in jail. The minimum penalty for the second offence was one month in jail. The minimum penalty for a third and subsequent offences was three months in jail.

In 1925, Parliament amended the Criminal Code to include a new offence of driving while intoxicated by a narcotic. The offences were also amended to include "care or control" of a vehicle, not just driving.

As Canada worked its way through the impaired driving laws, it looked as well at ways to expand the skills of police officers engaged in intervention and included tools to assist police officers combatting impaired driving. Those skills included improving their abilities in detecting impaired driving, as well training

officers in the ability to demand drivers to submit to standard field sobriety tests. You might call this "walking the line." I always thought that's what Johnny Cash's song was about, actually.

A standard field sobriety test is typically administered roadside and consists of a police officer putting a suspected impaired driver through a series of standardized tests. Failure or refusal to comply with the demand can also result in criminal charges.

Between 1930 and 2008, a number of changes were added to the Criminal Code, including mandatory minimum penalties, use of breath-testing instruments and new offences where death or bodily harm was caused.

As I noted, included in the changes were additions to the Criminal Code for the use of approved screening devices or instruments.

Specifically, the changes dictated that if a police officer has reasonable grounds to believe that a person has committed an offence in relation to the impaired driving legislation found within the Criminal Code, the officer could demand that a person provide suitable breath samples into an approved instrument. The results of those samples would be introduced later as evidence at a trial. To be noted is that if it is later determined that the officer did not have reasonable grounds, then the taking of the breath samples violated the protection against unreasonable searches and seizures under section 8 of the Canadian Charter of Rights and Freedoms, and the person could apply to have them excluded, which arguably is one of the most common Supreme Court decisions we ever see.

Police officers can obtain reasonable grounds from observations they make and information they receive, including the results of the other demands listed.

These breath samples are typically taken at a police station by a qualified technician.

If a person is unable to give breath samples, usually due to injuries suffered from a traffic collision, a police officer could make a demand for blood samples to be taken under the direction of a medical doctor.

I give that scenario to provide a bit of clarity on what happens in a typical case involving an impaired driver from an alcohol-use perspective.

In the case of an individual who is believed to be impaired by drug, there are a few differences, and I will speak to them.

If you are operating or have the care and control of a vehicle, which includes boat, truck, ATV, aircraft, snow machine et cetera, and a police officer has reasonable grounds to believe that you have consumed drugs or a combination of alcohol and drugs, a demand may be given for you to undertake an evaluation to ascertain if you are impaired by the drugs or the combination. Failure to comply with the demand could result in criminal charges, which carry the same penalty as driving while impaired.

In managing such an incident, we face a few other challenges. Changes have been made from an operational perspective in an effort to combat the barriers and improve the possibility of obtaining the evidence necessary for prosecution if warranted.

One good example has been the introduction of drug recognition experts and the evaluation, including sobriety tests, similar to the standard field sobriety tests used for alcohol but including as well more clinical tests, such as taking a breath test to ensure alcohol is excluded; interview by the arresting officer; preliminary examination including three pulse checks; eye examinations, which include the horizontal gaze, vertical gaze and the ability of the eyes to converge; divided attention tests, which are balance and field sobriety; a clinical indicators examination, which includes blood pressure, temperature, pulse; darkroom examination of pupil size; muscle tone examinations; and I can go on. These could ultimately result in a demand for a toxicological sample — urine, oral fluid or blood — to test to see whether or not the individual was impaired by a drug.

In essence, we can see many similarities in the requirements for the police in investigating and subsequently prosecuting an individual for being impaired by alcohol and for being impaired by drug. There is, however, one glaring difference. It is that in the impaired-by-alcohol scenario, the police officer has the capability and ability to demand a breath test at roadside as a tool to indicate that there is a level of alcohol present — whatever level — with an approved screening device, thereby using the results as evidence to make a second demand for a more thorough test that gives specific blood alcohol content measurement. It's a continuum.

Presently, in the case of drug impairment, we do not have such a tool, which is why we are here today.

This legislation, brought forward by Senator Carignan, will allow for the introduction of an intermediate tool in the continuum of an investigation. The tool would analyze bodily fluids — based on evidence in committee, most likely saliva — that can assist the police officer to determine that there are drugs in the system of the driver of the vehicle. This is being utilized presently in Australia with great success, and I understand it is presently being piloted by the RCMP with a high level of success.

So we are clear, this legislation does not introduce a new offence, as drug impaired driving has been in existence since 1925. It is not going to add a new piece to the difficult puzzle of investigating an impaired offence, but instead a piece that can better place the investigator in a position of making clear decisions on impairment in an effort to get to the truth required by the courts in determining guilt or innocence.

• (2030)

I would ask that this bill be supported by each of you as we develop a new opportunity for the government to introduce the tools needed in combatting impaired driving.

I congratulate Senator Carignan on a great job. Thank you very much.

Hon. George Baker: First of all, before I say a couple of words about this particular subject, I want to recognize the great job done today by the Finance Committee of the Senate. The subject matter under discussion wasn't addressed in the House of Commons. It was mentioned by a New Democratic Party member and a Bloc Party member in a speech, but no emphasis was put on the issue, which was then raised at the Senate committee. That's where it started, at Banking, and then it went to the Finance Committee.

I want to congratulate Senators Pratte, Harder and Carignan and the chair of the committee, who did such a great job today in the Finance Committee. Those four people put together, I believe, a very solid argument for a re-examination of a subject that's of great importance, not just to the province of Quebec but to all provinces. The result is that the subject will be re-examined. I also want to congratulate the Prime Minister for agreeing to split a budget bill. But without the sober second thought of the Senate, it would never have happened. That's the important thing.

The committees of the Senate continue to do such incredible work. Over the last 60 days, we have had mentioned in case law the Standing Senate Committees on Social Affairs, Science and Technology; National Security and Defence; Banking, Trade and Commerce; Agriculture; Energy, the Environment and Natural Resources; and Transport and Communications.

The Finance Committee today, with the Quebec bar before it, was discussing in detail three class actions that were brought before the Supreme Court of Canada: the *Desjardins*, *Amex* and *Marcotte* decisions.

It's interesting to note that two of those judgments of the Supreme Court of Canada mentioned a Senate committee and the work it had done in bringing down those judgments. Unfortunately, it didn't mention a Commons committee, but that's not surprising, because the Commons committees don't do the in-depth work that Senate committees do.

So off the top, I'd like to mention those things. Also, Ms. Anwar is at the table here today. She is a former clerk for the Standing Senate Committee on Legal and Constitutional Affairs, and we can all attest to her great competence, intelligence and knowledge of the law.

Having said all those nice things, I will get to the bill. I want first of all to congratulate Senator Carignan on this bill, and also to mention to the Senate that during the latter part of the summer, the Senate appeared before the Canadian Bar Association annual meeting in Ottawa and presented an interim report. Senator Carignan was there with Senator Batters, and I was there as well. We had a press conference in which he did a remarkable job.

We then went before a judges' council with judges from all across Canada. Again, I want to congratulate Senator Carignan for the excellent job he's done in presenting the interim report, of course not forgetting that the majority of senators who really wrote the report are behind him and on this side behind me, but Senator Carignan stepped in at the last moment and did a great job with all of the media.

Now, as far as this bill is concerned, we all support the general principle of the bill. However, I want to propose two amendments to the bill at the end of my few words.

I'm suggesting an amendment because — and I think all committee members will agree — there is a problem with the bill in that it says in two places that a machine will judge the presence of drugs in somebody's blood. We have heard testimony that that is impossible to do. No machine can do that. You have got to take the blood.

That's strange, because you would think that if you had a drug in your body there would be some way of judging it in your blood, but there isn't. We heard evidence — and Senator Carignan is nodding his head — it's absolutely correct.

There are two places in this bill where an amendment has to be made.

One further thing concerns me, and it's this: Let me go back to what Senator White was saying. He's an expert. He's got experience not just at the top as a deputy commissioner of the RCMP, but also on the ground level with impaired driving persons.

Next to him, to his right, is Senator Dagenais, who is considered to be a court expert on impairment by alcohol. He is the person who, when a case is presented against someone in court, was, in his younger days, I imagine, called in a good many times in the middle of the night to go down to the police station.

He administered the breathalyzer test, and he signed on the dotted line as an expert. That signature is then used in court as proof of the alcohol content, the 80 milligrams in 100 millilitres of blood, as Senator White suggested. This is the test. Beyond that, section 253(1)(a) of the Criminal Code is impaired driving. Section 253(1)(b) is it's an offence to have a certain amount of alcohol in your blood while as you are driving. Senator Dagenais is an expert on this.

Now, we have to consider that Senator Carignan is trying to fill a gap at roadside. At roadside, it's not a simple matter; it's the most litigated portion of the Criminal Code of Canada — sections 253 and 258 of the Criminal Code, the most litigated portions.

As of six months ago, the final province agreed, and all of the highway traffic acts have been changed in Canada to allow a police officer to stop a driver with no reason except to examine their licence, insurance and proof of ownership; and in three provinces, the Highway Traffic Act further states "to investigate the possibility of impairment by drugs or alcohol."

• (2040)

So we no longer have the problem of articulable cause, as Senator White referred to, where someone was driving on a road and there was an articulable reason to stop that driver. Maybe somebody phoned the police and said, "That person is a drunk driver." Maybe that person was swerving all over the road; maybe the person was driving slowly, just barely, and weaving a bit. But there had to be articulable cause.

Now, under the highway traffic acts in all the provinces, you don't need to have articulable cause to start an investigation.

When we changed the law years ago to allow for a shortcut at roadside, the shortcut was this: The police officer comes up to the window of the police car and speaks to the driver. He asks the driver, "Can I have your driver's licence, proof of insurance," and so on. During that contact, the police officer can sometimes make a judgment as to whether or not that person is impaired or that he suspects the person is impaired.

The indicia, for example, are a flushed face, smell of alcohol, red eyes, or fumbling to get his documents together to show to the police officer. These are the indicia that a police officer is trained to observe in order to create a suspicion in that officer's mind, and it has to be a reasonable suspicion. A straight suspicion simpliciter is not good enough; it has to be a reasonable suspicion.

The officer then says, "Sir, will you accompany me to my police vehicle to carry out a roadside test?" Up to this point there is no right to counsel. Why? Because the Supreme Court of Canada has ruled that right to counsel is not necessary. Why is it not necessary? Although you're being detained, it's not necessary. Yes, it was a violation of section 9, arbitrary detention, but it's saved by section 1 of the Charter; demonstrably justified in a free and democratic society because of the carnage on our highways. That was the judgment of the Supreme Court of Canada.

So the person accompanies the police officer to the police vehicle. The police officer makes a note in his mind of how that person is navigating — whether they're weaving from side to side and whether they have to hold on to the vehicle. Then the person gets into the vehicle and the police officer gives the person the roadside test. You have to blow into this instrument for 12 seconds, continuous, with full force. For some people that is difficult. For people who have asthma, for example, that's difficult to do.

Somebody might say, "I have a reasonable excuse." The law at that time said that a person who refuses the breathalyzer at roadside in the police vehicle is guilty of impaired driving. That's what the law is: You're just as guilty to refuse.

The person would have to put up a defence and provide proof that they had, say, problems with asthma such that they couldn't fulfill that test, and so on. There is a lot of litigation on that.

So the person registers a fail on the breathalyzer. According to the law, the police officer now has reasonable grounds to believe that that person is impaired by alcohol. Therefore, the police officer arrests that person. The breath demand means you're arrested. Then the officer reads the breath demand — not right to counsel. That comes after, because you have to know the extent of your jeopardy before you can respond to whether or not you need to instruct counsel.

So the breath demand is made and right to counsel is offered. And even today, because of cellphones, the officer says, "Would you like to contact counsel now?" Sometimes a cellphone is used.

The person is taken to the police station, and there they meet Senator Dagenais. Senator Dagenais is the expert recognized by the courts; his signature means you are guilty of impaired driving within the previous two hours. The first test must be made within two hours of your observed driving. There's a limit prescribed in law. There is an assumption with that particular signature of Senator Dagenais, with the machine, with the tests taken 15 or 20 minutes apart. The person can't have candy or chewing gum in his mouth. You must test the machine each time and observe the person for 15 or 20 minutes prior to a test being done. It's a very complicated procedure.

Along comes Senator Carignan. Senator Carignan is addressing the problem of drugs. At roadside, as Senator White said, you now have a simple test that you do. The previous government brought in what was called the drug-impaired driving changes to the Criminal Code. You have to do these physical coordination tests, which I can't do; I can't pass them. That's considered to be forming a reasonable suspicion: the colour of your eyes, dilated pupils and so on. For somebody who has been smoking marijuana, the pupils dilate. There are specific indicia.

However, there is nothing like the roadside breathalyzer machine. That's a shortcut. We don't have that as far as drugs are concerned, and that's what Senator Carignan is proposing: the simple taking of a portion of your saliva at roadside.

Senator Carignan says it's constitutionally valid. Well, we'll have to wait for the courts to find out whether or not that's true, because the breathalyzer that's taken, that test of your breath at roadside, went through a series of court proceedings until it got to the Supreme Court of Canada. The Supreme Court of Canada said yes, it's demonstrably justified because of the carnage on our highways with drunk drivers.

It takes time to sample the saliva from your mouth. For persons on drugs, saliva dries up in the mouth. In some states in the U.S., they ask the person to chew gum before they take the sample. There are problems with the period of time. It's a detention, and you can't have the detention until it's justified.

There is a second problem with the bill. My goodness, there must be several senators who are concerned about it. Senator Sinclair would be concerned about it, I think: the problem with the DRE, the drug recognition expert, which was introduced by the previous government. The Harper administration introduced the drug recognition expert into law. And that person receives their training where? Senator White is a member of the International Association of Chiefs of Police, the association that licenses those persons in the United States. There is a school in Quebec where people are taught that expertise.

Why? In court, somebody has to be recognized as an expert, with credentials, in order to testify with certainty that you are, in fact, impaired by a drug. That's why Senator White read out the 12 tests that are done with the drug recognition expert.

• (2050)

I'm going to propose two amendments to the bill, if the Clerk could give them to the Speaker. And the two amendments are that the reference in the bill to using this shortcut that Senator Carignan is suggesting to measure "drugs in the blood," to change that to "drugs in the body" in the two instances where it's mentioned.

I feel certain that Senator Carignan is going to stand up and say, "I agree with this amendment." I'm sure he's going to say that.

In closing, I'm going to propose these two amendments and congratulate Senator Carignan and say that perhaps there might be something else that may need to be looked at, and that is the drug recognition expert. We have it now in the law. Why are we taking it out?

Senator Carignan puts up a very good argument. You don't have those on every street corner, it takes time to train people, but the logic of putting them in was to provide that expertise that would work in court and convict people who are guilty of drug-impaired driving.

The two amendments that I'm making are on page 2, and I'll provide a copy —

The Hon. the Speaker: Excuse me, Senator Baker; normally we only move one amendment at a time. Is there some way you can incorporate them into one amendment so we can have a debate on one amendment?

Senator Baker: Yes.

The Hon. the Speaker: Carry on, Senator Baker.

Senator Baker: I'm going to move one amendment that amends two places in the same clause. In other words, I'm saying that His Honour is right, it must be one motion.

MOTION IN AMENDMENT

Hon. George Baker: Honourable senators, therefore, I move:

That Bill S-230 be not now read a third time, but that it be amended in clause 2,

(*a*) on page 2, by replacing lines 5 and 6 with the following:

"that is designed to ascertain the presence of alcohol in the blood of a person or of drugs in a person's body and that is approved for"; and

(*b*) on page 3,

(i) by replacing lines 3 and 4 with the following:

"be made to determine whether the person has a drug in their body; or", and

(ii) by replacing lines 8 and 9 with the following:

"to determine whether the person has a drug in their body.".

(On motion of Senator Day, debate adjourned.)

CRIMINAL CODE

BILL TO AMEND—THIRD READING—
DEBATE ADJOURNED

Hon. Lillian Eva Dyck moved third reading of Bill S-215, An Act to amend the Criminal Code (sentencing for violent offences against Aboriginal women).

She said: Honourable senators, I rise today to speak as the sponsor at third reading of Bill S-215, An Act to amend the Criminal Code (sentencing for violent offences against Aboriginal women).

I thank the members of the Standing Senate Committee on Legal and Constitutional Affairs for reviewing and passing, on division, this bill in a timely manner.

In particular, I want to thank the critic of the bill, Senator McIntyre, who worked hard to ensure that the bill was dealt with expeditiously. I thank Senator McIntyre for his support and Senator Patterson for his supportive comments. In addition, I want to thank Senator Tannas, who rose at second reading to indicate his support for this bill.

Honourable senators, Bill S-215 amends the Criminal Code to require a court to consider the fact that when a victim of an assault or murder is an Indian, Inuit or Metis female person, this constitutes an aggravating circumstance for the purposes of sentencing. In doing so, it adds new sections immediately after sections 239 and 273 of the Criminal Code.

For brevity, I will use the term "Aboriginal," which as you know is defined in section 35-2 of the Constitution as the Indian, Inuit, and Metis peoples of Canada.

Honourable senators, Bill S-215 is a direct response to the national tragedy of the more than 1,200 missing and murdered Aboriginal women and girls. The intention of this bill is to ensure fairness in sentencing when an Aboriginal female person is a victim of assault or murder and ultimately it aims to increase their safety.

While the Canadian Charter of Rights and Freedoms guarantees to all individuals equality before and under the law and the right to equal protection and equal benefit of the law without discrimination, it is clear that this is not the case for Aboriginal women and girls. Without a doubt, Aboriginal females do not have equal protection of the law; if they did, we would not have the national tragedy of the 1,200 missing and murdered Aboriginal women and girls.

Colleagues, there is both community and political support for this bill. The Federation of Sovereign Indigenous Nations and the Assembly of First Nations have passed resolutions in support of Bill S-215. As Vice-Chief Heather Bear, from the FSIN, stated at the Legal and Constitutional Affairs Committee last week, the chiefs from across Canada support this bill. The President of the Native Women's Association of Canada, Francyne Joe, also supports this bill.

In addition, I have a letter of support from Iskwewuk E-wichiwitochik, a group of women in Saskatchewan who have been advocating on behalf of the families of the missing and

murdered Aboriginal women and girls since 2005. I am most grateful to all of them for their support.

I will read into debates the resolution passed on July 1, 2016, at the Annual General Assembly of the Assembly of First Nations and signed by National Chief Perry Bellegarde, entitled "Support for Bill S-215":

WHEREAS

A. The United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) affirms:

i. Article 22, (2): States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

B. Indigenous women in Canada are at a higher risk of being victims of violence than non-Aboriginal females, as indicated in the 2014 Royal Canadian Mounted Police (RCMP) report *Missing and Murdered Aboriginal Women: A National Operational Overview*.

C. The 2014 RCMP report indicated that Indigenous women accounted for 4.3% of the overall female population in Canada but made up 11.3% of missing females and 16% of all female homicides.

D. Senator Lillian Dyck has sponsored Bill S-215, An Act to amend the Criminal Code (*sentencing for violent offences against Aboriginal women*) that would require a court to take Aboriginal female identity into account during sentencing of offenders to ensure that there are significant consequences for violent offenses against Aboriginal women.

And this was signed by Perry Bellegarde, National Chief.

Honourable senators, part of the sad legacy of colonization is that Aboriginal men have been over-incarcerated and at the same time Aboriginal women have become over-victimized. In a move to reduce the over-incarceration of Aboriginals, the Criminal Code was amended 20 years ago to include section 718.2(e). Similarly, Bill S-215 is meant to reduce the over-victimization of Aboriginal women.

Honourable senators, I know that this bill is novel because it focuses on Aboriginal female victims. Up to now, lawyers and judges have only had to take into consideration section 718.2(e) which states that:

• (2100)

(e) all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.

Colleagues, Aboriginal women, just like Aboriginal men, have experienced unique circumstances that make them prone to being over-victimized in violent offences. Aboriginal women, unfortunately, can be perceived as a group about whom no one cares, and they can also be perceived as a group who are easy targets for sexual abuse and violence. Of course, not everyone holds such biased views about Aboriginal women, but recent research has verified that non-Aboriginal men do have such stereotypical attitudes.

Honourable senators, the evidence that Aboriginal women are targets of violent acts is indisputable. From the 2014 RCMP report and from the previous reports from the Native Women's Association of Canada and Amnesty International, we know that Aboriginal females are three to four times more likely than other Canadian women to be murdered, sexually assaulted or made missing. Aboriginal women are seven times more likely to be targeted by serial killers.

In June 2016, Statistics Canada reported that for women, but not for men, simply being Aboriginal was a significant risk factor for violence. This latter fact is shocking and emphasizes the need for Bill S-215, which contains specific measures to decrease their vulnerability to violent acts, such as sexual assault.

Bill S-215 will include Aboriginal female identity as an aggravating circumstance for the various violent offences included under the assault and murder provisions of the Criminal Code.

I know that not everyone is convinced that it is necessary to create a specific category for Aboriginal females as an aggravating circumstance. However, I think the evidence of the increased incidence of assault, sexual assault and murder of Aboriginal females identified by the RCMP, the Native Women's Association of Canada, Amnesty International and Statistics Canada compels Parliament to protect them, just as Parliament has recently done for public transit operators, such as taxi drivers.

You will recall that in 2015 we passed Bill S-221 to amend the Criminal Code to include on-duty public transit operators as an aggravating circumstance for assault.

In addition, in 2015 we passed Bill C-35, Justice for Animals in Service Act, known as Quanto's Law. Quanto was a police dog killed while on duty. This bill created a new specific offence prohibiting the killing or injuring of a law enforcement animal, service animal or military animal. One of the provisions was to create a mandatory minimum sentence of six months for killing these types of animals.

Colleagues, as I said at second reading, if we can make special provisions to protect public transit operators such as taxi drivers and service animals such as police dogs, surely we can make special provisions to protect Aboriginal female persons.

While it may seem unfair to have different sentencing instructions for Aboriginal compared to non-Aboriginal female victims of violent offences, the reality is that there is racial and gender bias in sentencing. As of yet, there hasn't been any academic research on the effects on sentencing of being an Aboriginal victim but there are many examples. I will give you two.

A recent example is the case wherein Judge Robin Camp asked the Aboriginal teenage victim of a sexual assault why she couldn't just keep her knees together. The accused was acquitted, but after an appeal a new trial has been ordered. We all know what's awaiting Judge Robin Camp: a possible dismissal as a judge.

Another example is the infamous Tisdale rape case. A 12-year-old Aboriginal girl was picked up by three Caucasian men, given beer and sexually assaulted. Only one of the three Caucasian men charged with sexually assaulting her was convicted. He was not even sent to prison. He was put under house arrest for two years. The case was appealed. The appeal court agreed with the prosecutor that a three-year prison term was more appropriate. However, only four months remained in his sentence, so the sentence was unchanged. The appeal judge noted that the house arrest was not appropriate because the offence was so serious and the punishment not harsh enough to serve as a deterrent to the offender or to others.

Colleagues, the other issue that was discussed at the committee was the interaction of Bill S-215 with the *Gladue* provisions under section 718.2(e) of the Criminal Code. The defence lawyers argued that Bill S-215 would be unfair to an Aboriginal offender because the offender would be sentenced to more time in prison, which would only increase the likelihood of his reoffending.

One could argue the opposite, that not holding Aboriginal men fully accountable for the violence that they inflict on Aboriginal women contributes to their likelihood of reoffending because they haven't faced the full consequences of their violent behaviour.

Should section 718.2(e) of the Criminal Code allow for more lenient sentences for Aboriginal men who commit violent acts, such as sexual assault, against Aboriginal women? That's a good question. The defence lawyers thought so. But that's their job, to defend the offender and minimize any sentence if found guilty.

Colleagues, we ought to remember that section 718.2(e) of the Criminal Code was not meant just to reduce prison time; it was meant to consider alternatives to prison, such as restorative justice and rehabilitation programs, which would retrain and heal offenders and thereby decrease the likelihood of recidivism of the offender.

Under Bill S-215, a judge doesn't have to increase the length of imprisonment; he or she could decide instead to increase the length of rehabilitation, drug treatment or other programming, which would be beneficial to the offender and to the community to which he would be returned.

It is true that the application of Bill S-215 might increase the length of the sentence decided upon by the judge, but that possibility depends on how the aggravating circumstance of being an Aboriginal female interacts, in the judge's assessment, with the myriad of other aggravating and mitigating factors in any particular case.

Furthermore, while the defence lawyers were concerned that Bill S-215 would have a negative impact on Aboriginal offenders who assault or murder an Aboriginal female, it is debatable as to whether section 718.2(e) should even apply for such serious offences. The Supreme Court ruling in *Gladue* notes that for serious offences, separation, denunciation and deterrence are relevant and that in some instances there may not be any reduction in imprisonment for Aboriginal offenders. I will read into the record two paragraphs from the *Gladue* decision:

> 78. In describing the effect of s. 718.2(*e*) in this way, we do not mean to suggest that, as a general practice, aboriginal offenders must always be sentenced in a manner which gives greatest weight to the principles of restorative justice, and less weight to goals such as deterrence, denunciation, and separation. It is unreasonable to assume that aboriginal peoples themselves do not believe in the importance of these latter goals, and even if they do not, that such goals must not predominate in appropriate cases. Clearly there are some serious offences and some offenders for which and for whom separation, denunciation, and deterrence are fundamentally relevant.
>
> 79. Yet, even where an offence is considered serious, the length of the term of imprisonment must be considered. In some circumstances the length of the sentence of an aboriginal offender may be less and in others the same as that of any other offender. Generally, the more violent and serious the offence the more likely it is as a practical reality that the terms of imprisonment for aboriginals and non-aboriginals will be close to each other or the same, even taking into account their different concepts of sentencing.

• (2110)

Colleagues, I believe these arguments counter the concerns that the defence lawyers expressed about Bill S-215 having an undue negative impact on the mitigating effects of section 718.2(e) for Aboriginal offenders. The impact of Bill S-215 will be variable. The application of Bill S-215 does not necessarily mean that Aboriginal offenders will be imprisoned for longer times. They may instead be sentenced to a longer period of rehabilitation. The application of Bill S-215 would not necessarily impact the effect of section 718.2(e) if it is even deemed applicable to the particular case.

In sentencing, surely a balance must be struck between the rights of the offender to a fair sentence and the rights of the Aboriginal female victim to have the harms done to her be assessed fairly. Both Vice Chief Bear and President Francyne Joe also commented that a balance had to be struck between protecting the offender and protecting the victim. Unfortunately, the committee did not hear from a prosecutor who would have argued the case for the victims' rights.

Honourable senators, in my testimony to the committee last week, I spoke about two recent court decisions which support the view that the Aboriginal identity of the female victim is a factor that ought to be considered during sentencing for the violent offences of sexual assault and manslaughter.

In *R. v. Peter* 2014 in the Nunavut court, the judge noted in paragraph 108:

> . . . that aboriginal men attacking and killing aboriginal women are no more entitled, in my view, to consideration than non-aboriginal men are for attacking any woman. Put another way, aboriginal women are entitled to protection just as much as any other woman, perhaps more due to their cultural circumstances.

Similarly, in *R. v. Neashish*, in the Quebec court in 2016, the judge noted in paragraphs 134 and 135:

> While the *Gladue* report dealt at length with the accused's Aboriginal origins, the Court must not fail to consider the situation of the victims, who are also Aboriginal. They were affected by the same historical factors and years of upheaval and economic development experienced by the community. In addition to being victimized by the accused, they are victims of systemic discrimination. They are also likely to have suffered the same painful consequences of relocation, and according to the *Gladue* report, some of them, unlike the accused, are economically and socially disadvantaged.

The defence lawyers in their testimony at the committee review last week thought that these two cases obviated the need for my bill. I disagree.

While these two court cases indicate that these two judges, at least, are aware of the historic and systemic discrimination against Aboriginal women, this does not mean that the majority of judges think similarly. I could just as easily argue that there are likely many more judges who are not so aware of the double discrimination and unique circumstances that Aboriginal women and girls face and thus would not factor their identity into crafting an appropriate sentence.

It is important to emphasize, however, that these two cases illustrate that the judges did not agree with the defence lawyers in these two cases who argued for more lenient sentences for the offenders.

In the *R. v. Peter* 2014 decision, the judge notes in paragraph 163:

> Defence counsel says that the accused is aboriginal. Well, so is the deceased. And then he admits a number of things that minimize the Gladue factors — the offender's family is intact except for one possible suicide; he was not specifically affected by any of the residential school issues in the family. Defence counsel says you can't change the past. Well you can't change the past, but you can try and change the future and that is what the role of this Court is to do for this offender and for other offenders, therefore, the eight year sentence is rejected.

Honourable senators, the judge in this case delivered a sentence of 15 years rather than the 8 years asked for by the defence counsel.

Colleagues, I humbly ask for your support to pass Bill S-215. I realize that this bill alone is not a magic solution that will end the violent victimization of Aboriginal females, but it will create a ripple effect that will counteract systemic discrimination within the justice system. Under the provisions of this bill, the decisions made by judges will take into account the unique circumstances of Aboriginal females; and listening to the judge's reasoning, lawyers, police officers and court workers will begin to examine their own belief systems and see Aboriginal female victims from a different perspective. Combined with the work of the national inquiry into the missing and murdered Aboriginal women and girls, which is continuing to raise public awareness, this bill will take specific action to increase the safety of Aboriginal women and girls.

I draw your attention again to the national crisis of missing and murdered Aboriginal women and girls and to the recent Statistics Canada report on Aboriginal victimization. This report confirmed something that many of us knew intuitively, that simply being Aboriginal for a woman is a risk factor for violence. Bill S-215 is meant to address this risk by making Aboriginal female identity an aggravating factor in sentencing offenders found guilty of assault or murder.

Let me remind you that we recently passed legislation to protect public transit operators, such as taxi drivers. We also passed legislation to protect service animals, such as police dogs. Surely we also ought to pass Bill S-215, a similar bill that protects Aboriginal female persons.

Lastly, honourable senators, Canada is signatory to the United Nations Declaration on the Rights of Indigenous Peoples. Last week, Prime Minister Justin Trudeau said that his government is working towards implementing Article 22.2, which reads:

> States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Honourable senators, I believe that Bill S-215 works to achieve Article 22.2 of the United Nations declaration. I ask for your support to vote to pass Bill S-215 at third reading and send it to the other place for their consideration.

(On motion of Senator Martin, for Senator McIntyre, debate adjourned.)

CANADA EVIDENCE ACT
CRIMINAL CODE

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Carignan, P.C., seconded by the Honourable Senator Martin, for the second reading of Bill S-231, An Act to amend the Canada Evidence Act and the Criminal Code (protection of journalistic sources).

Hon. André Pratte: Honourable senators, I'm sorry to be speaking at such a late hour, so please feel free to doze off and I'll try to make this as short and painless as possible.

Senator Sinclair: Speak faster or be exciting.

Senator Pratte: I'll try to speak faster.

Patrick Lagacé, Vincent Larouche, Alain Gravel, Marie-Maude Denis, Isabelle Richer, Denis Lessard, André Cédilot, Éric Thibault: Those are the names of journalists who we learned recently were the object of police surveillance in the province of Quebec over the last few years. Many of you may not know Patrick Lagacé, but he's a star newspaper columnist who's been very often critical of police hierarchy.

Twenty-four surveillance warrants were issued. Police obtained the log of incoming and outgoing phone calls for a period of seven months. They tracked the GPS of his cellphone. There were warrants issued to listen to the phone calls of Lagacé and his colleague Vincent Larouche.

• (2120)

In the case of six other prominent reporters, the Sûreté Quebec obtained the logs of incoming and outgoing phone calls for a period of five years. Those journalists were not suspected of any crime nor involved in any way with criminal activity. Their only crime it seems was they were investigative journalists who had sources inside police forces.

There is of course cause for concern that the police would do such a thing as spy on journalists, but it is more worrisome that justices of the peace or judges would issue so many warrants to permit such surveillance of journalists. Surveillance of journalists should be the exception, not the rule. Judges, justices of the peace, are supposed to protect fundamental rights, including, of course, freedom of the press. So this has to stop. Why?

First, because spying on journalists gives police all sorts of information it can use in the future against journalists to prevent them from doing their work. Second, because it will provoke fear in the minds of potential sources. It will add obstacles to the already extremely difficult work of investigative journalism.

I do not expect you will pity journalists and that's not what I wish. I know journalists are not necessarily popular in political circles. But this is not about journalists. This is about journalists' work and its importance for democracy.

Before I continue, I want to tell you a little bit about myself. Some of you know that I was a journalist. In fact, I was a journalist for 37 years. For more than half of that time, I was in management positions. So of course you would say, "Of course he would endorse such a bill as Bill S-231." As we say in French, "*il prêche pour sa paroisse*"; he's blowing his own horn.

Let me tell you about a short book I wrote a few years ago entitled *Les Oiseaux de Malheur*, in English entitled *Prophets of Doom*. It was a very critical essay on today's media. I will quote a short part of it. I'm the only one who quotes myself. The book was never translated, so the quote is in French:

[*Translation*]

> What are we doing besides criticizing, denouncing and laying blame? Are we helping people understand the complexity of the issues? On the contrary, we are reinforcing their prejudices. Are we helping our readers and our audiences identify what matters and what doesn't? Rarely, since we flood them with tons of useless information, ranging from bogus surveys to the wild musings of celebrities and all things sports related, which we place far too much emphasis on. Are we helping sharpen people's critical thinking skills? No, because our own critical thinking is broken, taking us without warning from heated denunciation to blind admiration.

[*English*]

I'm very aware of the weaknesses of my trade. I am not a journalist activist. Still, I am absolutely convinced, and I am sure that you will agree, journalism, in particular investigative journalism, is absolutely essential to democracy. A healthy democracy's fuel is information. Without information, without a free press, there is no authentic democracy. You can have elections, but if information is controlled by the state or by excessively concentrated private interests, you will only have the pretense of democracy.

If it were not for investigative journalism and confidential sources, people would rarely learn about abuse in government or the private sector. Investigative journalists are *Democracy's Detectives*. It's the title of a book by James Hamilton of Stanford University.

Silvio Waisbord, who teaches at the Department of Journalism and Mass Media at Rutgers University, says investigative reporting is one of the most important contributions that the press makes to democracy.

[*Translation*]

The story is almost always the same. A journalist or a small team begins looking into some shady deal involving the government. They sense that something doesn't quite add up. Early on, just a small thread sticks out. No one wants to talk about it. The investigation doesn't get going until a source finally cooperates, in confidence. The investigation proves to be difficult, long and frustrating. It is not uncommon for journalists to receive threats.

However, the person who suffers the most, by far, the one who is the most isolated, the most frightened, and who must stay silent is the source.

Eventually, the journalists get the confirmation they need and the scandal breaks. Who wins? The journalists and the source, of course, have the satisfaction of a job well done, but the biggest winner is society and democracy.

These investigations that hold governments to account for their most secretive and malicious actions wouldn't be possible without the help of confidential sources. However, these sources will not come forward if they are afraid that journalists are being spied on or followed in any way whatsoever.

[*English*]

We call a law to protect journalists and their sources a shield law. Why is such a law useful or necessary?

There are Supreme Court decisions establishing criteria on search warrants and protection of sources. Those are called *National Post*, *Globe and Mail, Lessard*, New Brunswick decisions. The criteria, however, are not as stringent as we would hope, and justices of the peace and judges seem not to have taken them sufficiently into account recently.

Again, the hope and the aim is not to protect journalists so much as to protect their work and their sources. The advantage of a shield law at a minimum would be to put hundreds of pages of jurisprudence into one single, simple act. But it can also offer much stronger protection. Legislators can clearly establish certain principles. It would not be left to judges to define how freedom of the press should be protected from police intrusion.

Still, even with a shield law, there will always be a decision on a case-by-case basis on the proper balance between public interest and freedom of the press versus public interest into criminal investigation.

Now, some incidents show that there is a problem in Quebec obviously, but there are also many incidents showing that the temptation to spy on journalists is not limited to the Province of Quebec. For instance, in 2004 the RCMP searched the house of Juliet O'Neil of the *Ottawa Citizen* in the hopes of finding the identity of her source in the Maher Arar story. In 2007 we heard recently *La Presse* reported Joël-Denis Bellavance and Gilles Toupin were followed for nine days, the RCMP hoping to find their source for a story concerning Adil Charkaoui. We learned recently that the Canadian Security Intelligence Service says that journalists might have been investigated in the past.

Now, it's very probable that all these cases are only the tip of the iceberg.

[*Translation*]

Bill S-231 seeks to amend the Canada Evidence Act and the Criminal Code. The Canada Evidence Act applies to all federal administrative tribunals. I am passing quickly over the content of the bill, but let's say that it starts by giving a definition of the word ''journalist'', which although it appears fairly straightforward, is actually one of the most complex aspects of bills on the protection of journalistic sources.

One reason why this aspect is so complex is that journalists themselves sometimes have difficulty defining themselves. However, this is extremely important because we cannot protect a profession that does not want to define itself, and that in itself is a matter for debate.

The definition proposed by Bill S-231 is extremely promising. Under this bill, a journalist can object to the disclosure of information or a document because it identifies or is likely to identify a source.

The court may authorize the disclosure of information or a document only if the court considers that the information or document cannot be produced in evidence by any other reasonable means, and the public interest in the administration of justice outweighs the public interest in preserving the confidentiality of the journalistic source, having regard to the essential role of the information or document in the proceeding, freedom of the press, and the impact of disclosure on the journalistic source and the journalist.

• (2130)

[*English*]

What is very important in this case is that the burden of proof would be reversed. The Supreme Court has said in the *National Post* decision that it is the media that advances the proposition that a public interest in protecting its secret source outweighs the public interest in the criminal investigation. The burden of persuasion, therefore, lies on the media.

Now, Bill S-231 proposes to reverse the burden of proof. The person who requests the disclosure should have the burden of proof because freedom of the press is a fundamental right. While the Supreme Court has not conferred constitutional protection to the confidentiality of journalistic sources, it has agreed that it is worthy of solid protection.

Bill S-231 also proposes to amend the Criminal Code for the issuance of search warrants, authorization to intercept private communications and orders to produce transmission of tracking data. Those warrants, orders or authorizations must be issued by a judge of criminal jurisdiction, not by justices of the peace, under two conditions. First, there are no other ways that this information can be obtained; and, second, public interest in the investigation and prosecution of criminal offences outweighs the journalist's right to privacy in gathering and disseminating information.

The warrant may, of course, contain conditions necessary to protect the confidentiality of sources and to limit the destruction of journalistic activities. The documents would be sealed. The journalist or the media outlet would have 10 days in which to apply to a judge so that the document may not be communicated on the grounds that it could identify a source.

This is, very briefly, the regime proposed by Bill S-231. It's a much better protection of journalists' work and their sources than the current jurisprudence.

Now, I'm very anxious to hear what the media, police forces, legal experts and the government have to say about this, which is why I think this bill should be referred as quickly as possible to the Legal and Constitutional Affairs Committee.

The government has promised its own bill, and I think that's very good news. The government has said it would consult a group of academics on the matter and then table a bill. I hope that the academics' report will be made public as a contribution to this debate. We should take a non-partisan approach to make Bill S-231 the best bill possible, seeking the best balance between the public interest for criminal investigation and democracy's interest with society's interest in protecting freedom of the press.

My hope is that Bill S-231 will become the gold standard of shield laws for journalists' work and their sources.

Behind every revelation of abuse of power or corruption, there is good, persistent investigative journalism and usually one source. From "Deep Throat" in Watergate to Ma Chouette in the sponsorship scandal in Canada, to the controversy over Chinese businessmen getting access to the Prime Minister in return for a contribution to the Liberal Party of Canada, there is good investigative journalism. Our democracy depends on information, journalism and investigative journalism. Yet, what we have learned this fall about police surveillance of reporters is proof that the work of journalists and the sources on which they depend are in need of stronger legal protection.

I am reminded of the dedication of Carl Bernstein and Bob Woodward's *All the President's Men*:

> To the President's other men and women—in the White House and elsewhere—who took risks to provide us with confidential information. Without them there would have been no Watergate story.

Without investigative journalism and its sources, our democracy would be considerably weakened. That is why we should support Bill S-231 at second reading and send it to committee for thorough study and improvement.

Thank you.

(On motion of Senator Fraser, debate adjourned.)

LATIN AMERICAN HERITAGE MONTH BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Enverga, seconded by the Honourable Senator Stewart Olsen, for the second reading of Bill S-218, An Act respecting Latin American Heritage Month.

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

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Enverga, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.)

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

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

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on Energy, the Environment and Natural Resources (Budget—study on the effects of transitioning to a low carbon economy—power to hire staff), presented in the Senate on December 8, 2016.

Hon. Paul J. Massicotte moved the adoption of the report.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

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 ADOPTED

The Senate proceeded to consideration of the tenth report of the Standing Senate Committee on National Finance (Budget—study on the federal government infrastructure funding program—power to hire staff), presented in the Senate on December 8, 2016.

Hon. Larry W. Smith moved the adoption of the report.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

[*Translation*]

SENATE MODERNIZATION

TENTH REPORT OF SPECIAL COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the tenth report (interim) of the Special Senate Committee on Senate Modernization, entitled: *Senate Modernization: Moving Forward (Nature)*, presented in the Senate on October 26, 2016.

Hon. Serge Joyal moved the adoption of the report.

He said: Honourable senators, the tenth Senate report raises extremely important questions about the future of our institution since it primarily addresses institutional principles, the history of the Senate, and the role of our chamber as a complementary chamber within a bicameral Parliament.

• (2140)

[*English*]

I know the time is late in the evening, and this topic is opportune because we benefit from the presence of a large number of new senators in the Senate, and no doubt many will want to debate the issue.

Considering the late time, I move the adjournment under my name for the balance of my time to complete my presentation.

(On motion of Senator Joyal, debate adjourned.)

RELEVANCE OF FULL EMPLOYMENT

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Bellemare, calling the attention of the Senate to the relevance of full employment in the 21st century in a Globalized economy.

Hon. Grant Mitchell: Honourable senators, this is an important topic about which I need to give some greater consideration, so I would move the adjournment of this inquiry for the remainder of my time.

(On motion of Senator Mitchell, debate adjourned.)

SOFTWOOD LUMBER CRISIS

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Maltais, calling the attention of the Senate to the softwood lumber crisis.

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I see this is at day 14. It's a very important topic, so I would like to adjourn this item for the remainder of my time.

(On motion of Senator Martin, debate adjourned.)

[*Translation*]

BANKING, TRADE AND COMMERCE

MOTION TO AUTHORIZE THE COMMITTEE TO STUDY THE OPERATIONS OF THE FINANCIAL CONSUMER AGENCY OF CANADA, THE OMBUDSMAN FOR BANKING SERVICES AND INVESTMENTS AND THE CHAMBERS BANKING OMBUDS OFFICE—DEBATE ADJOURNED

Hon. Pierrette Ringuette, pursuant to notice of December 7, 2016, moved:

> That the Standing Senate Committee on Banking, Trade, and Commerce be authorized to:
>
> (a) Review the operations of the Financial Consumer Agency of Canada (FCAC), the Ombudsman for Banking Services and Investments (OBSI), and ADR Chambers Banking Ombuds Office (ADRBO);
>
> (b) Review the agencies' interaction 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, and ADRBO can better protect consumers and respect provincial jurisdiction; and
>
> That the Committee submit its final report no later than May 31, 2017, and retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

She said: Honourable senators, I too am aware of the time, so I will be quick.

I have been involved in consumer protection since 2006 as a member of the Standing Senate Committee on Banking, Trade and Commerce and in the context of various bills, including one to reduce usurious interest rates, which are now capped at 60 per cent in the Criminal Code. Seven times, I have introduced a bill to stabilize merchant credit card acceptance fees. Every one of my bills was defeated by the Conservative group. The Conservatives and the Harper government made these bills die on the Order Paper or ensured that the Standing Senate Committee on Banking, Trade and Commerce rejected them.

Since 2006, as a member of the Banking Committee, I have commented on and called for the review of the consumer protection framework as it pertains to the questionable and sometimes abusive practices of banks. Every time I spoke, Conservative senators, and one Liberal senator, did not hesitate to be somewhat dismissive, stating that the banks must abide by market forces and free competition. They said that the system

works well, that consumers have access to a reasonable complaint resolution system, and that dissatisfied clients can use the services of another bank.

In other words, the Conservative members of the Banking Committee are very satisfied with the complaint resolution system, the Financial Consumer Agency of Canada, the Ombudsman for Banking Services and Investments, and ADR Chambers Banking Ombuds Office.

Therefore, you will understand the relief I felt for consumers last week when Senator Joyal, whom I would like thank, in his speech on Bill C-29, quit rightly called on the Senate to adopt my motion that is before you this evening.

You will also understand that for the first time in 10 years, or since 2006, according to Senator Harder's speech, Minister Morneau has agreed that the Senate Banking Committee review the operations of the entities I just mentioned, their interactions, the relationship between consumer protection measures and provincial jurisdictions; that it review and determine the best practices from similar agencies in other jurisdictions; and, finally, that the committee submit recommendations to him by May 31, 2017.

Honourable senators, my enthusiasm may have gotten the better of me on that last point. In light of the arguments that Senator Tkachuk made last week, I believe that in order to do what is required we will need more time. At the end of my speech, I will move an amendment to my motion, whereby the committee shall submit its final report no later than October 31, 2017.

[*English*]

Honourable senators, I would hope that the Minister of Finance will extend his agreement to October 31, 2017. For the first time since 2006, we have an opportunity to modernize the framework and operation of consumer protection with respect to retail banking products and services.

Since I believe that our recommendations will be substantive, and through Senator Harder, the minister and the government have committed to consider our recommendations over the course of 2017, and within the 2019 review of the Bank Act, we can certainly fulfill our mandate in providing sober second thought, along with respecting jurisdictions while hearing from and giving voice to Canadian consumers direly missing on this issue.

• (2150)

I also hope that the Minister of Finance will have the time to engage in meaningful conversation with his provincial counterparts with regard to consumer protection, which should include provincial provisions concerning abusive practices with the payday loan industry within the provincial jurisdictions.

Honourable senators, in the pre-study of Bill C-29, Division 5 was referred to the Senate Banking Committee. We had one meeting on Division 5, where we had witnesses from the Department of Finance, the Financial Consumer Agency of Canada, the two ombudsman entities, the Canadian Bankers Association and, very importantly, John Lawford of the Public Interest Advocacy Centre and Professor Saul Schwartz from the School of Public Policy and Administration, Carleton University.

I could hardly contain my frustration after hearing the industry remarks at committee with regard to the federal system currently in place to deal with consumer complaints. I dare repeat myself — Senator Pratte, you are not the only one who will be quoting yourself today — we have "a trio of accommodation" for the banking sector. This was not the first time I said so at the Banking Committee.

Our committee report on the pre-study of Division 5 of Bill C-29 states the following:

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

Not very forceful, you will say.

Honourable senators, last week, Wednesday, December 7, after I tabled my notice of motion to study the issue presently, and just after Senator Joyal's speech, this chamber adopted, without reservation or amendment, the pre-study report from the Banking Committee to study only Division 5, that is, the financial consumer protection framework, in 2019. We approved that report from the Banking Committee. The only dissenting voice from unanimous approval in this chamber was Senator Plett.

My motion will have us undertake this comprehensive study in 2017, two years sooner, and with the probable input of legislation as early as next year.

The need for the Senate to address this issue is long overdue, and finally there is light at the end of the tunnel. Our job to protect the voiceless, the minorities, and our Constitution is of utmost importance. Let us move forward so that Canadians can have access to a modern and effective federal consumer protection system that works in tandem with provincial consumer protection. Canadian consumers deserve no less.

(On motion of Senator Tkachuk, debate adjourned.)

SENATE MODERNIZATION

SPECIAL COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT

Hon. Tom McInnis, pursuant to notice of December 7, 2016, moved:

> That, notwithstanding the order of the Senate adopted on Tuesday, May 17, 2016, the date for the final report of the Special Senate Committee on Modernization in relation to its study of methods to make the Senate more effective within the current constitutional framework be extended from December 15, 2016 to June 30, 2017.

He said: Honourable senators, the motion speaks for itself. We have a strong agenda, and we're simply asking for an extension for the final report. I think we were overly optimistic when we said December 15. We are looking for an extension to June 30, 2017.

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

Hon. Senators: Agreed.

(Motion agreed to.)

ABORIGINAL PEOPLES

COMMITTEE AUTHORIZED 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, pursuant to notice of December 8, 2016, moved:

> 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.

She said: Honourable senators, I think I will adopt the same words that Senator McInnis just used. Our committee was optimistic that we could have our report on housing done by the end of this year, but we have had other items on our agenda, notably dealing with Bill S-3, An Act to amend the Indian Act (elimination of sex-based inequities in registration), which has taken more of our time than we had anticipated. Therefore, we would like to extend our report to March 31, 2017.

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

Hon. Senators: Agreed.

(Motion agreed to.)

NATIONAL SECURITY AND DEFENCE

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

Leave having been given to revert to Motions, Order No. 149:

Hon. Daniel Lang, pursuant to notice of December 8, 2016, moved:

> 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.

He said: Honourable senators, I would like to move the motion in my name. We're extending the date for the purpose of the report that's being called for through the defence policy review. We want to extend the time from December 16 to June 30.

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

Hon. Senators: Agreed.

(The Senate adjourned until tomorrow at 2 p.m.)

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Monday, December 12, 2016

Published by the Senate

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