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(HANSARD)

Tuesday, June 13, 2017

The Honourable GEORGE J. FUREY
Speaker

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THE SENATE

Tuesday, June 13, 2017

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

Prayers.

SENATORS' STATEMENTS

THE LATE WENDY ROBBINS

Hon. Nancy Hartling: Honourable senators, I rise today to pay tribute to Dr. Wendy J. Robbins from Fredericton, New Brunswick, who died suddenly from a brain aneurysm on April 18 at only 68 years old.

[Translation]

It is always a shock to learn of the unexpected death of someone our age.

[English]

New Brunswick lost one of its most enthusiastic feminist activists, and we are mourning this great loss.

In three minutes, it is hard to capture the essence of Wendy. What struck me the most about her was that she was always a passionate advocate for women's rights and gender equity in the academic and political spheres. She helped others fly. She was determined and not afraid to speak out about injustices.

Wendy was well-known not only in New Brunswick but, indeed, across Canada for her impressive accomplishments. She was the first woman to be promoted to full professor of English at the University of New Brunswick in 1988. She founded UNB's Gender and Women's Studies program, and cofounded PAR-L, which stands for Policy, Action, Research - List, one of the world's first feminist online discussion lists.

For her contribution to women's equality, she received the Governor General's Award in Commemoration of the Persons Case in 2007.

Wendy vigorously supported access to reproductive justice and medically assisted dying.

[Translation]

Following Trump's election, Wendy joined thousands of women in Washington to march with her pink pussy hat.

[English]

It is important to note that her last public function was on the eve of her aneurysm, at a Liberal fundraiser in Saint John, New Brunswick, where she chatted passionately with former Prime Minister Jean Chrétien about political ideas to get more women

elected. In the *Globe and Mail* tribute article, there is a photo of Wendy with her beaming smile as she stands between him and Premier Brian Gallant. Friends who attended told me she had a great evening and enjoyed talking about politics and possibilities.

I know that she had applied to be appointed to the Senate, and believe me, friends and colleagues, she would have really added value and a lively spirit to this place.

Wendy was a mother and proud grandmother of five grandchildren, and her family will feel her loss deeply.

[Translation]

We extend our deepest condolences to them.

[English]

Recently, her friend Heather stated that Wendy would want us to live the way she lived every single moment of her life: with optimism, fighting to make a better world, loving each other, showing compassion, showing vulnerability and living with zest.

Honourable senators, life is short and each day counts, so it is my hope that each of you will continue to work as Wendy did, striving to better our world and create a society where social justice and equality prevail.

Though no longer with us physically, her memory will live on through the recently created Wendy J. Robbins Women's Empowerment Fund, which will be used to support women's public participation and personal autonomy. Thank you.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of the Philippine Ambassador to Canada, Petronila P. Garcia. The ambassador is accompanied by Embassy Officers Francisco Noel R. Fernandez, III; Eric Gerardo E. Tamayo; Greg Marie Marino; Jeffrey P. Salik and Siegfried Masangkay. They are the guests of the Honourable Senator Enverga.

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

Hon. Senators: Hear, hear!

PHILIPPINE INDEPENDENCE DAY

ONE HUNDRED AND NINETEENTH ANNIVERSARY

Hon. Tobias C. Enverga, Jr.: Honourable senators, *mabuhay!*

Those are greetings in my native language.

I rise today to mark a very special occasion in the Filipino community. Yesterday, Filipinos around the world, including the vast Filipino-Canadian community here at home, celebrated the one hundred and nineteenth Philippine Independence Day.

This day commemorates the Philippine Declaration of Independence from Spain on June 12, 1898. As celebrations for this event abound in the month of June, Filipino-Canadians come together to celebrate the traditions and customs that are unique to Filipinos' and Philippines' culture. It is these very celebrations that are a benefit to Canadian society, as they assist in making Canada the multicultural mosaic that we hold so dear. We would like to honour the contributions of Filipino-Canadians from coast to coast to coast.

I would like to note that the Canada-Philippines Interparliamentary Group will be holding our fifth annual Philippine Independence Day flag-raising on the Hill this upcoming Saturday, June 17. I hope that colleagues here will be able to come out and join in our celebrations.

Finally, I wish to thank the Philippines Ambassador, Petronila P. Garcia, as well as the delegation of embassy officers, for being present in the gallery today to join me in commemorating this, the Philippines' one hundred and nineteenth Independence Day.

Maligayang araw ng kalayaan!

Happy Philippines Independence Day!

[Translation]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Yannick and Tristan Fréchette. They are the sons of the Honourable Senator Gagné.

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

Hon. Senators: Hear, hear!

AFFIRMATIVE ACTION

THIRTIETH ANNIVERSARY OF SUPREME COURT DECISION

Hon. Renée Dupuis: Honourable senators, I rise today to commemorate the ruling brought down by the Supreme Court of Canada 30 years ago in June 1987, in the case that pitted Action Travail des Femmes against the CN Railway. This was an historic ruling in Canada on so many levels.

First, it enshrines the legal concept of systemic discrimination, discrimination that excludes women, which is included in

workplace policies and practices, and the prejudices often held or tolerated by those in positions of authority.

• (1410)

This ruling is particularly instructive because the judges' reasoning was based on clear evidence that human resources management policies were designed to exclude women for no good reason from CN jobs that had been an exclusively male preserve until then. The evidence showed that CN management was aware of the situation and had done nothing to remedy the discrimination or pervasive harassment.

Here is an excerpt from the Supreme Court's ruling:

Another hurdle placed in the way of some applicants, including those seeking employment as coach cleaners, was to require experience in soldering.

The ruling also states:

The evidence indicated that the foremen were typically unresponsive to female candidates.

In short, the evidence indicated clearly that the recruitment, hiring and promotion policies at CN prevented and discouraged women from working on blue-collar jobs. More importantly, a study conducted in 1974 for upper management identified the following three problems, which are quoted in the ruling:

1. Lack of definitive executive management commitment
2. Traditional beliefs by managers and women in the many negative myths and stereotypes about working women

We know that no job is by nature a man's job, but as the ruling illustrates in this case, several technical jobs were and still are reserved for men because of discrimination.

Second, the ruling established a frame of reference for remedying past systemic discrimination through catch-up provisions, also known as "employment equity programs".

More importantly, this decision confirms that one of the aims of the Canadian Human Rights Act, passed in 1978, is to take remedial action for the harm caused to victims of discrimination and not to punish the perpetrators or discriminatory choices. It is a clear principle that still applies to this day.

Third, this decision is also important because it represents the culmination of decades of struggles by women's groups that have been working hard, with limited resources, to put an end to discrimination.

It is the result of the resolve of a group of women navigating the labyrinth of legal proceedings, beginning with a complaint filed in 1981 with the Canadian Human Rights Commission, all the way to the highest court of the land, the Supreme Court, in 1987.

The Hon. the Speaker: I'm sorry, senator, your time has expired.

[English]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of cast members from the Saskatchewan film, *Reserve 107*. They are the guests of the Honourable Senator Dyck.

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

Hon. Senators: Hear, hear!

ABORIGINAL HISTORY MONTH

Hon. Lillian Eva Dyck: Honourable senators, this month is National Aboriginal History Month and fast approaching is the celebration of Canada 150. As Canada looks ahead in renewing its relationship with the indigenous people of Canada, it is important that we learn from the past. We must acknowledge the past, honour past obligations, such as the treaties, and move forward together, indigenous people and settler Canadians, hand in hand, in respecting and fighting for and supporting each other's rights; only then will reconciliation and healing begin.

Tonight, please join me and Senator Tannas as co-hosts of the award-winning film *Reserve 107*, which documents a story of reconciliation in Saskatchewan.

The film *Reserve 107* looks at the journey taken by the Young Chippewyan First Nation and the Lutheran and Mennonite settlers in Laird, Saskatchewan, where an old injustice is providing new opportunities for dialogue, friendship and a fierce determination to right the wrongs of the past. After discovering that the land they had settled on was in fact land that Canada improperly took from the Young Chippewyan band, the inhabitants of Laird joined together with the Young Chippewyan First Nation to pressure the government to acknowledge their wrongdoing and honour the outstanding land claims of the Young Chippewyan outlined in Treaty 6. To this day, the people of Laird continue to fight together for justice and will not rest until the Young Chippewyan receive proper restitution for the land taken from them by the federal government.

Honourable senators, with us today in the gallery are some of the people who were involved in the making of *Reserve 107*.

Gary Laplante is a Young Chippewyan First Nation councillor.

Leonard Doell is a coordinator for the Indigenous Neighbours program of the Mennonite Central Committee in Saskatoon.

Wilmer and Barb Froese are farmers from the Laird district.

Jason Johnson is the pastor of the St. John's Lutheran Church in Laird.

Brad Leitch is the director of the film.

And Rarihokwats is an Elder, a member of the Bear Clan, Mohawk Nation at Akwesasne. He is a historian and genealogist whose research and work was invaluable in supporting the land claim of the Young Chippewyan.

Honourable senators, the *Reserve 107* film will be shown this evening at six o'clock in room 160-S, Centre Block, the Aboriginal room. I invite all of you to join me and our special guests to view the film, to eat some traditional tasty bites and to participate in a panel discussion with our guests.

Thank you. *Miigwetch*.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of students and staff from Islington Junior Middle School, accompanied by Principal Rocco Coluccio and two members of the teaching staff. They are the guests of the Honourable Senator Marwah.

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

Hon. Senators: Hear, hear!

YUKON

ONE HUNDRED AND NINETEENTH ANNIVERSARY OF JOINING CONFEDERATION

Hon. Daniel Lang: Honourable colleagues, I rise to celebrate the one hundred and nineteenth anniversary of Yukon joining Confederation, on June 13, 1898.

Although a relative latecomer to Confederation, Yukon is actually the oldest continually inhabited part of North America — it's a place where our first peoples have thrived for at least 10,000 years.

With the arrival of the Europeans in the 1840s, the Hudson's Bay Company extended its search for fur right up to the Arctic, administering a vast space that was then known as Rupert's Land. And in 1870, the young Dominion of Canada swept across the continent by purchasing the vast space and renaming it the Northwest Territories.

And then we struck gold. It was on Rabbit Creek, soon to be named Bonanza Creek, a tributary of the Klondike River, where gold was first found in 1896.

By the summer of 1897, tens of thousands of would-be prospectors, for the most part Americans, were rushing up the Pacific coast, through the perilous Chilkoot Pass to the Yukon, all in search of their fortune. From this gold rush sprouted Dawson City.

Meanwhile, in Ottawa, not only did the federal government realize the need for local government in Yukon, but with the United States' control over Alaska, purchased from the Russians in 1867, and an expanding population, Canada's leaders feared American influence in Yukon.

In order to counteract that threat, on June 13, 1898, 119 years ago to this day, the Parliament of Canada passed the Yukon Territory Act and created Yukon as a separate territory, naming as its capital Dawson City.

Since then, we've been proud Canadians, often punching above our weight. When the First World War broke out, a staggering proportion of Yukoners volunteered to fight for King and country, including at Vimy Ridge. The same occurred during the Second World War, where Yukoners participated valiantly.

Since that time and in partnership with the federal government, Yukon has evolved into an exciting, modern and well-governed territory, which attracts tourists and new residents from around the world. In 1975, Yukon was given representation in the Senate of Canada.

Colleagues, we in Yukon are blessed to have established an Umbrella Final Agreement over 20 years ago with our First Nations communities and 11 of our 14 First Nations have established self-governance. We increased the literacy rate, level of education and quality of governance, while at the same time promoting the development of our mining industry and good stewardship of the environment.

We are proud to be part of the Canadian federation as we celebrate Canada's one hundred and fiftieth birthday.

[Translation]

ROUTING PROCEEDINGS

INFORMATION COMMISSIONER

ACCESS TO INFORMATION ACT AND PRIVACY ACT— 2016-17 ANNUAL REPORTS TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the reports of the Office of the Information Commissioner of Canada for the fiscal year ended March 31, 2017, pursuant to the Access to Information Act and to the Privacy Act.

• (1420)

[English]

AUDITOR GENERAL

ACCESS TO INFORMATION ACT AND PRIVACY ACT— 2016-17 ANNUAL REPORTS TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the reports of the Office of the Auditor General of Canada for the fiscal year ended March 31, 2017, pursuant to the Access to Information Act and to the Privacy Act.

RECOGNITION OF CHARLOTTETOWN AS THE BIRTHPLACE OF CONFEDERATION BILL

EIGHTEENTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

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

Tuesday, June 13, 2017

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

EIGHTEENTH REPORT

Your committee, to which was referred Bill S-236, An Act to recognize Charlottetown as the birthplace of Confederation, has, in obedience to the order of reference of February 28, 2017, examined the said bill and now reports the same with the following amendments:

1. Preamble, page 1:

(a) Replace line 9 with the following:

“and grew out of the Charlottetown Conference form part of”; and

(b) replace lines 23 and 24 with the following:

“anniversary of the Charlottetown Conference, which, along with the Quebec Conference of 1864 and the London Conference of 1866-1867, led to the promulgation of the *Constitution Act, 1867*”.

2. *Clause 2, page 2:* Replace line 4, in the French version, with the following:

“est reconnue et déclarée comme étant le berceau de la Confédération”.

3. *New clause 3, page 2:* Add the following after line 4:

“3 For greater certainty, nothing in this Act constitutes a designation within the jurisdiction of the Minister responsible for the Parks Canada Agency under the *Parks Canada Agency Act*.”.

Respectfully submitted,

BOB RUNCIMAN

Chair

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

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

[Translation]

THE SENATE

NOTICE OF MOTION TO EXTEND WEDNESDAY'S SITTING AND AUTHORIZE COMMITTEES TO MEET DURING SITTING OF THE SENATE

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

That, notwithstanding the order adopted by the Senate on February 4, 2016, the Senate continue sitting on Wednesday, June 14, 2017, pursuant to the provisions of the Rules;

That committees of the Senate scheduled to meet on that day be authorized to sit after 4 p.m. even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto; and

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

BUDGET IMPLEMENTATION BILL, 2017, NO. 1

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-44, An Act to implement certain provisions of the budget tabled in Parliament on March 22, 2017 and other measures.

(Bill read first time.)

[Senator Runciman]

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

[English]

Hon. Yuen Pau Woo: Honourable senators, with leave of the Senate and notwithstanding rule 5-6(1)(f), I move that the bill be placed on Orders of the Day for second reading later this day.

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

Hon. Senators: Agreed.

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

[Translation]

NOTICE OF MOTION TO INSTRUCT NATIONAL FINANCE COMMITTEE TO DIVIDE BILL INTO TWO BILLS

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

That it be an instruction to the Standing Senate Committee on National Finance that it divide Bill C-44, An Act to implement certain provisions of the budget tabled in Parliament on March 22, 2017 and other measures, into two bills, in order that it may deal separately with the provisions relating to the Canada Infrastructure Bank contained in Division 18 of Part 4 in one bill and with the other provisions of Bill C-44 in the other bill.

[English]

QUESTION PERIOD

FINANCE

INDEXED TAX ON BEER, WINE AND SPIRITS

Hon. Larry W. Smith (Leader of the Opposition): My question today for the Leader of the Government in the Senate once again concerns the impact on the beer, wine and spirits industry of the excise duty escalator in Bill C-44, by which tax increases will be automatically indexed to the rate of inflation year after year.

Senator Harder, in answering my question last week, you stated:

Let me assure him and all senators that, as in all tax measures, the Department of Finance did undertake an impact analysis. I am assured by the analysis that the

measure will increase the rate of excise nominally; I believe it is five cents on a case of beer.

I believe the 5-cent figure the Government Leader was referring to was the impact of raising the excise tax by 2 per cent immediately, as Bill C-44 requires.

Meanwhile, in our National Finance Committee meetings, the chief of the Sales Tax Division in the Tax Policy Branch of the Department of Finance Canada stated, on the escalator tax:

No estimates were made because the effect was considered too small to have an impact, especially because the 2 per cent is being applied to a component that is already very small in relation to the final price of the product projected to the consumer.

Luke Hartford, president of Beer Canada also confirmed that their industry was not consulted on the escalator tax.

Senator Harder, could you please confirm that no specific analysis was conducted on the escalator tax? If this is true, indeed, then why did your government decide to go ahead with the escalator tax, without at least giving some thought or consideration to its impact?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. I want to assure the honourable senator that, in making this decision as part of the budget, the Minister of Finance did review with his officials the effect of the excise tax that is being proposed in this legislation.

He is correct in pointing to its minimal increase. I'm informed that the increase represents 7 cents per bottle of spirits and less than 1 cent per bottle of wine and about 5 cents per case of 24 beers.

I would also point out that Canadian vintners will continue to benefit from a full exemption from the excise duty on wine produced from 100 per cent Canadian grown agricultural products.

The annual inflation adjustments will provide alcohol producers with greater certainty in the future and are in line with the actions taken by many provinces. I daresay, with respect to tobacco, actions taken in the 2014 budget.

Senator Smith: Thank you for your response. Of course, the previous government did implement a tobacco tax. The difference was that there was a five-year review period before any increase took place.

What I would really ask you because we never discussed the implications, not only on a federal level but provincial GST, PST, the whole implication of tax that has a trickledown effect, is: Would you please ask the Minister of Finance, because you mentioned earlier that he did review this, to confirm that no analysis had been done regarding the escalator tax on beer, wine and spirits? While you're seeking the response, could you please make an inquiry regarding other potential taxes your government is considering with escalation, without proper parliamentary scrutiny or accountability?

Senator Harder: I will, of course, give the honourable senator the assurance that I will raise this with the minister. I would expect that the Senate will raise it with the minister when he appears before the Senate with respect to Bill C-44, which was just introduced.

• (1430)

Hon. Frances Lankin: My question is to the Government Representative in the Senate. Could you add to that inquiry? It's not only analysis with respect to the tax implications and the tax sharing room between provincial and federal levels but also analysis with respect to the impact on the industries.

You know that I come from the province of Ontario. This is a large industry in Ontario. The ownership structures have changed of late and the intended investment within this industry has been up and down with respect to its fortunes and its futures. I want to see an analysis on the impact of having an escalator clause into the future in terms of destabilizing investment plans.

I would appreciate it if you could seek an answer on that as well.

Senator Harder: Thank you, senator. I definitely will.

My understanding is that the intent of the escalator clause is to provide certainty to the industry with respect future inflationary increase being the adjustment that would be affected. But I will, as you request, make that inquiry.

[Translation]

INTERNATIONAL TRADE

SOFTWOOD LUMBER

Hon. Ghislain Maltais: Honourable senators, my question is for the Leader of the Government in the Senate. This morning, the Conference Board of Canada warned Canadian softwood lumber producers that a new trade war would hit them hard. The industry will spend \$1.7 billion in duties annually, cut 2,200 jobs, and lose \$700 million.

In April, the U.S. Department of Trade decreed that there would be a 3 per cent to 24 per cent tax for the five main Canadian softwood lumber exporters. For the rest of the industry, the tax would go up to 19.88 per cent. However, a ruling on anti-dumping duties could translate into an extra levy of 10 per cent for a total of 29.88 per cent in taxes.

The Minister of Foreign Affairs, Chrystia Freeland, did not paint a very good picture of the negotiations between the two countries. Frankly, she is discouraged and is at her wit's end. She has nothing left to say to the press, the provinces, the industries, and especially the workers. The minister says that Canada and the United States are far from reaching common ground.

That being said, can the Leader of the Government in the Senate tell us what the government has in mind for a plan B? Canada's situation is quite specific compared to that of the United States. What information can the Leader of the Government share with Canadians?

[English]

Hon. Peter Harder (Government Representative in the Senate): Again, I thank the honourable senator for his question and his ongoing interest in softwood issues. I would make the following points.

Minister Freeland has indicated the challenges that these negotiations are facing. The position of the Government of Canada, quite understandably, is one that seeks an agreement that is in the interest of Canada and that is fair to Canadian producers. That remains the objective and the negotiating position of the Government of Canada, as it continues to negotiate actively with our American counterpart.

In the meantime, of course, the government has announced and is implementing a series of measures to deal with the affected communities. That announcement has been made and is in the process of being implemented.

The final point I'd make is that the Canadian Ambassador to the United States is appearing before the Senate Foreign Affairs Committee formally, and there is also a meeting later tomorrow with the ambassador for those senators who wish to discuss bilateral issues with the United States, including softwood lumber. This is an issue of high priority for the Government of Canada. These are very important negotiations and it is very important that we get this right.

[Translation]

Senator Maltais: Can the Leader of the Government confirm in this chamber that any NAFTA talks will not take precedence over softwood lumber negotiations?

[English]

Senator Harder: Again, I thank the honourable senator for his question. The negotiations with respect to NAFTA are proceeding, as the senator will know, on a separate track. It is the position of the Government of Canada that the softwood lumber issue be resolved immediately and with the appropriate attention of the interested parties at the highest priority. That remains the position of the Government of Canada. But, again, it takes two sides to reach an agreement that is fair.

INTERNATIONAL DEVELOPMENT

FEMINIST DEVELOPMENT POLICY

Hon. Mobina S. B. Jaffer: My question is to the leader.

Leader, I was very pleased to see that the Minister of International Development, Minister Bibeau, has brought in a so-called feminist development policy. From what I can see, it means reaching out to women. Can you, who are privy to these things, explain exactly what a feminist development policy is all about?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question and for highlighting the very significant statement that was made by the

Minister of International Development recently as part of the foreign policy repositioning of this government from Minister Freeland to the Minister of Defence, to also the Minister of International Assistance.

It is the position of the government that it is putting forward a feminist international assistance policy to promote greater gender equality and the empowerment of women and girls. For Canada, we view this as the best way to reduce poverty and create a world that is more inclusive, more peaceful and more prosperous. The decision to adopt this feminist policy is based on the needs of the poorest and most vulnerable, the results of an extensive consultation process with Canadians and with the international community, the evidence that has been developed within the development industry, as well as to reflect Canadian values and expertise. We also know that women and girls are the poorest and also the most vulnerable to poverty, violence and even climate change. But when we give them the means to develop their full potential, they become powerful agents of change, development and peace, and everyone benefits from their actions — their communities, men, boys and other vulnerable groups.

The final point I'd make is that the budget has allocated that projects dedicated to promoting gender equality and the empowerment of women and girls be increased from 2 per cent to 15 per cent over five years, with a commitment of \$650 million over three years. The government is doubling its investment in sexual and reproductive health rights. We are significantly improving, as a government, maternal and newborn health.

Senator Jaffer: Leader, when I read what the minister was trying to do, I couldn't help but feel real pride, because it's the women who do the development work and now we are empowering them. That's a very good thing.

Where I'm having difficulty and would appreciate clarification is we now have a feminist development or international aid policy. Is our foreign policy the same?

Senator Harder: I thank the honourable senator for her question. This is a bit of a follow-up from the question that she posed last week.

It's certainly the view of the Government of Canada that the three policy thrusts are mutually reinforcing and, as the Minister of Foreign Affairs made clear in her presentation, the priorities of the government are integrated. I could cite further directions in international development assistance which were alluded to but not fleshed out entirely in Minister Freeland's speech. So, yes, they are integrated and part of a whole of the government's approach to international development, foreign policy, foreign aid and, indeed, defence.

Senator Jaffer: Leader, I said — and I genuinely meant it — that I'm so happy with what Minister Bibeau has done. I know you and I are reading the foreign policy statement differently, but after what you said, I looked at the statement carefully and only saw the word "woman" a few times. What really disappointed me on the foreign policy part was that we are in the forefront. We, in 2000, were the country that fought for women, peace and security in Resolution 1325. It seems that that women empowerment has completely disappeared. Am I correct on that?

• (1440)

Senator Harder: Thank you, Senator Jaffer, for your question. I wouldn't want to say you're incorrect because that would be impolite, but it's certainly the view of the Government of Canada that one department, Global Affairs Canada, encompasses all of the instruments of the Government of Canada from a policy point of view, and they are coherent and integrated. That very much feminist policy that is particularly articulated on the development side within the umbrella provided by the Minister of Foreign Affairs is the very heart of the government's international agenda.

[Translation]

CITIZENSHIP, IMMIGRATION AND REFUGEES

FRANCOPHONE IMMIGRATION

Hon. Raymonde Gagné: My question is for the Government Representative in the Senate. It is about the report tabled last week by the Office of the Commissioner of Official Languages. According to the 2016-17 annual report, language proficiency tests for French-speaking economic immigration applicants are more expensive than the English tests and not as geographically accessible, and service delivery timeframes are longer.

Why are services not equally available in English and French? When will the minister eliminate these obstacles to francophone immigration to Canada?

[English]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question. Last week Senator Smith was kind enough to point out his son in the gallery before he posed his question. I indicated that, "You must be grateful to have your son up there. I'm grateful mine isn't," which is what I said last week.

But I do appreciate the question. The government takes the report seriously. The minister is reviewing its findings and will respond in due course. This is a matter of high priority. The Minister of Immigration, when he was here taking questions in the Senate, referred to the concern that we have a robust francophone immigration dimension, and this is one of the pieces that would allow us to achieve that objective.

[Translation]

Senator Gagné: The issue was brought to the minister's attention in 2015 after the investigation began. Why did so much time pass between the beginning of the investigation and the problem being brought to light? Why has the government not yet responded to this?

[English]

Senator Harder: I can't answer that, senator. I would be happy to raise the subject with the minister.

I would note, though, that the minister and his predecessor minister have indicated priority attention to this while engaging in other serious reforms of the immigration program, and I will bring this to his attention.

INNOVATION, SCIENCE AND ECONOMIC DEVELOPMENT

FOREIGN INVESTMENT—NATIONAL SECURITY

Hon. Thanh Hai Ngo: Honourable senators, my question is for the Leader of the Government in the Senate. Last week, Norsat International, a Vancouver high-tech firm, was sold to China. According to *The Globe and Mail*, this private communications company served customers like NATO, the U.S. Department of Defense, the U.S. Marine Corps, the U.S. Army, the Irish Department of Defence, the Taiwanese army, the aircraft manufacturing company Boeing and major journalism outfits, including CBS News and Reuters.

The national security provision of the Investment Canada Act requires the Minister of Industry to consider the sensitive information and the potential third-party influence involved in this transaction. The third party in this case includes the Chinese Communist Party, who has the ultimate say in state-owned enterprise. Under the same act, the government only has the responsibility to consider some factors as they relate to economic and national security before the transaction is approved.

Senator Harder, the minister has a lot of discretion in this matter. He, therefore, has a duty to explain to Canadians what potential security impacts he would consider before he determines there are no outstanding national security concerns associated with these foreign acquisitions.

Can you clarify what security factors he tested and considered in his determination before reaching the decision not to conduct a full-fledged national security review?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. He will know that under the Investment Canada Act, the national security review process applies to all investments. Under the process, security agencies have an initial 45 days or longer to review an investment to determine whether it has the potential to impact national security.

In this case, the minister responsible, Minister Bains, issued a notice to double the time available for security agencies to complete their examination. In this process, security agencies obviously had access to all information and intelligence needed to make a determination. At the end of that period, the minister concluded his responsibilities and allowed the transaction to proceed, as no further security issues were identified.

Senator Ngo: We must recognize that China has state-owned enterprises and mergers in the monopoly environment, profit from unfair trade practices, access to massively subsidized, state-banned financing and are run by members of the Communist Party elite who are locking down resources around the world.

If the minister is so set on not reviewing the potential harm to our national security, then would he testify before the Senate before China continues to put Canadian companies in key trade sectors?

Senator Harder: Two points, honourable senator. The first is that the minister in fact reviewed and exercised his responsibilities as the law requires and has stated so publicly.

With regard to appearing before this committee, that is in the hands of the committee.

JUSTICE

NEW BRUNSWICK—JUDICIAL ADVISORY COMMITTEE

Hon. Paul E. McIntyre: Honourable senators, my question is for the Government Representative in the Senate. It has to do with Judicial Advisory Committees.

As you know, across the country new Judicial Advisory Committees have been set up to recommend the appointment of judges to superior courts. Currently, all seven Judicial Advisory Committee positions in New Brunswick are vacant, putting the province at the back of the pack of 17 committees across the country along with five other jurisdictions.

New Brunswick lawyers have been describing the situation as one facing a crisis. As a matter of fact, in a letter to the federal Minister of Justice, President of the Law Society of New Brunswick, George Filliter, writes:

The Saint John dockets are clogged and there is little meaningful or timely access to justice for family litigants.

Senator, could you address this issue with the federal Minister of Justice and ask her when she will appoint a new judicial advisory committee, a seven-member screening panel for New Brunswick? The crisis has now reached other areas of practice; this time, family law.

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question and would be a happy to do so.

Senator McIntyre: In bringing this matter to the attention of the minister, could you also remind her that the Law Society of New Brunswick submitted names in December of last year for the seven-member panel and has not yet received a positive response?

Could you also remind her that even if the New Brunswick committee was set up this week, it could be months before the members are ready to recommend the appointment of judges? Time is of the essence.

Senator Harder: I shall, indeed.

INTERNATIONAL TRADE

EXPORT OF PULSE CROPS TO INDIA

Hon. Victor Oh: Honourable senators, my question is for the Government Representative in the Senate and concerns a matter that has been raised with you before. The issue is Canada's export of peas and lentils to India.

India is Canada's largest market for pulses. At the end of last March, India granted Canada another exemption from the pest control requirements on our pea and lentil exports to the country. This exemption expires in about two weeks, at the end of June.

Could the government leader please update all honourable senators on negotiations with India? Does the Government of Canada expect a long-term science-based resolution will be found in the next two weeks or is there another short-term exemption?

• (1450)

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question, and I'll be happy to seek an update from the minister responsible. The senator will know that when he last asked the question, the minister was at the time in India seeking that extension and indicating that it was the hope of the Government of Canada to have a long-term solution. That remains the position of the Government of Canada, but I will inquire as to the state of the negotiations.

Senator Oh: In April we learned of a second problem coming this way. We learned that Pakistan may also impose similar fumigation requirements on Canada's pulse shipments to the country. Could the Leader of the Government in the Senate please make an inquiry and tell us the status of the negotiations with Pakistan on this matter?

Senator Harder: I would be happy to do so.

[Translation]

NATIONAL DEFENCE

ICEBREAKER FLEET

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

On November 3, 2016, I asked you here in the Senate about the appalling state of the icebreakers navigating in the St. Lawrence Seaway and in the Arctic.

My question was in reference to a televised report that revealed that the Government of Quebec and some Canadian exporters were worried about the deterioration of essential equipment and were urging the federal government to invest the necessary funds to meet our needs in light of the seaway's strategic location.

Your reply, in part, was as follows, and I quote:

... I would be happy to articulate in greater detail what that [infrastructure] program will look like over the coming number of years.

I am still waiting for those details.

In addition, we learned today that an important multi-million dollar scientific mission to study climate change in the Arctic, in which 40 Canadian scientists were supposed to take part, was completely cancelled yesterday. Why? It was cancelled because the Canadian Coast Guard requisitioned the icebreaker *Amundsen* to carry out icebreaking operations off the coast of Newfoundland and Labrador, eating away at the time dedicated to science, because the other icebreakers in Canada's aging fleet are all undergoing maintenance right now and, so, are out of service.

When will the government make meaningful investments in renewing Canada's fleet of icebreakers?

[English]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question and will make inquiries and report back.

[Translation]

ORDERS OF THE DAY

CONVEYANCE PRESENTATION AND REPORTING REQUIREMENTS MODERNIZATION BILL

BILL TO AMEND—MESSAGE FROM COMMONS—AMENDMENT

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-233, An Act to amend the Customs Act and the Immigration and Refugee Protection Act (presentation and reporting requirements), and acquainting the Senate that they had passed this bill with the following amendments, to which they desire the concurrence of the Senate:

Clause 7, page 4: In the English version, replace line 17 with the following:

“side Canada and then leaves Canada, as long as”

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

Hon. Bob Runciman: With leave of the Senate, I move that the amendment be placed on the Orders of the Day for consideration later this day.

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

Hon. Senators: Agreed.

(On motion of Senator Runciman, amendment placed on the Orders of the Day for consideration later this day.)

[English]

CANADIAN HUMAN RIGHTS ACT CRIMINAL CODE

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

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Gagné, for the third reading of Bill C-16, An Act to amend the Canadian Human Rights Act and the Criminal Code.

And on the motion in amendment of the Honourable Senator Plett, seconded by the Honourable Senator Unger:

That Bill C-16 be not now read a third time, but that it be amended on page 2, by adding the following after line 3:

“2.1 The Act is amended by adding the following after section 4:

4.1 For greater certainty, nothing in this Act requires the use of a particular word or expression that corresponds to the gender identity or expression of any person.”.

Hon. Scott Tannas: Colleagues, I just want to take a couple of minutes to talk on Senator Plett's amendment for Bill C-16. I support the amendment and I support the bill and look forward very much to voting twice on this matter.

I support Senator Plett's amendment because I think it's a logical extension of the spirit of the bill. Bill C-16 is intended to make something explicit that's already implied. The entire argument on both sides is, we need to make this explicit. The argument on the other side is: “It's already covered; you don't need to worry about it. It's already there for people.”

I find that this amendment has a similar argument. It was interesting, as I listened carefully to the debate last week, that it seemed like the teams changed sides. Those who want an explicit bill in Bill C-16 didn't want an explicit amendment about something that everybody agreed was important and was implied. Nonetheless, I thought there were some very eloquent interventions by Senator McPhedran, Senator Gold, Senator Mitchell and others. But for me, I do favour the idea of being clear and explicit, especially when it comes to concerns.

Colleagues, we've seen some surveys by very reputable survey organizations that say that the vast majority of Canadians support the intentions behind Bill C-16, and I'm one of them.

I think it's fair to say that social progress, when it comes, typically will engender fear of change, and it always seems to be the absurdities at the margin of that social change that attract attention and help stoke fear. I think it is fair to say that the compelled speech issue and the Zur and the Ze and all of that stuff that has been in the media is an absurdity at the margin. I think it's fair to say, although there has been no polling on it that I've been able to find, that a majority of Canadians would find those notions absurd, and they would want to make sure that they were not ever compelled into a situation such as was described by the university professor that we've heard so much about.

For those reasons of clarity, being explicit and being clear, I intend to support Senator Plett's motion, which I hope we will vote on very soon.

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

Hon. Senators: Question.

The Hon. the Speaker: In amendment, it was moved in by the Honourable Senator Plett, seconded by the Honourable Senator Unger, that Bill C-16 be not now read a third time but that it be amended — shall I dispense?

Hon. Senators: Dispense.

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: Those opposed will say "nay."

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: I see two senators rising. Do we have an agreement on time?

Fifteen-minute bell. The vote will take place at 3:15. Call in the senators.

[Senator Tannas]

• (1510)

Motion in amendment negated on the following division:

YEAS THE HONOURABLE SENATORS

Andreychuk
Ataullahjan
Batters
Beyak
Carignan
Cools
Doyle
Eaton
Enverga
Frum
Housakos
Lang
MacDonald
Manning

Martin
Mockler
Neufeld
Ogilvie
Oh
Patterson
Plett
Runciman
Seidman
Smith
Tannas
Tkachuk
Unger
Wells—28

NAYS THE HONOURABLE SENATORS

Baker
Bellemare
Bernard
Black
Campbell
Christmas
Cordy
Cormier
Dawson
Day
Dean
Downe
Duffy
Dupuis
Dyck
Eggleton
Forest
Fraser
Gagné
Galvez
Gold
Greene
Griffin
Harder
Hartling

Hubley
Jaffer
Joyal
Kenny
Lankin
Marwah
Massicotte
McCoy
McPhedran
Mégie
Mercer
Mitchell
Moncion
Pate
Petitclerc
Pratte
Ringuelette
Saint-Germain
Tardif
Verner
Wallin
Watt
Wetston
Woo—49

ABSTENTIONS THE HONOURABLE SENATORS

Boisvenu
Brazeau

Dagenais
Maltais—4

The Hon. the Speaker: Debate will now continue on the main motion.

Are honourable senators ready for the question?

Some Hon. Senators: Question.

Hon. Yonah Martin (Deputy Leader of the Opposition): I move the adjournment of the debate.

The Hon. the Speaker: It was moved by the Honourable Senator Martin, seconded by the Honourable Senator Smith, that further debate be adjourned until the next sitting of the Senate.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour of the motion 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 “nays” have it.

And two honourable senators having risen:

The Hon. the Speaker: Do we have agreement on a bell? One hour. The vote will take place at 4:23.

Call in the senators.

• (1620)

Motion agreed to and debate adjourned on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk
Ataullahjan
Baker
Batters
Bellemare
Bernard
Beyak
Boisvenu
Brazeau
Christmas
Cools
Cormier

Marshall
Martin
Marwah
Massicotte
McCoy
McInnis
McIntyre
McPhedran
Mégie
Mercer
Mitchell
Moncion

Dagenais
Day
Dean
Downe
Doyle
Duffy
Dupuis
Dyck
Eaton
Eggleton
Enverga
Forest
Fraser
Frum
Galvez
Gold
Harder
Hartling
Housakos
Hubley
Joyal
Lang
Lankin
MacDonald
Maltais
Manning

Neufeld
Ngo
Ogilvie
Oh
Pate
Patterson
Petitclerc
Plett
Pratte
Ringuette
Runciman
Saint-Germain
Seidman
Smith
Stewart Olsen
Tannas
Tardif
Tkachuk
Unger
Verner
Wallin
Watt
Wells
Wetston
White
Woo—76

NAYS
THE HONOURABLE SENATORS

Black
Campbell

Greene—3

ABSTENTIONS
THE HONOURABLE SENATORS

Carignan
Cordy

Jaffer—3

• (1630)

BUDGET IMPLEMENTATION BILL, 2017, NO. 1

SECOND READING—DEBATE ADJOURNED

Hon. Yuen Pau Woo moved second reading of Bill C-44, An Act to implement certain provisions of the budget tabled in Parliament on March 22, 2017 and other measures.

He said: Honourable members, it gives me great pleasure to speak today about the Budget Implementation Act, Bill C-44.

This bill implements key measures from the government's 2017 budget and it represents the second phase of the government's

plan to promote economic growth by stimulating investment and job creation.

As an independent senator, I am not here to defend or knock down the policy directions that a duly-elected government has chosen or the measures that they wish to employ in implementing those policy directions.

This is the first time I am sponsoring a bill. It is also the first time that an independent senator is sponsoring a budget bill. I am doing so in the context of a modernizing Senate that is looking to do things differently.

[Translation]

It is a great honour for me to rise today as the sponsor of a bill, knowing that this is a whole new experience.

[English]

The fact that we are in new territory presents an opportunity for the Senate to experiment with a different *modus operandi* that is, on the one hand, consistent with our constitutional role and responsibilities and, on the other hand, demonstrative of the value that we bring to the review of legislation and development of public policy. We are all aware of the growing public interest in what some have been calling a more “activist” Senate and its greater “unpredictability.” Whether you accept or reject this characterization, it is out there and it will increasingly be applied as a yardstick for whether Canadians like or dislike their evolving Upper Chamber.

That is why my speech focuses more on the deliberative process of the Senate on issues surrounding C-44 and less on what the bill is about. You do not need me to describe the bill to you, much less repeat the talking points of the finance minister in the House of Commons or the criticisms of the opposition. We are not here to replicate what happens in the other place. I hope, therefore, that the ensuing debate in this chamber will demonstrate the value-added that we bring to the bill before us.

I want to start off by acknowledging the work of the committees on National Finance; Banking; Social Affairs, Science and Technology; Foreign Affairs and International Trade; National Security and Defence; and Legal Affairs for their work on the pre-study of various divisions of C-44. A total of 15 committee meetings were convened for the pre-study of the bill, lasting a total of 28 hours and involving 85 witnesses. I thank the chairs of the committees, Senators Mockler, Tkachuk, Ogilvie, Andreychuk, Lang and Runciman, as well as all committee members for the special hearings they convened to review the sections of the bill relevant to their mandates. Some committees, notably Banking, increased the number of meetings originally scheduled in order to receive more fulsome testimony on the issues they were considering.

Honourable senators, the pre-study reports arrived in our chamber last week and will soon be considered by the National Finance Committee in its review of C-44 as a whole. I will return to the pre-study reports later in my speech.

[Senator Woo]

[Translation]

Before I go on, however, it is important to recognize that the Senate had an impact on Bill C-44, even before the committees began their pre-study of the bill.

[English]

Honourable colleagues, I put it to you that the Budget Implementation Act, in its original form and as amended by the House of Commons, has Senate fingerprints all over it.

Take for example Part 4, Division 2 on the borrowing authority of the government. Bill C-44 will restore the need for parliamentary approval of borrowing by setting a legislative limit on total borrowing by the government and by agent Crown Corporations. If this idea sounds familiar, it is because the Senate raised it nearly ten years ago. It started with Senator Tommy Banks, who noticed that the government of the day in 2007 eliminated the requirement for parliamentary approval over borrowing authority.

Senator Lowell Murray subsequently introduced Bill S-236 to restore the requirement but his bill died on the order paper with the 2008 election. After Senator Murray retired, Senator Wilfred Moore picked up the torch and he introduced Bill S-217 in 2013. It too died on the order paper but was re-introduced as Bill S-204 in 2015. The idea was poached by the current government in its 2016 budget, and brought to life at last, in the current bill C-44.

In a similar fashion, the changes to caregiver tax credits, funding for mental health and home care, benefits for veterans and support for families through employment insurance have antecedents in ideas and recommendations that came from the Senate. For example, some of the recommendations in the November 2016 report on dementia by the Senate Committee on Social Affairs, Science and Technology have now found their way into Bill C-44. Specifically, the report called on the federal government to explore fiscal options to reduce the financial stress on informal caregivers, including expanding the Employment Insurance compassionate care benefit beyond palliative care.

Division 11 of C-44 indeed creates a new caregiver EI benefit, allowing workers to claim up to 15 weeks in order to care for adult family members who are critically ill or injured. Previously, workers were limited in only being allowed to claim time for “terminally ill” adult family members, which did not cover most cases of dementia. Furthermore, the newly designated Canada Caregiver Credit consolidates and expands three previous schemes: the Infirm Dependent Credit, the caregiver credit and the family caregiver tax credit. This new consolidated benefit will provide better support to those who need it the most, and will apply to caregivers whether or not they live with their family member.

Mental health is another subject area where we can trace the impact on Bill C-44 on the Senate’s previous work. The justifiably famous report named after Senator Michael Kirby has already had profound impact on the way in which Canadians understand mental health, and in the response of governments to research on and the treatment of mental illness across the country. Bill C-44

can be counted as another big step in following through on the recommendations of that report, now 11 years old. Budget 2017 allocates \$5 billion in targeted funding for mental health services over the next 10 years under the federal government's Health Accord with provinces that have signed on to the deal. That funding is expected to help treat up to 500,000 young Canadians under the age of 25, a critical time to address mental illness for better long-term results.

• (1640)

Senator Kirby recently described the federal investment in mental health as “a phenomenal step forward. A sea change.”

In addition to the commitments made to mental health services, the budget also allocates \$6 billion over a 10-year period for home care services. This funding will expand home, community and palliative care services, as well as support for informal caregivers. The Standing Senate Committee on National Finance, in its current study on the implications of Canada's aging population, recently heard from former Senator Sharon Carstairs, who provided us with an update on the state of palliative care in Canada seven years after the release of her landmark report entitled *Raising the Bar: A Roadmap for the Future of Palliative Care in Canada*.

While there has been greater use of home care and palliative care services since the release of that report, our health care services are still overly reliant on hospital-based care which, in many cases, is more expensive and less efficacious than home care. The new \$6 billion in funding will give provinces additional resources to bring about a shift toward more home care and better palliative care.

Budget 2017 also includes a host of measures to support Canada's veterans, specifically in their transition from military service to civilian life. It will also increase support for the families of ill and injured veterans, as well as investments in mental health services and care for veterans at risk.

I will not go into the details of these measures except to say that many of them stem from recommendations found in the 2014 report by the Senate Subcommittee on Veteran Affairs entitled *The Transition to Civilian Life of Veterans*, chaired by Senators Roméo Dallaire and David Wells. The suite of new budget measures to support veterans' well-being also draw on ideas found in the subcommittee's 2015 interim report entitled *Interim Report on the Operational Stress Injuries of Canada's Veterans*, chaired by Senators Day and Stewart Olsen.

Colleagues, the Senate's fingerprints can be even found on new measures introduced in Bill C-44, such as changes to the Parliamentary Budget Office and the creation of a Canada infrastructure bank. When Bill C-44 was first tabled in the other place, much of the attention was directed at the section dealing with the Parliamentary Budget Office. Some of the most cogent arguments pointing to flaws in the proposed legislation and calling for improvements in its drafting were heard in this chamber and by our committees.

I recall Senator Day speaking passionately, pre-pre-study, about the need to strengthen the independence and functioning of the PBO. We heard testimony from experts, including the

current and past parliamentary budget officers, on how to improve the legislation at hearings of the National Finance Committee.

Public understanding of the proposed changes to the PBO was amplified by media coverage of our hearings, and a consensus was quickly forming around the need for revisions to the legislation. From the perspective of the government, it was very clear from the way our pre-study was proceeding that changes to the PBO legislation were needed and that these changes would be proposed if Bill C-44 arrived in the Senate in its original form.

As it happens, the government took note of rumblings in the Senate and beyond, and made the initiative to amend the PBO legislation, resulting in what I believe is an improved Bill C-44 that has now arrived in our chamber. To cite just a few of the changes that have been made, the revised legislation removes the requirement for approval of an annual work plan by the Speakers; it requires that reports be made available to the public one business day after they have been provided to Parliament and committees; it provides for a review of the legislation by committee after five years of the legislation coming into force; and it provides for the PBO to seek a reference opinion from the Federal Court in cases where arbitration and clarification are required.

In this vein, the proposed Canada infrastructure bank can also be said to have the Senate's fingerprints on its underlying purpose. As you know, the National Finance Committee is in the midst of a study on infrastructure investment in Canada. The committee was motivated to conduct this study because of the current government's emphasis on infrastructure investment, known as the Investing in Canada Plan, which amounts to \$180 billion over 12 years.

National Finance has already heard testimony from many experts and I daresay the main concerns expressed so far are, one, the slowness in identifying projects; two, ambiguity in the selection criteria of projects; and three, value for money, from a taxpayer perspective.

I see the Canada infrastructure bank as one mechanism the government is putting forward to address those concerns. Rather than deploying the entire \$180 billion in infrastructure spending using the traditional model of “design, build and operate,” with full assumption of risks by the government at each stage of that model, the Canada infrastructure bank offers a way of procuring projects in the public interest that potentially lowers the cost to government, increases the efficiency of the project and reduces the risk to taxpayers. In so doing, it stretches the dollars available for infrastructure projects that have to be financed and built in the traditional way.

While the bank is not a response to the work of the National Finance Committee's study on infrastructure investment as such, the committee can take pride in having anticipated the challenges that are inevitable in implementing such a massive spending program and in having established a framework for assessing the success of the program, whether in the form of traditional procurement or through projects funded by the proposed Canada infrastructure bank.

A pre-study of the Canada infrastructure bank was conducted by the Banking Committee, which heard from many expert witnesses. They included government officials, institutional

investors, bankers and project finance specialists, labour organizations, academics, business organizations, think-tanks and others.

My reading of the pre-study report is that the committee supports the bank but has questions about its governance structure. To quote the report:

... the committee is not convinced that the right balance between the need for the proposed bank's decision-making to be free from political interference and the need for the federal government to maintain adequate oversight of the use of public funds has been achieved. The committee believes that the federal government should ensure that the proposed governance framework attracts highly qualified board members and senior managers, as well as private-sector investors. As well, the federal government should ensure that the proposed bank's investment decisions are made by the bank's senior management, and not private-sector investors.

I was at most of the Banking Committee hearings, and I believe that this statement accurately reflects the mixed views of members on whether the proposed governance model has struck the right balance. It is, of course, about balance. As the only shareholder, and hence 100-per-cent funder of the bank, the government should jolly well have oversight of its functioning. I can well imagine a different proposed governance structure in which the government has very limited ability to appoint and remove board members, and much less say over the types of projects that are supported. In that situation, the criticism of this bill would surely run in the opposite direction; namely, that taxpayers are not sufficiently protected for the investment they are putting into a bank that should be supporting projects in the public interest.

In a recent opinion editorial, the former Parliamentary Budget Officer gave voice to the other side of the coin:

A lack of oversight and financial due diligence at the front end rarely ends well. A long list of failures, such as the gun registry in the nineties to current problems related to pay systems, shared service and military equipment, show up in the newspapers on a daily basis.

I ask senators to consider this question: If the Canada infrastructure bank shows up in the newspapers in years to come because of governance problems, will it be because there was too much government oversight and financial due diligence, as some of you are suggesting, or because of too little, as the former Parliamentary Budget Officer has asserted?

• (1650)

Keep in mind, after all, that the development of large infrastructure projects using innovative financing methods such as public-private partnerships and their derivatives is not a core competence of government, especially not at the provincial and municipal levels where most of the infrastructure investment will take place.

There is a very good chance that project ideas and the funding formulas that come with those ideas will originate from private sector proponents. That is not a bad thing, but let us not be naive;

a private sector investor will seek to maximize its position in any given project, and the government counterparty will have to be very alert and skilful in order to not overpay. In the same way that there is a risk of political interference, so too is the very present danger of regulatory capture by private sector interests.

The solution, of course, is to have a highly competent executive team at the bank and an equally top-notch board of directors that bring credibility to the organization and strong oversight of its operations. There is nothing in the current legislation that suggests that we will not have this kind of leadership team at the Canada infrastructure bank. If the government is short-sighted enough to appoint a half-baked board of directors and CEO, it will immediately pay a credibility premium by scaring away private sector partners and public sector proponents of much needed infrastructure projects.

It is my impression that the government is well aware of this credibility challenge for the Canada infrastructure bank and of the need for a fine balance between oversight by government and independence of the organization. They will learn very quickly whether they got the balance right. If projects are not put forward or if private sector partners are not forthcoming, we, and the Canadian public, will hear about it, which is why I am pleased to see a clause in the legislation that calls for a five-year review of the provisions and operation of the statute.

[Translation]

The results of the review will be reported to Parliament and then studied by a committee of the House of Commons or the Senate, or even by a joint committee.

The questions raised about the governance of the Canada infrastructure bank are legitimate and we must give credit to the Senate for having raised questions with the various parties wishing to take part in the debate and for having urged them on.

[English]

We have, in effect, pointed a spotlight on the bank that it will not be able to hide from. But it is less clear to me that we are in a position to prescribe a different governance formula for the bank at this embryonic stage of its development.

I think we all agree that a balance has to be struck between government oversight and organizational independence. Are we really in a position to micromanage that balance in this chamber, absent any operating experience of the bank or knowledge about deal flow? "Second thought" is well and good, but in this case the operative word should be "sober."

There is one other issue concerning the bank that was brought up at Banking Committee hearings and which I know a number of you will have a special interest in. It has to do with jurisdiction over projects supported by the bank and a concern raised by one witness that these projects might be exempt from provincial laws because they are funded in part by a Crown corporation.

The pre-study report of the Banking Committee did not take a position on this issue, but it did include in the annex of the report a letter from the Deputy Ministers of Infrastructure and Finance stating that the bank will not ordinarily be an agent of the Crown

insofar as the invested projects are concerned, and that those projects will be subject to all applicable provincial and local regulations.

In its pre-study, the Banking Committee also looked at proposed amendments to the Canada Deposit Insurance Corporation Act and the Bank Act, proposed amendments to the Investment Canada Act, and the enactment of the invest in Canada act. These divisions of Bill C-44 were uncontroversial, with the only question mark concerning the creation of an invest in Canada hub. The hub would be a new federal departmental corporation along the lines of the Canada Revenue Agency and the Canadian Food Inspection Agency, which would serve as a “single-window concierge service” to attract foreign direct investment working closely with provincial and municipal investment attraction agencies.

The Banking Committee made the observation that it was “uncertain about the need to establish a new agency to promote foreign investment in Canada.” Witness testimony, however, was unanimously in favour of the creation of the hub, including testimony from municipal and provincial investment attraction agencies and from the Canadian Chamber of Commerce.

[Translation]

Honourable senators, allow me now to address the reports prepared by the other senate committees as part of their pre-study of this bill.

[English]

The Foreign Affairs and International Trade Committee looked at Part 4, Division 1 of the bill concerning changes to the Special Import Measures Act and expressed its support for the proposed legislation.

The Legal and Constitutional Affairs Committee reviewed Divisions 10 and 17 of Part 4 concerning the Judges Act, the Canada Labour Code, and the Wage Earner Protection Program Act. It expressed support for both divisions but made observations on the high number of vacancies among federally appointed judgeship positions across Canada and on the need for any future changes to federal labour legislation to include prior consultation with the affected parties.

The pre-study report of the Social Affairs, Science and Technology Committee covered Division 5, 9, 11, 13, 14 and 16 of Bill C-44.

Division 5 seeks to authorize the Minister of Innovation, Science and Economic Development to provide up to \$125 million to the Canadian Institute for Advanced Research to establish a pan-Canadian artificial intelligence strategy.

Division 9 provides funding authority for the Minister of Finance to allocate funds to the provinces and territories for home care and mental health services to the tune of \$11 billion over 10 years. The committee supported both of these divisions.

Division 11 seeks to amend the Employment Insurance Act and the Canada Labour Code to adjust and expand benefits for maternity, parental and caregiver leave. In supporting these

amendments, the Social Affairs Committee flagged the need to monitor the gender impact of the expanded benefit regime, especially with respect to the hiring of women. The committee also stressed the importance of communicating these changes widely so that potential users of these benefits can make informed decisions about the various options available to them.

Finally, the committee also supported proposed changes to the Employment Insurance Act found in Division 14 of the bill.

On Division 13, the committee supported amendments to the Immigration and Refugee Protection Act to clarify certain provisions and to improve the functioning of the Express Entry system, as well as to exempt several fees from application under the services fees act. There was also support for a similar measure under Division 16 to allow the Minister of Health to fix and amend by order the user fees charged by his department on products regulated under the Food and Drugs Act.

Moving on now to the National Security and Defence Committee, which examined Division 12 — on the well-being of veterans — and Division 9 — on money laundering and terrorist financing. They, I am pleased to say, recommended the adoption of both without qualification.

To round off my review of pre-studies I can report that the National Finance Committee looked at Parts 1 to 3 of Bill C-44, as well as Divisions 2, 4, 6 and 7 of Part 4 of the bill. Their study included the proposed changes to the Office of the Parliamentary Budget Officer which, as we have already noted, were subsequently amended in the other place, in part due to the early warning signals that were sent by the committee and by colleagues in this chamber.

The National Finance Committee also dealt with amendments to the Income Tax Act and related legislation, to the Excise Tax Act and to the Excise Act and Excise Act, 2001, as well as the Economic Action Plan, No. 1.

These included the proposed increases in excise taxes on tobacco and alcohol products. The increase in excise taxes on tobacco is to compensate for the elimination of a surtax on profits of tobacco manufacturers, also proposed as part of Bill C-44.

• (1700)

In the case of alcohol, which has been discussed already in this chamber through a question to the Government Representative, the proposed increase is 2 per cent, which amounts roughly to an increase of one cent for a one litre bottle of wine, five cents for a 24-pack of beer and seven cents for a 750 millilitre bottle of spirits. In addition, the excise tax on alcohol, as has been mentioned in this chamber, will be automatically adjusted each year to take inflation into account, starting on April 1, 2018. The purpose of the so-called escalator is to maintain the effectiveness of the excise tax as prices change over time.

Colleagues, I've provided you with not much more than a broad scan of Bill C-44, and I've tried to do justice to the areas of concern that were flagged in pre-study reports. I look forward to other senators joining the debate on Bill C-44 in the days to follow and to their views on the issues I have flagged, as well as other issues that may have escaped my attention.

Let me turn now to an issue that has not come up in any of the pre-study reports but which I know many of you are thinking about. It is the question of Bill C-44 as an omnibus bill and whether parts of the bill should be considered as separate pieces of legislation. The current focus of this debate — admittedly a debate that has so far been conducted in the media rather than in this chamber — is on the Canada infrastructure bank. When the bill was first tabled in the house, most of the calls for splitting Bill C-44 were not directed at the bank but were directed at Part 4, Division 7, which refers to the Parliamentary Budget Office. That was six weeks ago. Today, I hear no one calling for Division 7 to be separated from Bill C-44. Why is that the case? The answer is, of course, that the government has made substantial amendments to the PBO legislation, greatly improving it compared to the original version. These changes came about because Parliament had the time and opportunity to review the original legislation, to understand its implications and to propose changes.

Now, one could argue — notwithstanding the amendments that have strengthened the PBO legislation — that this division, the PBO division, is still an aberration in the context of a budget implementation bill and therefore should still be dealt with as a separate piece of legislation. But that would have to be an argument based on a very specific understanding of what belongs in a given omnibus bill. Perhaps someone will make this argument, but I suspect that for most of us, the question of whether the PBO belongs in Bill C-44 is not based on a well-defined rule but on whether or not we had the time to review this piece of legislation and to have our views heard.

The fact is we do not have a clear-cut definition of what an omnibus bill should or should not include. Make no mistake; we will forever and always have omnibus bills — in the sense of different pieces of legislation combined in a single bill for the sake of thematic unity, convenience and/or efficiency. Budget bills lend themselves to an omnibus approach precisely because of the wide-ranging nature of budgets. “Well,” you say, “then anything and everything can go in a budget bill.” But not anything and everything does go in a budget bill, so it is not sufficient for one to argue that the very existence of an omnibus bill is a reason to split parts of it.

In the same way that we will forever and always have omnibus bills, I predict that we will forever and always debate whether a given item belongs in any particular omnibus bill. Much as we may crave clarity, the resolution of this question has large subjective elements that cannot be codified. Just ask the Rules Committee, which recently released its report on the division of bills. After much discussion, that committee wisely decided not to provide a set of hard criteria — in fact, they provided no criteria — on what is a legitimate use of omnibus bills and what items in such bills are clearly offside.

Please understand — I am not arguing that there are no situations under which a bill should be split. If the government had proposed a health issues bill that combined the legalization of marijuana and provisions for medically assisted dying, I would strongly advocate for the splitting of those two items. Or if a deeply contentious issue, such as the recognition of transgender rights, was to be inserted into a budget bill as a way of forcing through the contentious item under the cover of a Royal Recommendation, that would strike me again as a flagrant abuse of an omnibus bill.

We should always be on the lookout for abuses of omnibus bills, but each case of abuse has to be argued afresh and not assumed to exist simply because there is a complex bill before us with many different elements in it.

This brings us back to the Canada infrastructure bank act. We will soon be debating Senator Pratte’s motion as to whether Division 18 should be orphaned from Bill C-44. Having this debate is right and proper, but let’s be clear on what we should be debating. In my opinion, the key issue to consider is not whether or not omnibus bills are acceptable but whether the inclusion of the Canada infrastructure bank act in Bill C-44 constitutes an abuse of that omnibus bill.

Given that we have no hard-and-fast criteria on how to identify an abusive use of omnibus bills, I suspect there will be a wide range of opinions on this question. But given that our own Rules Committee has not been able to define what amounts to an inappropriate use of omnibus bills, I believe the onus will be on those who believe that an abuse has taken place to argue afresh that an abuse indeed has happened. I am not a lawyer, but I think a certain presumption of innocence should apply in our consideration of omnibus bills.

Now, there is another reason why an omnibus bill should be split, and it has to do with the length of time it takes for the Senate to properly study all the elements of that bill. Here our Rules Committee offers some practical advice:

... your committee has considered practices relating to omnibus bills in the Senate ... [and] notes that there already exist processes allowing the Senate to initiate the division of bills, although they are rarely used.

So, yes, says the Rules Committee. If you have to split a complex bill, by all means split it. Here is how to do it, but the Rules Committee goes on to say:

In addition, your committee notes that the Senate has developed a practice whereby, in the case of complex bills, different committees may be authorized to pre-study specific parts of the bill, in addition to one committee being authorized to study the entire bill. This practice has been applied to budget implementation bills, as was noted in a Speaker’s ruling of February 3, 2015. In this way, committees can deal with specific parts of the bill relevant to their mandates, while one committee ... retains a comprehensive view of the entire bill.

The point is that we have more than one tool in our toolbox; and sometimes, colleagues, maybe most times, it is better to use the fine sandpaper of a pre-study than the blunt edge of a splitting chisel.

This means that even if you believe that there may have been an abuse of the omnibus Bill C-44 by the inclusion of the Canada infrastructure bank, you have to ask yourself if the tool of pre-study that we’ve gone through the last six weeks has addressed the practical matter of having sufficient time to study that part of the bill. Here I want to again pay tribute to the Banking Committee for recognizing the strong interest of the Senate in getting a full hearing on the proposed bank and substantially increasing the

time for hearings to make that possible. I did not see in the Banking Committee's pre-study report any sense in which they felt that they had not sufficient time to study the proposed bank legislation. Let me say that again. I did not see in the Banking Committee's pre-study report any sense in which they felt they had not had sufficient time to study the proposed bank legislation.

• (1710)

I would further add that the agitation around splitting this bill has had the unintended but positive consequence of drawing the media's attention to the creation of the bank, resulting in extensive reporting on the bank legislation over the last two months. I should note parenthetically that some of that reporting was misleading, for example the story on a confidential KPMG report that was alleged to be critical of the proposed bank and which subsequently fuelled a lot of anxiety on the part of some senators. Read it if you haven't and draw your own conclusions.

My larger point is that the exchanges among us even before pre-study, some of which were leaked to the media, have been positive in terms of bringing the issue to the attention of the broader public. When we think about whether a bill has had sufficient review, one of the considerations should be the extent to which our discussions have been picked up by the general public, so that they might also weigh in. Now, it would surprise me if the average Canadian wants to dig much deeper into the minutiae of the infrastructure bank, but I think it is fair to say that the issue has been given a decent airing in the mainstream media.

Recall again the situation with the Parliamentary Budget Office section of the bill, which many here just six weeks ago felt did not belong in Bill C-44 and were adamant that this section had to be considered separately. We seem to have overcome that initial reflex. Might not the same apply to the Canada infrastructure bank? I believe it does. Based on a very plausible case that the bank legislation is not an abuse of a budget bill that is inherently omnibus in its structure, and on the substantial effort by honourable colleagues that has been put into reviewing that legislation, I think there are very few grounds for splitting Division 18 from the budget implementation bill.

Colleagues, as I conclude my second reading remarks on Bill C-44, it occurs to me that I have spent most of my time talking about concerns raised by senators and have said very little about the clauses in this budget bill that are generally uncontroversial and which many Canadians are looking forward to, such as expanding the tuition tax credit eligibility to include vocational courses, or the investment in a national strategy on artificial intelligence research, or lowering the threshold for review of foreign investment into Canada, or the greater flexibility in Employment Insurance for parents to take time off following the birth of a child. It's all there — the big document you received — and notwithstanding my lack of cheerleading, I hope you will give at least as much attention to those parts of the budget implementation bill as to the more controversial bits.

[Translation]

Thank you for your attention, honourable senators. I look forward with great enthusiasm to future debates on Bill C-44.

[English]

The Hon. the Speaker: Senator Tkachuk, question?

Hon. David Tkachuk: Yes, question.

Thank you, Senator Woo, on a much appreciated first half of your speech, a defence of the Senate under the Westminster and party system. I thank you very much for that.

I want to ask a couple of questions on the infrastructure bank, which has been the subject of a lot of controversy both here and in the media. Of course, there was some concern in the Banking Committee about it.

One question I have a hard time getting answered: If a business decision is made by the infrastructure bank and the business goes south, it sours and goes broke, who picks up the tab?

Senator Woo: Thank you, Senator Tkachuk, for your question and thank you also for your comment on the contribution of the Senate to many aspects of Bill C-44, which have come from senators past and senators present, including, of course, a number of independent senators and non-partisan senators working in committees on the PBO issue.

On the question of the Canada infrastructure bank and what happens when projects that are invested in by the bank do not perform, that really is a question specific to the structure of the deal for said infrastructure project. The very nature of this new instrument is to allow the government to allow the Canada infrastructure bank to have the flexibility to design different revenue generation methods in order to attract private investment into that project.

Hypothetically, the government share in that project, whether in terms of an equity investment or a loan, could go south because the project fails. The share of the government's loss, of course, is a function of the deal that was struck. But what I can tell you is that the government has set aside and fully accrued \$15 billion to account for any losses that may transpire because of projects that do not work out. But it would be a presumption, and a very strong presumption at this stage, to believe that projects will necessarily go bad because I would fully expect that there will be a portfolio of projects, some of which will do better than others and some which perhaps will do outstandingly well to compensate for losses on any projects that may not do as well.

Senator Tkachuk: I have another question, and that is on the investments of the infrastructure bank. Of course, federal investments are, for example, airports and items that the federal government has some ownership of. It has been talked about that the investment bank would deal with provincial and municipal matters. I'm wondering why the federal government is using an infrastructure bank. What kind of investments —

The Hon. the Speaker *pro tempore*: Senator Woo, are you requesting a further five minutes?

Senator Woo: Five minutes, thank you.

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

Hon. Senators: Agreed.

Senator Tkachuk: Thank you, Your Honour.

If we're dealing with municipalities and provincial governments rather than federal government business and investments, how does the federal government infrastructure bank decide which province it would help with assisted cash rather than another province?

In other words, if it decides to do a water project in Saskatoon and own the actual waterworks in the city of Saskatoon, it would then have to make a decision not only to put its own money in, which it can do as a government, but with the infrastructure bank also to lead other business interests into that same investment.

I'm not sure if that's going to cause a lot of problems, but how will the government be making those decisions or how will the infrastructure bank be making those decisions?

Senator Woo: Thank you, Senator Tkachuk, for your question.

Bear in mind that the government has already announced and embarked on an ambitious infrastructure investment program, \$180 billion over a decade, and that money will be spent in provinces and municipalities. Most of that spending will be done in the traditional way, which is to say that the government in partnership likely with municipalities and provinces will share the costs perhaps one third, one third, one third, to build the project, whereby the three levels of government will bear entirely the risk of design, build, operate and any revenue that may come from it — probably no revenue whatsoever. This is the traditional procurement method that will continue and will in fact constitute the vast majority of the \$180 billion-worth of funds that have been set aside.

• (1720)

The \$35 billion that is designated for the Canada infrastructure bank is meant to invest in projects that would not otherwise be invested in using the traditional method. So I cannot tell you exactly which projects will materialize, but one of the key criteria that the bank will surely want to apply is whether or not the project under question would have happened anyway under a traditional financing method.

Why would we want to have another method if there is a traditional financing method? The answer is very simple. Because, if the government is able to leverage its funds by attracting the private sector to take a big chunk of the funding costs for that project, then the government can use more of its existing funds to spend on traditional projects. That is the logic of the Canada infrastructure bank, senator, and I hope that at least partly answers your question.

Hon. Frances Lankin: Will you take another question, senator? Thank you.

First of all, let me just say that I appreciated so much the opportunity to spend extensive time in pre-study on this. I think it was very helpful. I think we'd be having a very different conversation without that. That was appreciated. To the committees that did the work — I had the opportunity, on a couple of committees, to examine provisions — it was very useful.

Generally, I'm very supportive of this budget. I won't list all of the items that I'm supportive of. I have one concern, which I would seek to get more information on, and that is the excise tax with respect to alcohol. It is not the 2 per cent this year; it's the automatic escalator.

Today, Senator Smith asked a question of the Government Representative in the Senate, and I followed up with a supplementary, asking for information about analysis — the analysis of what tax room this takes up and analysis with the provincial tax structures and what's happening there.

Second, in various provinces — and I come from the province of Ontario — we've recently seen quite revolutionary change in the sale and distribution of alcohol, which has included a very different strategy on the part of the Liquor Control Board of Ontario with respect to pricing, which has an impact on the consumer, sticker price at the end, which has an impact on the businesses within the industry overall. Similarly, there is the impact of provincial government decisions with respect to promoting craft beer and what that means for the large three in the brewer's retail outlet.

On top of that, there is an analysis, at least from the industry, that back in I think the 1980s, when another government put in place an automatic escalator, probably combined with other things in the economy at the time — we would have to do the analysis — there was a major impact and downturn in the alcohol business. That's spirits, wine and beer. I'm worried about the potential for a re-creation of that and would like to see the analysis done before the escalator is actually implemented next year.

Senator Woo: Thank you, Senator Lankin, for your question.

I think Senator Harder likely will be providing some answers that may be applicable to your question, but the one response I would offer, at this stage, is to say that we did receive clarification from Finance officials that the amount of the —

The Hon. the Speaker *pro tempore*: I'm so sorry. Your time is really up.

Senator Woo: May have I have 30 seconds?

The Hon. the Speaker *pro tempore*: That's 20 seconds.

Senator Woo: The announcement on how much the inflation adjustment will be in the following year will be made in the prior year, in the November/December period. That would be an opportunity —

The Hon. the Speaker *pro tempore*: Sorry, your time is up. We're going to go on to the next person.

[Translation]

Hon. Percy Mockler: Honourable senators, I would be remiss if I did not begin by recognizing the work of our colleague from New Brunswick, Senator Day, who chaired the Standing Senate Committee on National Finance for more than nine years. I have very large shoes to fill, indeed, but the committee must carry on regardless. I would also be remiss if I did not acknowledge Senator Day's successor, Senator Smith, the current Leader of the Opposition. He is following in his predecessor's footsteps by championing innovation, transparency, accountability, and predictability, all of which are aspects of our committee's vision and mandate.

As committee chair, I rise today to talk about Bill C-44, An Act to implement certain provisions of the budget tabled in Parliament on March 22, 2017 and other measures. I would like to thank all members of the Standing Senate Committee on National Finance, the clerk, the analysts, and the entire support staff for their exceptional work and dedication.

[English]

There is no doubt in my mind that our objective is always TAP. TAP is about transparency. TAP is about accountability, and TAP is about predictability of the financial framework of Canada. Canadians expect no less. I have to also share with you, honourable senators, that the people at Tim Hortons and/or at McDonalds call this process the budget.

Honourable senators, as part of its pre-study of Bill C-44, which took place from May 9, 2016 to May 16, 2017, the Senate Finance Committee held a total of five meetings. Over the course of these meetings, the committee heard from 30 witnesses from six federal departments and agencies, as well as representatives from the Parliamentary Budget Office and nine organizations outside of the federal government. The committee decided to hear testimony on the government's intention to link the excise duty tax on alcohol to an increase in the rate of inflation because of concerns about the impact such an automatic tax escalator could have on the alcohol manufacturers in the hospitality and tourism industry across Canada.

[Translation]

Honourable senators, because the excise tax is an indirect tax, other taxes are added to it. Let me share some examples. In New Brunswick, an extra five cents per case of beer means a provincial mark-up of 90 per cent on wholesale beer, plus 15 per cent for the HST. In other words, the five-cent increase will end up being a 12-cent increase before the brewer even accounts for labour, materials, packaging, transportation costs, and all other costs included in the final price.

[English]

I want to share with you, honourable senators, that Beer Canada's submission outlined several objections to the imposition of this automatic tax escalator, namely: The escalator is too rigid and insensitive to regional economic circumstances; the escalator unnecessarily adds to a challenging and uncertain business outlook; the escalator conceals future tax increases from parliamentary oversight.

• (1730)

Honourable senators, this impacts the vision that we have at this point in time. This escalator severely contradicts the government's commitment to what they promised across Canada, namely, evidence-based decisions.

More so, the escalator is inconsistent with Canada's national alcohol strategy. Furthermore, imposing the escalator is opposite from the direction recommended by the Prime Minister's Economic Advisory Panel, which identified the agriculture and agri-food sectors as a key growth driver for Canada's economy, and it does have an impact on the agri-food sector.

[Translation]

Representatives of the Department of Finance testified that the price hikes would have a minimal impact, but the department did not conduct any analyses to show that indexation would have the opposite effect. They also did not say whether the reasons for this decision were health related.

[English]

Alcohol industry witnesses indicated that the negative impacts of this escalator tax would go well beyond the alcohol manufacturers, to include the thousands of workers employed in Canadian small- and medium-enterprise companies providing key goods and services to producers; by vineyards and farmers growing corn, rye, barley and wheat; and the tens of thousands of Canadians in the tourism and hospitality industry.

They also testified — and we were touched by this — that they have gone through this before when the indexing of alcohol excise duties were imposed in the early 1980s by another Prime Minister Trudeau. The result was the closing of over a dozen spirits manufacturing facilities, almost exclusively because of the indexing that was taking place, with the loss of thousands of jobs and the diminished role of Canadian spirits, particularly of Canadian whiskey, on the international scene.

Honourable senators, such taxes on alcohol are known as the “sin” taxes. Now the government would like to bring in an automatic “sins of the father” tax.

[Translation]

Honourable senators, the committee also heard from representatives of the Privy Council Office, the Office of the Parliamentary Budget Officer, and academia. Their testimony focused on the amendments that the government is proposing to make to the Parliament of Canada Act in order to keep its election promise to make the Parliamentary Budget Officer completely independent.

[English]

While witnesses acknowledged that the government made important improvements to the PBO function, concerns were expressed that the role of the PBO was being diminished. These concerns were summarized by Mr. Khan, Executive

Vice-president, Institute of Fiscal Studies and Democracy, University of Ottawa, who said that the mandate was being reduced, forcing the PBO to merely react to government reports rather than undertaking proactive analysis. The ability of the individual parliamentarians to request cost estimates was largely taken away, or would have been. The ability of the PBO to self-initiate work on government estimates was uncertain and the PBO's independence was reduced by requiring the Speakers of both chambers to approve its work plan.

We all know, honourable senators, the responsibilities we have individually and collectively as parliamentarians. Restrictions have been placed on the timely publication of PBO analysis by requiring that it be submitted while Parliament is in session.

These concerns, honourable senators, were shared by academics and parliamentarians and were so serious that the House of Commons has since agreed to amend Bill C-44 largely to address these issues. We applaud that.

[Translation]

Honourable senators, there was a time when the government would have hesitated to amend a confidence bill. We have heard previous Speakers say so time and time again, but under the Trudeau government, flawed bills seem to be the rule rather than the exception.

[English]

The committee also heard from officials from the Department of Finance on the proposal to enact a borrowing authority act which is to return approval of borrowing activities of the government to Parliament. The borrowing authority will include agent Crowns in the borrowings of the government and will include the total stock of borrowing activities and includes a proposal to return to Parliament within every three years to report to Parliament on the borrowing activities of the government and Crowns.

This borrowing authority is to be the framework that follows up on initial amendments made to the Financial Administration Act in last year's Budget Implementation Act 2016, No. 1.

This is why the objective of our committee, as parliamentarians, is all about the TAP — transparency, accountability and predictability — of the financial framework of our country. However, it is important to note that none of these borrowing authorities came into effect last year. Will they now come into effect upon the passage of Bill C-44? So this current government has been operating and continues to operate under the 2007 borrowing provisions which they have heavily criticized for lacking in transparency, accountability and predictability.

[Translation]

However, honourable senators, it seems that only cabinet, and not Parliament, will be called upon to rule on borrowing authorities. As the saying goes, "the more things change, the more they stay the same."

[Senator Mockler]

[English]

The committee heard from officials from the Department of Finance about the proposal to eliminate the public transit tax credit as of July 1, 2017, honourable senators. The explanation given was that this credit was found to be ineffective in terms of meeting its stated goal of increasing transit ridership.

The committee was concerned about whether analysis took into consideration populations in different sized cities, such as Toronto, and whether this contradicted the government's objective to increase use of public transit and to reduce greenhouse gas emissions.

Honourable senators, I would like to bring to your attention two other budget matters that have been thoroughly and extensively scrutinized and reported by the Senate Banking Committee: the invest in Canada hub and the Canadian Infrastructure Bank.

I want to applaud the leadership of the Senate Banking Committee and all of the members. These sentiments were well expressed by Senator Woo. Bill C-44 would enact the invest in Canada act, which would create a federal departmental corporation called the invest in Canada hub. The stated purpose of the hub would be to simplify the process for making investments in Canada by providing a single window for investors who need information about investing in business opportunities in Canada.

After considering witness testimony, the Banking Committee reported as follows, and I want to quote the leadership, the members and the committee:

After considering the witnesses' testimony with respect to Division 20, the Committee remains uncertain about the need to establish a new agency to promote foreign investment in Canada. In the Committee's view, the federal government should provide further clarification about the role of the proposed Hub in enhancing foreign direct investment in Canada.

. . . regardless of where we live, coast to coast to coast.

• (1740)

Bill C-44 would also enact the Canada infrastructure bank act, establishing the Canada infrastructure bank, or CIB. The Banking Committee report sets out the purpose of the bank, and here again I quote:

The proposed bank's mission would be to invest in, and attract private-sector and institutional investors to, revenue-generating infrastructure projects that are in the public interest, and that are located in Canada or partly in Canada.

Honourable senators, the Banking Committee expressed several concerns, the first being why such legislation was contained in Bill C-44 instead of being brought as standalone legislation.

[Translation]

The reason is that we want a completely independent structure.

[English]

Other concerns were that this was merely a vehicle for providing subsidies to business, and it was unclear whether it could accomplish something not already achieved by existing institutions, such as PPP, of which Atlantic Canada was a great beneficiary, PPP being public-private partnerships.

Concerns were also raised about the governance framework, namely, that the proper balance had not been struck

... between the need for the proposed bank's decision making to be free from political interference and the need for the federal government to maintain adequate oversight of the use of public funds

I remember very clearly a little over a year and a half ago that it was supposed to be sunny ways.

Honourable senators, numerous articles and editorials have been written over the past few months questioning the many aspects surrounding this example initiative, the CIB, the Canada infrastructure bank.

I would like to cite a recent editorial of June 11, 2017, in *The Globe and Mail*, written by Kevin Page, Azfar Ali Khan and Randall Bartlett, appropriately titled, "Too many unanswered questions about the Canada Infrastructure Bank," which essentially states that the business case has not yet been made for the Canada infrastructure bank, as the following questions — and I want to share this with you, honourable senators — have yet to be answered.

[Translation]

These questions are important to our decision-making process.

[English]

What is Canada's infrastructure vision and plan? What is the purpose of the Canada infrastructure bank? How will risk and pricing be managed? Why has the governance and operating model of the proposed Canada infrastructure bank shifted from an arm's-length bank concept to a granting agency concept that is more or less controlled by the federal government? I'm very sensitive to that, because in the same article they tried to compare it to ACOA, the Atlantic Canada Opportunities Agency.

Honourable senators, too many fundamental questions remain unanswered, especially when \$35 billion of taxpayers' money is at stake. This would be a time for the Prime Minister, I believe, to show leadership by pulling out the provisions creating the Canada infrastructure bank and bringing back a better, standalone piece of legislation that answers these questions. Why? Because Canadians deserve no less.

Hon. Terry M. Mercer: Would Senator Mockler accept a question?

Senator Mockler: Absolutely, coming from Atlantic Canada.

Senator Mercer: I actually have two questions. I'll do one at a time, if you don't mind.

In your discussion of the automated tax escalation, which is a major concern, did the committee take the time to talk to representatives from the breweries in Newfoundland, Halifax, Saint John, New Brunswick, Montreal, Quebec City, Toronto, Calgary, Winnipeg and Vancouver? I've probably missed a couple of breweries across the country — Edmonton — where their jobs are at stake.

I grew up in north-end Halifax, a block away from Oland Brewery. I tell the story that I used to have to walk by a brewery every day on my way to school. It probably led to bad habits later on, but anyway, there were hundreds of very good jobs there. Did no one examine the risk to those jobs? Did no one examine the risk to the hundreds of wineries across the country in Nova Scotia, Ontario, British Columbia and Quebec? Many of those wineries are small and on the fringe, surviving because of the value-added work they do by providing restaurants, tours and experiences to Canadians. Did anybody talk to those people?

What about the people in Gimli, Manitoba, who won a big award for their whiskey? I don't drink whiskey, never have, but I gather it's pretty good if you're a whiskey drinker. Did anybody talk to those people? Did your committee hear from those people? Did they start to predict the jobs at risk by taxation without representation? If you're going to increase a tax, have the guts to stand up in front of the House of Commons yearly and increase the tax instead of hiding behind this sneaky way of increasing taxes.

Some Hon. Senators: Hear, hear!

Senator Tkachuk: Tell him "yes."

Senator Mercer: You might like the second question as much as you liked the first one. I've been here since 2003 and I've sat on the Library of Parliament Committee for, I think, 10 of those years.

The Hon. the Speaker *pro tempore*: Senator Mockler, did you want to answer the question?

Senator Mockler: I agree with Senator Mercer when he talks about the impact it will have across Canada. My answer to your question is yes, you're right.

Senator Mercer: Good to hear, folks. Senator Mercer is right.

I've been here since 2003, and I've been on the Library of Parliament Committee for about 10 years. I can count the number of meetings of the Library of Parliament Committee on one hand. I blamed it all on you guys as Conservatives because you wouldn't

let the committee meet and do its work, but I find that this is systemic because this government hasn't allowed the committee to do its work either.

One of the reasons I'm asking about the Library of Parliament is because guess who reports to Parliament through the Library of Parliament Committee? The Parliamentary Budget Officer. I've been trying to get the Parliamentary Budget Officer before the Library of Parliament Committee for years, but we will select a chairman from the House of Commons and a co-chairman from the Senate, and then they will adjourn the meeting. That is what the process is. I am very concerned about what they've done by moving the Parliamentary Budget Officer from reporting to Parliament to a committee of Parliament.

• (1750)

I'm also very concerned about the management of that committee by both this chamber and by the other place, so that we need to set in place a process where members of the committee can get items on the agenda, like calling the Parliamentary Budget Officer before them to hear the testimony about his or her assessment of how the government is spending our money.

The Hon. the Speaker *pro tempore*: Is there a question, senator?

Senator Mockler: Yes, that was a good question.

I want to say that I agree with you, Senator Mercer.

Senator Mercer: Twice.

Senator Mockler: But we were all promised sunny ways and now we have funny ways of doing things.

Hon. Yonah Martin (Deputy Leader of the Opposition): Senator Mockler, may I ask a question also?

Thank you very much for your speech. I know a lot will be said regarding the Canada infrastructure bank. I feel like some of the things I'm hearing are very concerning, for example, that taxpayers will pay to set up the bank, pay a percentage to each project as well as pay user fees to maintain some of these new infrastructure projects.

There was the question that Senator Tkachuk asked about what happens if these projects go south, and it seems that in the end the taxpayers pay for everything and will own nothing.

Is this a concern that you share, that this is quite a risk for taxpayers in the end?

Senator Mockler: It is a concern of the committee, and this is why we've had many witnesses. When we were asking those hard questions, I have to admit we did not get the proper guarantee that we would have better ways of doing it and/or a guarantee to Canadian taxpayers that they're protected in this process.

[*Translation*]

Hon. Lucie Moncion: Would Senator Mockler agree to take two questions? I will ask the first and then we'll see if there is time for the second question.

Senator Mockler: Yes.

Senator Moncion: You talked about the excise tax on alcohol, but not the tax on tobacco. Why did you overlook the latter? Furthermore, which category do tobacco and alcohol fall under?

Senator Mockler: Thank you, Senator Moncion, for the question. I do not have any details regarding tobacco, but I could certainly forward you that information.

With respect to the issue before us today, namely, alcohol, it is clear that there is a lack of transparency regarding the application of the law and the excise tax. For instance, in New Brunswick, the increase is said to have been in the order of 12 cents rather than 5 cents.

We still need information, and the question was asked. Let's hope the government will see fit to explain further. That is why I am saying that the Prime Minister could show some leadership in order to alleviate the fears of Canadians working in those industries, as Senator Mercer said, and save their jobs.

Senator Moncion: My question was regarding the category which tobacco and alcohol products fall under. You did not answer that part of the question. I also have another question.

Senator Mockler: I will have to seek that answer myself, senator. I can assure you that I will ask the staff at the Department of Finance for further explanations.

Senator Moncion: The answer is simple. They are luxury items, not basic necessities.

My second question is about the comments you made on the Canada infrastructure bank. In testimony, the people we met talked about job creation, sustainable projects and profitability. Michael Sabia is one of the people who talked to us about the Canada infrastructure bank. Can you tell us more about the relevance of the government's objectives in creating that infrastructure bank?

Senator Mockler: I was not present when Mr. Sabia appeared before the committee. I think it was the Standing Senate Committee on Banking, Trade and Commerce and not the Standing Senate Committee on National Finance. However, the issues raised at the Banking, Trade and Commerce Committee will undoubtedly also be raised at the National Finance Committee. If jobs are created, we will certainly applaud the initiative. If it manages to attract investments from within Canada or abroad, I will applaud that too.

However, these issues remain unresolved, which does nothing to assure us that Canadians' money will be safe under this proposal, no matter where they may be.

[Senator Mercer]

Hon. Éric Forest: Honourable senators, it is with great pleasure that I rise to speak to Bill C-44, the most recent federal budget implementation bill.

I wish to thank and congratulate Senator Woo, the sponsor of Bill C-44, and all honourable senators who worked tirelessly during the study and pre-study of the bill.

Clearly, any bill designed to implement all the measures necessary to carry out the budgetary process is by its very nature an omnibus bill, and I acknowledge that.

That being said, I deplore the fact that such bills are too often used as an opportunity to sneak in legislation not absolutely necessary to the implementation of the budget. The Liberal Party condemned this practice during the last election and made a commitment to put an end to it.

Most of my speech will focus on process rather than substance.

The upper chamber needs to show proper deference toward the other place, especially regarding budget implementation bills, which result from election promises. That is why I'm fully aware of my role when it comes to expressing my reservations about legislation such as the one that is before us, which is ultimately the prerogative of the executive branch.

I would like to begin by saying how dumbfounded I was by the government's decision to cancel the public transit tax credit. It makes no sense for two reasons.

First, the government decided to seriously tackle climate change, and I applaud that decision. The Department of Environment was even renamed to explicitly refer to that.

However, I don't understand why the government, given the action it is taking to fight climate change, would cancel a tax incentive for people to use their own vehicles less, thereby reducing greenhouse gas emissions and keeping our environment cleaner for our children and grandchildren.

Second, I spoke with public transit providers in my community, and it seems obvious that, given traffic issues, public transit is a more logical choice than driving, outside of large urban areas. In medium-sized municipalities, public transit users usually have a lower income. Depriving them of a tax credit seems to go against the important goal of reducing greenhouse gas emissions.

I will now turn to another issue that, in my view, raises a lot of questions.

• (1800)

Bill C-44, regarding the increase in excise duties on alcohol —

The Hon. the Speaker *pro tempore*: May I interrupt you for a few moments? Honourable senators, it being 6 p.m., pursuant to rule 3-3(1), I am obliged to leave the chair until 8 o'clock, unless there is consent from honourable senators not to see the clock. Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker *pro tempore*: So ordered. You may continue, Senator Forest.

Senator Forest: Bill C-44, regarding the increase in excise duties on alcohol, contains two separate measures. First, there is a 2 per cent duty increase on beer, wine and spirits production, applicable immediately, and second, these duties will automatically increase based on the Consumer Price Index on April 1 of each year.

Let me be clear: I'm not opposed to increasing these duties *per se*. However, as a former elected official at the municipal level, I understand what "no taxation without representation" means. Nevertheless, taxation must remain the prerogative of the executive. Automatically increasing these duties each year is a bad idea in my view, for two reasons.

First, a rigid measure like this doesn't take into account the realities of small beer and spirits producers. Even if the excise duties on beer vary according to the volume produced by microbreweries, local beer from small-scale producers is generally more expensive than high production commercial beer. Small producers will probably have to absorb the duty increase with their profit margin, if they have one, in order to remain competitive. Large scale producers can do this more easily, as they enjoy, shall we say, much wider profit margins. At the end of the day, consumers usually end up footing the bill.

Second, we will be shooting ourselves in the foot if we put small craft producers in jeopardy by forcing them to absorb these annual automatic excise duty increases. Our regions will suffer as a result. As representative of the Gulf senatorial division, I tend to analyze legislation from a regional standpoint. I'm not talking about only the Lower St. Lawrence and the Gaspé regions, which I represent, but all the regions across Canada.

Tourism opportunities have increased dramatically over the past few years with the development of local gastronomy, and local food and drink production has exploded all across the country. That is what is setting Canada apart as a premier tourist destination: people want to have a taste of Canada. I believe today's tourists are looking for a different travel experience, and our craft alcohol producers are part of that equation. To undermine them is to undermine an entire segment of our tourism economy.

If the government wants to increase the excise duties on alcohol, which is completely legitimate, then it should do so manually every year, in every budget. Automatic increases don't take into account the state of the economy, the situation of different sectors and macroeconomic issues. The decision rests on sound principles, but the process is flawed. I urge the government to re-examine its strategy in that regard.

I finally come to the main part of my speech on Bill C-44: the sticky wicket that is the Canada infrastructure bank.

Let me state at the outset that I'm strongly in favour of creating this bank. The finance department has estimated the infrastructure deficit at roughly \$570 billion. Even with the

government's plan to invest \$180 billion over 10 years in infrastructure, we are a far cry from where we need to be. However, the accumulated infrastructure investments in our territories, our provinces and our municipalities will give a tremendous impulse. Private and institutional investors will help to fill specific needs with the infrastructure bank.

Once again, it is the process that I have a hard time with. I take issue with creating a crown corporation with an economic bent through an omnibus bill that will be studied in committee over the course of a few meetings. The bank is an important tool for dealing with the Canada's future infrastructure challenges. The government may have made a formal commitment, but given the importance of the institution we are about to create, it is essential that we carefully assess its impact and operation. The bank is not an end in itself, but a tool to effectively deal with the inescapable reality of infrastructure in Canada.

I want to share my main concerns over creating the infrastructure bank. The pre-study done by the Standing Senate Committee on Banking, Trade and Commerce shed light on serious concerns on the model of governance for the bank, on the risk of political interference, and on the way in which the bank will select the projects it will fund.

The committee's findings are clear, and I quote:

The committee is not convinced that the right balance between the need for the proposed bank's decision making to be free from political interference and the need for the federal government to maintain adequate oversight of the use of public funds has been achieved.

In committee, the Canadian Council for Public-Private Partnerships explained that it has been very difficult for the government to develop revenue-generating infrastructure projects, and that only three of the country's 258 PPP projects are revenue-generating. As such, the bank's operational model deserves a closer look.

We have to be extra careful, especially after the minister said, before the Standing Senate Committee on Banking, Trade and Commerce, that the transformative projects that the proposed bank would support would not normally be feasible because of their high cost and risk profile or limited revenue potential. We were also told that most of the projects the bank would support would come from other levels of government, the provinces and territories. We as parliamentarians were not given enough data and information to support an operational project of this kind.

From what I understand, the purpose of the infrastructure bank is to attract private capital to build major infrastructure projects that will turn a profit. However, we have been told that projects that turn a profit are very rare and that most of the projects will come from other levels of government and not private investors. I think that is a problem.

We are all aware of the fact that the smaller municipalities will never have any part in the infrastructure bank. It will deal with major infrastructure projects in large urban centres, such as the REM in Montreal, something that the Caisse de dépôt et placement du Québec is already investing in. I would like some

assurances that the public funds that will be used as capital for the bank will not reduce the funding allocated to Canada's regions and municipalities.

I feel even more uncertain about the infrastructure bank when I think about the various infrastructure programs and the issues that go along with them. The National Finance Committee has been studying funding for Canada's infrastructure for months. If there is one thing that we learned from that committee work, it is that keeping track of funding for infrastructure in Canada is a feat in itself. Many years can go by between the time the funds are allocated and the official start date of a project, and I am not even talking about extended time frames to account for Canadian winters. Work has to be done when the weather permits.

Money that was supposed to be allocated under the Building Canada Fund from 2007 to 2014 is still appearing in the government credits for this year. Given the various budget cycles, the deferral of funds from one year to the next, and the often long delays, exercising due diligence in the allocation of public funds for infrastructure can be a very long process. It is our responsibility, honourable senators, to make sure that happens.

In that regard, in the absence of additional information and a serious analysis, as a parliamentarian, I am uncomfortable with the idea of validating the creation of this bank without knowing for sure how this institution would fit into the billions of dollars' worth of infrastructure plans made by previous governments that it overlaps with, not to mention the more predictable sources of funding, such as the gas tax.

• (1810)

A number of colleagues for whom I have tremendous respect believe that putting off creating the infrastructure bank would unduly delay major projects. I disagree with them, however, because by taking a closer look at how it is going to be set up, we can deal with governance and priority project management issues on top of fleshing out the bank's accountability mechanisms and business model. These are things that have to be done regardless.

From what we can tell, we do not currently have dozens of big, profitable, eligible projects waiting in the wings.

The Standing Senate Committee on Banking, Trade and Commerce met five times on this and just today heard from Kevin Page, the former Parliamentary Budget Officer, but we still do not have a clear and accurate understanding of the bank's business model or how it will operate within the federal government. To my mind, it is absolutely essential that these questions be answered before we can go forward.

Passing omnibus bills that include measures unrelated to budget implementation must cease. It is up to both houses to create an atmosphere conducive to the in-depth analysis of legislative measures to ensure that they are effective, valid, and just and that they serve Canadians' interests. I believe that the infrastructure bank merits our close attention in that regard.

In closing, I want to acknowledge the good work of the House of Commons Standing Committee on Finance, which proposed amendments to the most contentious provisions concerning the

Parliamentary Budget Officer. I believe that an atmosphere conducive to in-depth analysis would surely produce very positive results.

[English]

The Hon. the Speaker *pro tempore*: Senator Forest's time is up. Do you wish to ask a question, Senator Woo?

[Translation]

Are you asking for another five minutes, Senator Forest?

Senator Forest: Yes, please.

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

Hon. Senators: Agreed.

[English]

Senator Woo: Thank you, Senator Forest. You object to the Canada infrastructure bank being part of Bill C-44 on the grounds that we don't have sufficient information on its operating model.

I might point out that another major division in our bill concerns the transfer of \$11 billion to the provinces under the health accord for improvements in mental health and in home care, but none of the operating details are available because the provinces have not provided any of those details. Would you also recommend that we split the \$11 billion for health care transfers to provinces from Bill C-44?

[Translation]

Senator Forest: Thank you for the question, Senator Woo. My objection relates to the fact that an agreement exists between two levels of governments that are accountable to the public. The infrastructure bank currently under debate would only be accountable to the minister in certain instances.

This is an institution that will grant loans to private companies. That is a completely different situation than one involving an agreement in the public interest reached between two accountable levels of government.

Hon. Serge Joyal: Would the honourable senator take another question?

Senator Forest: With pleasure, honourable senator.

Senator Joyal: Senator Forest, I would first like to congratulate you on your presentation, which was very clear. My question is as follows. You have served at the municipal level in the Rimouski region, and I'm sure you are aware that there is great concern within the Quebec National Assembly about one aspect in particular of the bank, namely, the Government of Quebec's

jurisdiction over the municipalities and how important it is that the latter be able to act in partnership with the government they normally deal with.

Based on your experience, could you tell us how we should approach this in terms of a position to defend the Government of Quebec regarding this provision in the legislation creating the infrastructure bank?

Senator Forest: Thank you, senator, for this most relevant question. Jurisdictions are incredibly important. We know that municipalities in Quebec are governed by two acts: the Municipal Code of Quebec and the Cities and Towns Act. There is other legislation in the works, including Bill 122, which will recognize municipal autonomy and clearly define what the relationships are. That is a major issue, because currently, in Quebec, municipalities cannot directly speak to the federal government. Any project must first be submitted to the provincial government, who will then speak to its federal counterpart.

Which types of projects will be funded by the infrastructure bank in which jurisdictions is a very important issue. Generally speaking, projects are carried out on municipal land within provinces or territories. How will we make sure that all federal and provincial laws are consistent with municipal by-laws?

These are things that require more in-depth analysis when it comes to creating the Canada infrastructure bank.

Senator Joyal: Did the committee have enough time to closely examine this matter in terms of jurisdictions, financial impact, and the proportion of the bank's available funding that infrastructure projects submitted by Canadian municipalities could potentially represent?

Senator Forest: I sit on the Standing Senate Committee on National Finance, and the committee did not study this important matter. However, I can refer to the evidence given by Mr. Michael Sabia, from the Caisse de dépôt.

When we talk about the Canada infrastructure bank, we talk about major infrastructure projects, mainly municipal projects, with a level of profitability that is likely to attract private investors. Outside of large urban centres like Montreal, there is little interest because the number of potentially profitable projects is quite low, according to Mr. Sabia.

In my humble opinion, we did not have enough time to closely examine the issues around the legislation or the impact of the bank on municipal projects as a whole, whether for small or medium-sized municipalities.

The Hon. the Speaker *pro tempore*: I'm sorry, Senator Forest, but your time has expired.

[English]

Hon. Elizabeth Marshall: Honourable senators, I rise to speak to Bill C-44, the budget implementation bill which was received in this chamber earlier today.

Bill C-44 was sent to the Standing Senate Committee on National Finance on May 8 for pre-study. Certain parts of the bill were sent to other Senate committees for pre-study, and all committees have now reported back to the Senate.

Honourable senators, Budget 2017 indicates that the government will continue with its deficits for the next five years: \$28 billion for this fiscal year, followed by \$27 billion, \$23 billion, \$21 billion and \$18 billion for the following four years.

In its 2015 election platform, the government made a commitment to run “modest” deficits for three years and balance the budget in 2019. This commitment has long been forgotten. Budget 2016 presented a projected deficit of \$29 billion and this Budget 2017 is projecting a deficit of \$28 billion.

The government further committed in 2015 to ensuring that Canada remains in a sustainable fiscal position. To do this, they established two fiscal anchors. They committed to reducing the federal debt-to-GDP ratio to 27 per cent in 2019-20 from the 31 per cent in 2015, and they committed to balance the budget in 2019-20. They have now abandoned both of their two fiscal anchors.

The federal debt-to-GDP ratio is now projected to be 31.5 per cent in 2019-20 and not the 27 per cent they promised. And they will not balance the budget in 2019-20. In fact, they have made no commitment whatsoever to ever balance the budget since being elected.

• (1820)

Last December, the government released financial information that projects deficits until at least 2055. While government promised three years of modest deficits in 2015, we now know that the deficits aren't modest, nor will they end in 2020. Deficits will continue for at least another 40 years.

Budget 2017 describes the government's borrowing program for the year. This year government expects to borrow \$286 billion, of which \$247 billion is to refinance existing debt, plus an additional \$39 billion to fund the deficit and other transactions, such as loans and investments. Government pays interest on its borrowings, and for the past number of years, government has borrowed at record low interest rates.

However, higher interest rates are anticipated in the very near future; so with interest rates that are higher and additional debt as a result of the deficits, government's public debt charges will increase.

Public debt charges are projected to increase from \$24 billion in the current fiscal year to \$33 billion in 2021-22. That's a 37 per cent increase over three years.

Bill C-44, if approved, will enact a borrowing authority act. This will provide the Minister of Finance with borrowing authority and provide for a maximum amount of borrowing. Under this legislation, a government debt limit of \$1.168 trillion is prescribed within Bill C-44. In other words, government is informing us that by 2020, our debt will exceed \$1 trillion.

This includes the government's own borrowings of \$691 billion, which we have now; the current stock of Crown corporations' borrowings of \$276 billion; the three-year projection for government borrowings in the amount of \$103 billion; and the three-year projection for Crown agencies in the amount of \$43 billion. Added to this is a 5 per cent contingency fund of \$56 billion, and this amounts to the \$1 trillion I have just mentioned.

The deficits of the Liberal government will be paid by incurring debt, and this debt will have to be repaid in the future with tax increases. Hence the saying: Today's deficits are tomorrow's taxes.

Senator Mockler has already spoken on the borrowing authority act, so I will keep my remarks brief. In its 2015 election platform, the Liberal government committed to an open and transparent government, yet under the proposed borrowing authority act, the minister is required to table a triennial report — that's a report once every three years — in both Houses of Parliament to disclose the total amount of money borrowed. Given that the standard within government is a requirement for annual reports, there is no reason why the minister needs to resort to triennial reports. Total public debt is important information, and it should be reported annually.

Honourable senators, Bill C-44 also had a section on the Parliamentary Budget Officer. I want to talk about history. Back in 2015, the election platform included two references to the Parliamentary Budget Officer. It committed to ensuring that the Parliamentary Budget Officer was truly independent of government, was properly funded and accountable only and directly to Parliament. The 2016 fall fiscal update last year also made a commitment to establishing the Parliamentary Budget Officer as an independent officer of Parliament, promising independence, reporting to Parliament and parliamentarians. The government also committed to providing the Parliamentary Budget Officer with greater access to information.

Bill C-44 did not initially deliver on these commitments. Under the initial legislation, the direction and control of the PBO and his office was vested in the Speaker of the Senate and the Speaker of the House of Commons. The Parliamentary Budget Officer's work plan was to be approved by both Speakers, and the Parliamentary Budget Officer's mandate was restricted to focusing on government reports and requests from parliamentary committees. The initial Bill C-44 did not include, in the mandate, the PBO's self-initiated work or work requested by individual parliamentarians.

All of these restrictions undermined the independence of the Parliamentary Budget Officer.

Government had also committed to providing the PBO with greater access to information.

However, clause 159 of the initial Bill C-44 amended the Federal Courts Act so that the PBO could no longer refer a question of law or jurisdiction to the Federal Court. As senators may recall, the PBO referred questions to the Federal Court in 2013, seeking to clarify the scope of the PBO's access to information and his mandate.

If the initial Bill C-44 were enacted, this remedy would no longer be available.

After much criticism of the proposed amendments to the Parliamentary Budget Office, government amended Bill C-44 in the other place.

While most of the concerns relating to the Parliamentary Budget Officer have been addressed in the amendments to Bill C-44, there are two remaining issues that concern me.

First, the amended legislation still requires the Parliamentary Budget Officer to consult with both Speakers when preparing his work plan and before deciding the matters of significance that should be brought to the attention of the Senate and the House of Commons. If the PBO determines that a matter is of significance and should be brought to the attention of Parliament, while the Speaker or Speakers disagree, what will be the outcome? In my opinion, the Speakers should not be involved.

My second point relates to the remedies available to the Parliamentary Budget Officer.

For example, if the PBO initiates a reference under section 18.3 of the Federal Courts Act because a department is unwilling to grant access to information, it is unclear from the amendments whether the Speakers have to be consulted or advised. During the most recent briefing with Senator Woo, Government officials have provided assurance that under the amended legislation he does not, but as mentioned the legislation now is unclear.

I'd also like to talk about the proposed tax measures under Bill C-44. Budget 2017 proposes several tax measures which are outlined in detail in the budget documents.

While the summary provided by the government is entitled "Cost of Proposed Tax Measures," the details clearly indicate these tax measures are not costing government.

Rather, these tax measures will generate additional tax revenues for government over the next five years in the amount of \$2.5 billion.

I am going to summarize some of these tax changes, and I will begin with the cancellation of the Public Transit Tax Credit.

Through Bill C-44, the Liberal government will be increasing personal income taxes through the elimination of the Public Transit Tax Credit. This will add \$200 million each year to the government's coffers, or \$1 billion over the next five years.

In his report, the Parliamentary Budget Officer estimates that approximately 1.2 million Canadians will pay, on average, \$137 in additional federal tax as a result of the Liberal government's elimination of the Public Transit Tax Credit.

The PBO identified 4,200 individuals who claimed the federal disability tax credit, but will lose this benefit under Bill C-44.

In addition, the Parliamentary Budget Officer estimated that there are approximately 185,000 individuals earning annual after-tax income below \$22,600 that would have received a benefit from this tax credit.

Honourable senators, last year's budget reduced income taxes for taxpayers with incomes above \$45,000. However, people with income below \$45,000 did not receive any reduction in their taxes.

Last year, Senator Smith proposed an amendment to the 2016 budget that would have reduced income taxes for people earning less than \$45,000. Unfortunately, this amendment failed.

Not only did the government not reduce taxes for these low-income Canadians in 2016, they are increasing the taxes for this vulnerable group in 2017 by eliminating the Public Transit Tax Credit.

Through Bill C-44, the Liberal government is also increasing business income tax, primarily through a variety of measures that will generate almost \$1 billion in additional revenues for the government over the next five years.

Through Bill C-44, the government is also increasing sales and excise tax primarily through the following: tobacco taxation, which will increase government revenues \$225 million over the next five years; and alcohol taxation, which will increase government revenues \$470 million over the next five years. The point I'm making is that the tax measures in Bill C-44 will provide little tax relief but will impose significant tax increases.

• (1830)

In total, the tax measure in C-44 will increase government's tax revenues by almost \$3 billion over the next five years, while providing only \$350 million in tax relief.

I'd now like to provide some comments on the infrastructure bank, which several of my colleagues have already spoken about.

The Liberals' 2015 Election Platform committed to establishing the Canadian infrastructure bank, broadly defining the mandate of the bank, and committing to providing loan guarantees and small capital contributions to provinces and municipalities.

The 2016 Fiscal Update last fall provided further information on the infrastructure bank.

There has been much public discussion about the mandate of the infrastructure bank, its governance structure, the role of the private sector, the types of infrastructure projects to be approved, as well as the financial risks to government and ultimately to the taxpayers of Canada.

The section of Bill C-44 on the infrastructure bank was referred to the Banking Committee, which studied this section in detail.

The Banking Committee held several meetings on the proposed infrastructure bank and heard from the Minister of Finance, government officials and representatives from think tanks,

pension plans and economic development, business, academia and financial services sectors.

Witnesses were divergent in their views on the mandate of the bank. While Infrastructure Canada explained that most projects would be submitted by other levels of government, other witnesses supported projects not otherwise pursued by governments. Others questioned the need for the bank, as it wasn't clear that it could achieve something that could not be achieved by a public-private partnership, or PPP. Others expressed concerns regarding privatization of public services.

Witnesses were also divergent on their views on the governance structure, with some emphasizing the need for government to maintain adequate oversight, while others emphasized the need for the bank's decisions to be free from political interference.

Under C-44, the Governor-in-Council will appoint the chairperson and the directors of the bank. The Governor-in-Council can also terminate, remove or suspend any director. This section has been discussed in great detail by the Banking Committee, and concern regarding the governance structure has been expressed by a number of witnesses. The board can also terminate, remove or suspend any director, but only with the approval of the Governor-in-Council. In addition, the CEO can only be appointed, terminated, removed, or suspended subject to the approval of the Governor-in-Council.

With regard to the funding, the government has committed to providing \$35 billion on a cash basis to the infrastructure bank. Budget 2017 indicates that \$15 billion of the \$35 billion will be provided over the next 11 years, with \$5 billion allocated to each of the following three areas: public transit, green infrastructure, and trade and transportation.

I just want to emphasize that the money isn't going out in one lump sum. It's to be spread out over 11 years, and the budget documents indicate how much is going to go out in each year under each of those three areas.

I'll have to go back and look at the transcripts, but I had the impression, when Senator Woo spoke, that maybe the \$15 billion was for losses, which wasn't my understanding.

The Hon. the Speaker *pro tempore*: I'm sorry, but your time is up.

Senator Marshall: May I have more time?

The Hon. the Speaker *pro tempore*: Honourable senators?

Some Hon. Senators: Agreed.

Senator Marshall: My understanding is that the \$15 billion is going to go out directly as cash, grants or some sort of financial assistance.

However, the remaining \$20 billion of the \$35 billion is going to be paid out as loans or equity investments. No information has been provided yet as to when the \$20 billion will be disbursed, nor has there been any discussion on the terms and conditions to be attached to these cash outlays.

The \$20 billion — and this is what people are saying — will not affect the government's bottom line, but that's only true to a certain extent. It won't affect the government's bottom line right now, initially, but it will affect the government's bottom line if it is written off or if it is written down.

In addition, C-44 permits the Minister of Finance to make loans and loan guarantees. Again, loans will not affect the government's bottom line initially, but they will if those loans are written off or written down. Those numbers, if those loans are written off or written down, will roll down right into the government's bottom line and increase their deficit.

And guarantees are something else that's provided for under the legislation: It will not affect the government's bottom line, but again, if the government is called upon to honour a guarantee, it will affect the bottom line and it will roll into the deficit.

So it should be noted that there is a risk to the issuing of the loans, to the equity investments and also to the guarantees.

The proposed legislation clearly indicates that the infrastructure bank is "not a Crown agent," and that's a heading in the legislation, although the briefing notes that we received said that it was. There are four exceptions to this spelled out in the legislation, and I won't mention them here. I can only conclude that the infrastructure bank is a partial Crown agent. It seems like it's not a full one.

In addition, the bank is required to provide an annual report to the minister and to Parliament. While the Financial Administration Act requires that Crowns and, therefore, the infrastructure bank, have to file annual reports, I think that because of the nature of the infrastructure bank. Because so much money is involved and this is something new, I felt that the legislation could have been strengthened by providing further direction as to who should be included in that annual report.

Honourable senators, this concludes my comments on Bill C-44, the budget implementation bill. In closing, I would like to acknowledge the contribution of my colleagues on the National Finance Committee, many of whom are participating in this debate this evening. Thank you very much.

Senator Tkachuk: Honourable senators, I want to thank Senator Woo for his speech. That is a rosy view of the budget bill, I'm sure.

Before I do that, the Banking Committee tabled a report. I was going to speak to it last Thursday, but because of all the kerfuffle and the one hour and everything, I never got the opportunity.

It would normally be done before the budget bill and before my speech on the budget, so what I'm going to do is spend a few minutes speaking about the report and then go on to my speech on the budget itself, Bill C-44.

First of all, I'd like to thank all members of the Banking Committee for their participation. We extended the number of meetings that we were to have, and we are confident that even in the short time allotted to us, we were able to do a thorough study of these various divisions with the bill.

The committee held six meetings for a total of 10 hours and 21 minutes. In that time, we heard from 29 witnesses, including Finance Minister Morneau and outside experts such as Jack Mintz.

Other senators on the committee will also be speaking to the report. I understand that item on the Order Paper will come after speeches on second reading, so I'm going to end with that and go on to my remarks on Bill C-44.

I want to raise a few issues, specifically the infrastructure bank and the new government Crown corporation to foster foreign investment in Canada.

The government's hands are all over the infrastructure bank and, in some cases, in unseemly ways.

I am always struck when the witnesses who come before the committee who have a vested interest in something line up behind it, and those who have no interest at all cast a more critical eye. I think we owe it to ourselves and to Canadians to listen carefully to the disinterested witnesses.

One of those was Jack Mintz of the University of Calgary, who made it clear that he has a great deal of concern over the infrastructure bank; he, along with the former Parliamentary Budget Officer. What Mintz was most concerned about, and what the committee remained concerned about when it delivered its report, was the governance structure of the bank.

One of his concerns was that the government would have different interests in projects than its private sector partners would, the private sector naturally having a profit motive. He worried about undue government interference in projects.

And he was not alone. The C.D. Howe Institute told us it too worried about the lack of detailed provisions regarding the proposed bank's governance framework.

There are a host of other criticisms, but they were summed up best in a recent article in the *Globe and Mail's* Report on Business in which Barrie McKenna wrote:

. . . it's a complicated model that requires a host of elements to come together — money, expertise, worthy projects and freedom from political interference.

He continued:

It's not at all clear Mr. Morneau has all the details right as he rushes to get the bank up and running by the end of this year.

• (1840)

Ah, the details. The devil is always in the details, colleagues, as we all know. And reassurances from the minister, who was kind enough to appear before the Banking Committee, have done

nothing to allay the concerns of critics. I count myself among them.

There are a number of other items besides the questions of governance, and the appointment of board members and their susceptibility to government interference. Witnesses from the government side made clear that part of the bank's responsibilities will be to encourage investments by providing subsidies and government loan guarantees. That makes me ask: What kind of a bank is this? What kind of an organization is this? One can easily surmise it will be an organization that makes deals that assist Liberal businesspeople. And if it doesn't, maybe a minister or even a prime minister will make a phone call. It's been done in the past. That was what a certain former Liberal Prime Minister called the Business Development Corporation to ensure that a friend got a loan to expand a hotel in Shawinigan.

Or is it going to make investments in infrastructure that should never be made by private investment? When you think about it, outside of the Trans-Canada Highway, buying airports, privatizing the post office, buying a port, the number of potential investments is pretty thin, unless they venture into provincial and municipal territories, which is what they say they're going to do. Then the province or municipality would have to agree, and there would have to be something in it for them before they agreed to, say, a water treatment plant that will have a monopoly on that city's drinking water. Is that good public policy? I think not.

We were happy and fortunate to have the Minister of Finance appear before us. When he did appear, he assured us that all was good with the bank. Perfect, in fact. Couldn't be better. In describing the bank, he said:

What we're trying to achieve here is to create the possibility for getting at what we see as an infrastructure gap in this country, while transferring both the risk and the funding to outside investors.

Nothing could be further from the truth.

If that is the case, why in the other place did he refuse to answer my colleague Pierre Poilievre when he asked the Finance Minister who will protect taxpayers when an infrastructure bank project fails. The minister did not say — and refused to say.

Mr. Poilievre isn't the only one to worry about this. Jack Mintz in his testimony pointed out that while taxpayers would share in the upside of an infrastructure project, they would be the only ones left holding the bag on the downside.

I spoke with Finn Poschmann, who didn't have an opportunity to appear before the committee. He was formerly with the C.D. Howe Institute and now serves as the CEO of the Atlantic Provinces Economic Council. He said that his respectful and powerful recommendation to the Banking Committee is that they amend Bill C-44. It was unfortunate I got his views after our meetings were all complete, but as far as he was concerned, the bank provisions grant cabinet inappropriate authority over the day-to-day business of what should be an independent and expert

non-agency Crown. In his estimation, there can only be one reason for this, and that's so the Governor-in-Council can force through financial decisions that an independent and expert body would not make.

It is not enough for the government to assure us that it has no such intention. Governments have a way of inserting themselves when their own interests are at stake.

I also have some concerns about the proposed invest in Canada act. It seems to me to be a way of getting around paying federally regulated salaries in order to pay high private-sector salaries to people to do the same work that our trade commissioners and our embassies are paid to do. I have seen nothing in the legislation that convinces me that the hub, as it is called, would increase investment in Canada enough to offset the enormous cost of running the place, which would no doubt increase over time. At least, that's the argument the hub would likely make; in other words, as soon as they are going to get their first budget, they'll be asking for more, because they're going to need more resources to get more investment into Canada.

It's not just me, honourable senators. A lot of members of the Banking Committee remained unconvinced about the need to establish this new agency. This agency, remember, can issue contracts for advertising and marketing, hire people without requirements of the Public Service Commission and pay themselves salaries without government control. Frankly, they admitted as much in committee.

There is another matter that bothers me and some of my other colleagues as well. That is the CPP. If you remember, a couple of years ago, the CPP had not been that interested in investments with the government and with infrastructure in Canada. Then after the increases passed in the last budget and then passed as a bill this session, providing new cash flow for the CPP and really benefiting no one over the age of 17, suddenly they can barely wait to get into partnership with the government.

Under normal circumstances, who wants to partner with the government on a business venture? I'll tell you who: Those who will receive a government loan guarantee or a subsidy. If you have that, you do not need to be a successful businessperson; you simply need to be alive, breathing and preferably a member of the Liberal Party of Canada.

I think that tells you all you need to know.

Honourable senators, I look forward to further debate on this subject.

Senator Woo: Senator Tkachuk, will you take a question? I feel I owe you the return favour.

Senator Tkachuk: Yes, I will.

Senator Woo: Thank you for clarifying that the Banking Committee did a thorough study of the relevant aspects of Bill C-44, but there is an outstanding question that only you and other members can resolve. Senator Mockler, in his speech, made the comment that the Banking Committee report referred to a need to

split the bill; that there was a problem with the omnibus character of Bill C-44, particularly with respect to the Canada infrastructure bank.

I didn't see any such reference in the pre-study. Can you confirm that is the case?

Senator Tkachuk: No, we made no reference whatsoever to splitting the bill.

Senator Woo: Thank you very much.

You referred to the invest-in-Canada hub and correctly, I believe, reflected the views of some senators who feel that this entity may not be required.

Can you confirm if any witnesses spoke against the invest-in-Canada hub? I did not see in any of the transcripts that witnesses spoke against its formation. On the contrary, it would seem to me that all of them supported it.

Senator Tkachuk: Yes, all of the people who came before us supported the new trade investment corporation.

Senator Woo: Thank you very much.

(On motion of Senator Day, debate adjourned.)

• (1850)

CITIZENSHIP ACT

BILL TO AMEND—MESSAGE FROM COMMONS— AMENDMENTS AND DISAGREEMENT WITH A SENATE AMENDMENT

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that a message has been received from the House of Commons which reads as follows:

Tuesday, June 13, 2017

ORDERED,—That a message be sent to the Senate to acquaint their Honours that, in relation to Bill C-6, An Act to amend the Citizenship Act and to make consequential amendments to another Act, the House:

agrees with amendments 1(a), 1(c), 4 and 5 made by the Senate;

proposes that amendments 1(b)(i) and (ii) be amended by replacing the number “60” with the number “55”;

proposes that amendment 1(b)(iii) be amended by replacing the words in paragraph 5(1.04)(a) with the following words “made by a person who has custody of the minor or who is empowered to act on their behalf by virtue of a court order or written agreement or by operation of law, unless otherwise ordered by a court; and”;

proposes that with respect to amendment 2:

the portion of subsection 10(3) before paragraph (a) be amended by deleting the word “revoking” and adding the words “may be revoked” after the words “renunciation of citizenship”;

paragraph 10(3)(d) be amended by replacing all the words after the words “advises the person” to the word “Court.” with the following words “that the case will be referred to the Court unless the person requests that the case be decided by the Minister.”;

the portion of subsection 10(3.1) before paragraph (a) be amended by replacing the word “received,” with the words “sent, or within any extended time that the Minister may allow for special reasons.”;

paragraph 10(3.1)(a) be amended by deleting the words “humanitarian and compassionate” and adding after the words “including any considerations” the words “respecting his or her personal circumstances” and by adding the words “of the case” after the words “all of the circumstances” and by deleting the word “Minister’s” before the words “decision will render the person”;

paragraph 10(3.1)(b) be amended by replacing the words “referred to the Court” with the words “decided by the Minister”;

subsection 10(4.1) be amended by replacing that subsection with the following “(4.1) The Minister shall refer the case to the Court under subsection 10.1(1) unless (a) the person has made written representations under paragraph (3.1)(a) and the Minister is satisfied (i) on a balance of probabilities that the person has not obtained, retained, renounced or resumed his or her citizenship by false representation or fraud or by knowingly concealing material circumstances, or (ii) that considerations respecting the person’s personal circumstances warrant special relief in light of all the circumstances of the case; or (b) the person has made a request under paragraph (3.1)(b).”;

subclause 3(4) be amended by deleting all the words beginning with “(4) The Act is amended by adding the following” to the words “under this Act or the Federal Courts Act.”;

proposes that amendment 3(a) be amended in subsection 10.1(1) by replacing the words “If a person” with the words “Unless a person”;

proposes that with respect to amendment 3(b):

subsection 10.1(4) be amended by replacing all the words beginning with “If the Minister seeks a declaration” and ending with the words “knowingly

concealing material circumstances.” with the words “For the purposes of subsection (1), if the Minister seeks a declaration that the person has obtained, retained, renounced or resumed his or her citizenship by false representation or fraud or by knowingly concealing material circumstances, with respect to a fact described in section 34, 35 or 37 of the Immigration and Refugee Protection Act, the Minister need prove only that the person has obtained, retained, renounced or resumed his or her citizenship by false representation or fraud or by knowingly concealing material circumstances.”;

by deleting subsection 10.1(5);

proposes that amendment 6(a) be amended by replacing clause 19.1 with the following “19.1(1) Any decision that is made under subsection 10(1) of the Citizenship Act as it read immediately before the day on which subsection 3(2) comes into force and that is set aside by the Federal Court and sent back for a redetermination on or after that day is to be determined in accordance with that Act as it reads on that day. (2) A proceeding that is pending before the Federal Court before the day on which subsection 3(2) comes into force as a result of an action commenced under subsection 10.1(1) of the Citizenship Act is to be dealt with and disposed of in accordance with that Act as it read immediately before that day.”;

proposes that amendment 6(b) be amended by replacing clause 20.1 with the following “20.1 If, before the day on which subsection 3(2) comes into force, a notice has been given to a person under subsection 10(3) of the Citizenship Act and a decision has not been made by the Minister before that day, the person may, within 30 days after that day, request to have the matter dealt with and disposed of as if the notice had been given under subsection 10(3) of that Act as it reads on that day.”;

respectfully disagrees with amendment 7 because it would give permanent resident status to those who acquired that status fraudulently;

proposes that amendment 8 be amended by replacing all the words after “(3.1) Subsections” with the following words “3(2) and (3) and 4(1) and (3) and section 5.1 come into force on a day to be fixed by order of the Governor in Council.”.

ATTEST

COLETTE LABREQUE-RIEL

for MARC BOSC

The Acting Clerk of the House of Commons

Honourable senators, when shall this message be taken into consideration?

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

BUDGET IMPLEMENTATION BILL, 2017, NO. 1

FOURTEENTH REPORT OF STANDING SENATE
COMMITTEE ON BANKING, TRADE AND
COMMERCE COMMITTEE ON SUBJECT
MATTER—DEBATE ADJOURNED

The Senate proceeded to consideration of the fourteenth report of the Standing Senate Committee on Banking, Trade and Commerce (Subject matter of Bill C-44, An Act to implement certain provisions of the budget tabled in Parliament on March 22, 2017 and other measures), tabled in the Senate on June 7, 2017.

Hon. Paul J. Massicotte: Honourable senators, I'm going to make some comments on certain sections of our Banking Committee report on Bill C-44. In particular, I'm going to talk to you about the federal infrastructure bank that we have talked quite a bit about already, but I want to add my comments.

I would like to start by giving my support to the creation of the Canada infrastructure bank. I applaud the government's effort to attract private sector and institutional investment to much-needed public interest infrastructure projects.

[Translation]

That will not stop me from also sharing with you some of the concerns that I have with regard to the bill on the Canada infrastructure bank. Those concerns have to do with the bank's governance framework, as it is presented in the proposed legislation and as it was described to the Standing Senate Committee on Banking, Trade and Commerce by the Minister of Finance and his staff.

[English]

The main purpose of this infrastructure bank is to better meet Canada's need for new strategic infrastructure. Just to give you an idea, estimates for the existing infrastructure gap range from \$150 billion up to \$1 trillion.

Through the infrastructure bank, \$35 billion in public funds will be used as leverage to attract billions more in private investments for large projects, such as roads, bridges and transit systems.

Ultimately, the infrastructure bank is also a key tool for economic growth. Investing in infrastructure is one of the most efficient economic stimuli. For every \$1 billion invested, 18,000 jobs are created the first year, and the GDP grows by about \$1.5 billion.

• (1900)

Investing in strategic infrastructure will also reinforce our economic capacity. Spending on productivity- and trade-enhancing infrastructure systems will bolster Canada's long-term competitiveness.

[Translation]

That would result in semi-permanent growth in our productivity, our GDP, and our standard of living. That is significant given that Canada's demographic situation is dragging economic growth down and creating significant health care costs. Investing in infrastructure is one of the most efficient economic stimuli. For every \$1 billion invested, 18,000 jobs are created the first year, and the GDP grows by about \$1.5 billion.

[English]

As such, it is quite easy to agree that strategic infrastructure spending is a smart investment. The more difficult debate, though, is about the best way to get there.

Let us first acknowledge that private industry, municipal and provincial governments are the most important infrastructure investors in Canada. They directly invest in pipelines, roads, public water systems, mostly without any financing support from the federal government. It is important to stress that the federal government does not expect these parties' direct investment in infrastructure to diminish. But still, this won't be enough to fill the important investment shortfall in strategic infrastructures in our country.

So, as some critics suggested, why doesn't the federal government use its own balance sheet to fund these needs? After all, the cost of capital for the government is as low as 2.2 per cent. It is way cheaper than the 6 to 7 per cent expected by outside investors. This financing cost difference is significant, so why bother with outside investors?

In my opinion, this financing cost difference does not outweigh the expected significant savings from having third-party professionals and investors planning and assume most of the construction risks of new infrastructure. Also, the private industry's management of the completed project will expectantly add important further savings and advantages. Experience corroborates this assertion; and, after all, the government's balance sheet also has its limits regarding the amount of debt it can reasonably carry.

The Minister of Finance confirmed that outside investors would only invest in projects that generate revenues in a user-pay format so they can allow a reasonable return on their investment. Economists have illustrated that user-pay is a financing model that ensures a more efficient allocation of capital in projects best deserving of value for the users.

I have no doubt that private investors will be prepared to fully fund some of the projects without any government support. Quite frequently, though, past experiences have shown that the user-pay revenues in public-interest infrastructure projects are not adequate enough to attract and fully fund the project investments. Yet, the benefits to our society and economy from some targeted projects may very well justify some government support to incent adequate outside private investment. Where this is the case, the government has confirmed that the main focus of

the infrastructure bank will be to organize the financing of selected projects with the minimum amount of public funding support.

Some critics also ask: Why do we need an infrastructure bank, then? Why don't we continue to organize public and private funding one project at a time, as the federal government and most provinces have been used to?

The federal government argues that a separate entity such as the infrastructure bank will be better suited to attract the required expertise, increase the number of transactions, access more outside capital and better leverage its own contributions. According to the government, this will be a genuine and smart way to get more bang for the buck.

All this is admittedly quite possible, in my opinion, but will work only if the governance of the infrastructure bank is structured in a way that attracts the required expertise and outside capital.

The government's Advisory Committee on Economic Growth, chaired by Mr. Barton, who is also the global managing partner of McKinsey & Co., did in fact recommend the creation of an infrastructure bank. But the advisory committee emphasized that "the bank will require an independent governance structure" and that "this should include the appointment of a highly independent board of directors and a CEO with world-class, relevant experience."

Outside infrastructure financing experts also confirmed that in order to attract the capital, one needs to ensure that projects are chosen on their merits. Our own recent history has too many examples of projects that disappointed because they were influenced by short-term electoral considerations. Investors are always concerned about the impetuous nature of governments and of their motivations.

In this respect, I have strong reservations toward the governance structure of the infrastructure bank as proposed in the legislation. The recent declarations of the Minister of Finance at the Senate Banking Committee add to this concern.

[Translation]

In the bill, the government gives itself the right to appoint every member of the board of directors and the chair of the board. It also gives itself the right to appoint the CEO with the help of the board of directors. The government also reserves the right to dismiss the CEO as it sees fit, even without just cause.

On the other hand, the Minister of Finance confirmed that every investment will require government approval.

Like some witnesses who appeared before the Standing Senate Committee on Banking, Trade and Commerce, I am worried that the governance framework will not allow the infrastructure bank to be as independent as it needs to be. I acknowledge that the bank must be held accountable since it will be using tax dollars,

but how can it attract an experienced CEO and the necessary investments with this type of governance structure that is so open to political influence?

We must not repeat the mistakes of the Northern Australia Infrastructure Facility whose initial governance framework was dangerously similar to the one we have here. It is good to know that the Australian government had to change it in 2016 because it made it impossible to attract the desired investors.

The crux of the issue is this: how can we meet the objectives of the infrastructure bank while still satisfying the need for transparency and accountability for taxpayers? How can we strike that balance?

In testimony, Minister Bill Morneau said he understands how important it is to ensure that the bank appears credible to foreign investors.

I therefore urge the government to immediately adopt and formalize governance measures and practices to that effect. The bank's very success is at stake.

You may have gathered that I do not want to complicate things by amending the bill at this stage, but I will make the following suggestions, which will contribute to mending the gaps in governance proposed in the bill.

First, is it not superfluous to get approval for every investment the government makes regardless of the size and nature of the investment? I would remind senators that the government will already be receiving and approving the bank's annual budget and business plan.

Second, shouldn't the bank's CEO be hired under general contract law, which stipulates they can only be dismissed with cause?

Finally, should we not also publish the required skills and experience for future members of the board? All of this is standard good governance.

There are a number of different infrastructure models around the world. I truly believe that the new governance structure of the Northern Australia Infrastructure Facility, adopted in 2016, is an excellent benchmark for Canada.

In closing, I want to reiterate that the Canada infrastructure bank is an important project for our country and our economy. That is why I fully support its creation, despite the reservations I just shared. It is because I believe strongly in the objectives of the infrastructure bank that I want to see it get the means it needs to be successful. I hope that my suggestions for helping the fund achieve its full potential will be heard by the government and adopted immediately. Thank you.

(On motion of Senator Hubley, debate adjourned.)

• (1910)

[English]

CONVEYANCE PRESENTATION AND REPORTING REQUIREMENTS MODERNIZATION BILL

BILL TO AMEND—MESSAGE FROM COMMONS— AMENDMENT CONCURRED IN

The Senate proceeded to consideration of the amendment by the House of Commons to Bill S-233, An Act to amend the Customs Act and the Immigration and Refugee Protection Act (presentation and reporting requirements):

Clause 7, page 4: In the English version, replace line 17 with the following:

“side Canada and then leaves Canada, as long as”

Hon. Bob Runciman: Honourable senators, I move that the Senate concur in the amendment made by the House of Commons to Bill S-233, An Act to amend the Customs Act and the Immigration and Refugee Protection Act (presentation and reporting requirements), and that a message be sent to the House of Commons to acquaint that house accordingly.

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

Hon. Frances Lankin: Will the senator speak to it? If not, I have a question.

Senator Runciman: I simply indicate that this was a typographical error. It wasn't in the bill that was dealt with by the Senate, but in the printing that was sent over to the house the word “as” was used twice. I'm advised this is usually dealt with as a parchment error but for unexplained reasons the legislative clerk appeared at the committee and an amendment was proposed to remove the extra “as,” if you will, and as a result that amendment was adopted by the House of Commons and the bill was passed with unanimous consent. All three parties supported the bill, as they did in this place, and that's why we have it before us tonight.

Senator Lankin: Thank you very much. I appreciate that explanation and I support dealing with this. Could you inform me, please, who the sponsor of this bill was? I'm not recalling at this moment.

Senator Runciman: The sponsor in the House of Commons?

Senator Lankin: Yes.

Senator Runciman: It was Gordon Brown, who is the MP for Leeds—Grenville—Thousand Islands and Rideau Lakes.

Senator Lankin: A second question: This is a private member's bill from here, from you first and then sponsored there. I just want to point out that this private member's bill was voted on and

supported here, supported there and now we're supporting it again. I'm just making the point that there are some private members' bills that seem to get voted on in the Senate and some others that don't.

Senator, wouldn't you agree that all private members' bills actually deserve a vote at some point in time?

Senator Runciman: That's a sentiment I share; no question about it.

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

Some Hon. Senators: Question.

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

(Motion agreed to and amendment concurred in.)

NON-NUCLEAR SANCTIONS AGAINST IRAN BILL

THIRD READING—DEBATE ADJOURNED

Hon. David Tkachuk moved third reading of Bill S-219, An Act to deter Iran-sponsored terrorism, incitement to hatred, and human rights violations.

He said: Honourable senators, I rise to speak to Bill S-219, An Act to deter Iran-sponsored terrorism, incitement to hatred and human rights violations.

I am the sponsor of this bill in the Senate but I am by no means the sole author of it. I worked very closely with the Canadian Coalition Against Terror and with the victims of Iranian terror, who not only initiated this bill but worked very closely with my office in crafting it. I want to thank them for their fine work and continuing efforts to hold Iran to account for its egregious international behaviour.

As many of you know, there are a few in the committee who agreed to allow the bill to get out of the committee, but did so reluctantly and with the proviso that they will not support the bill at third reading.

That is unfortunate. I was also in the unfortunate position of not being able to fully participate in the committee hearings reviewing this bill. I am chair of the Banking Committee, as you know, which meets at the same time as Foreign Affairs does on Wednesdays and Thursdays, so other than appearing as a witness near the beginning I was not able to attend.

I did follow the hearings, though, and kept myself abreast of much of the witness testimony, so I have a few comments that I want to share.

As I pointed out, some of the criticisms of the bill are based on a fundamental misunderstanding of the bill's intent and provisions. I had tried to explain the intent of the bill at my presentation, but obviously for some members I was not successful. The committee did raise fundamental questions and issues that I think were worth exploring, so I want to thank the members for their work, and Senator Andreychuk, the committee chair, for getting this bill into the chamber. I also want to thank Senator Baker, who seconded the bill in this chamber.

I want to set the record straight on a few basic issues regarding my bill. A quick read of Bill S-219 will make it clear that this bill is fully consistent with the stated policies of the current Liberal government to hold the Iranian regime accountable for its support of terrorism and human rights abuses.

In fact, setting the standard in this regard has become a plank in the new Liberal foreign policy outlined by Minister Freeland on Tuesday in her speech, and she used precisely those words: "It is our role," she said, "to set a standard for how states should treat women, gays and lesbians, transgendered people, racial, ethnic, cultural, linguistic and religious minorities, and Indigenous people."

Bill S-219 offers the Canadian government a tool to set the standard with Iran and its treatment of minorities, especially but not exclusively the Baha'is.

And a quick look at Hansard and the newspapers will also show that over the last years some of the most vociferous proponents for enhancing Canadian sanctions against the Islamic Republic of Iran have been prominent Liberals like former Justice Minister Irwin Cotler and David Kilgour, a Liberal MP for almost 27 years who also served as Secretary of State for Latin America and Africa and later as Secretary of State for Asia-Pacific. Mr. Kilgour is now co-chair of the Canadian Friends of a Democratic Iran, which represents Iranian-Canadians who also fully back this piece of legislation.

Let's be clear that this bill does not target the Iranian people, but those who have so egregiously oppressed the Iranian people. And let us not dishonour the Canadian Iranians who support this bill despite the risks such support entails for their relatives still living in Iran. And let us not dishonour this place by couching this bill as something that runs counter to Canadian interests. Honourable senators, Canadian interests will never be protected by protecting regimes like Iran from public scrutiny.

As for the content of this bill, I will reiterate for my honourable colleagues what has been said again and again before the committee, that Bill S-219 does not add any new sanctions to the list that aren't already in place under SEMA, the Special Economic Measures Act, which was first passed in 1992.

We already have sanctions against Iran, with or without this bill. All this bill does is stipulate that those sanctions already in place can only be lessened if Iran shows significant change with regard to terrorist sponsorship, human rights abuses and incitement to hatred. And it also applies existing sanctions to additional targets as if they were persons whose names are listed in the SEMA regulations.

• (1920)

For those of you perhaps unfamiliar with SEMA's provisions, amongst other things, it allows for orders and regulations amounting to economic sanctions against a foreign state:

... where ... a grave breach of international peace and security has occurred that has resulted or is likely to result in a serious international crisis.

To date, SEMA has only been directed against Burma, Libya, North Korea, Russia, Sudan and Iran.

Iranian violations clearly have significant international and security implications that have already generated international crises of serious consequences and have more than met the threshold for sanctions under SEMA provisions. The violations that placed most of these countries on that list pale in comparison to those of Iran.

For over 40 years, this regime has conducted a relentless campaign of undermining other states and instigating regional conflict. It has orchestrated the assassination of Iranian dissidents throughout the world, kidnapped and murdered foreign diplomats and nationals, bombed foreign embassies and community centres and supported terrorist activity across the globe, including involvement in al Qaeda.

While the bill does not enact new sanctions under SEMA, it does provide what the Liberal government and their recent appointees to this place have been clamouring for, an opportunity for evidence-based policymaking. Bill S-219 simply asks that the sanctions already in place not be eased unless two consecutive annual reports conclude that there is no credible evidence of terrorist activity or incitement to hatred emanating from Iran and that there has been significant progress in Iran with respect to human rights.

Oddly, we have been told by critics of the bill that demanding hard evidence of significant improvements in these areas will hinder Canada's ability to pursue a process of engagement with Iran. That was voiced most specifically in a letter that was solicited by the committee from Global Affairs Canada. In this letter, which Senator Woo quoted during his motion to kill the bill, Ms. Alex Bugailiskis, Assistant Deputy Minister of Global Affairs Canada, wrote: "The government believes that it is through dialogue not withdrawal and isolation that it can advance Canada's interest."

She continued: "S-219 would likely hinder the re-establishment of normal diplomatic relations with Iran."

Honourable senators, this statement misrepresents reality. The bill in no way prevents Canada from pursuing re-engagement with Iran, and it in no way stops Iran from re-engaging with Canada. It does not obstruct a restoration of diplomatic relations or preclude business dealings between Canada and the Iranian regime.

Bill S-219 simply offers a framework for balancing Canada's stated and well-known concerns with Iranian behaviour and the government's objective of re-engagement. It only seeks to exclude

those regime entities responsible for war crimes, global terrorism and the most extreme human rights violations from benefiting from this re-engagement process and capitalizing on our goodwill. Our policy of re-engagement must be predicated on benefiting the Iranian people and not corrupt criminal entities like EIKO and the IRGC, within the regimes that have enriched themselves to the tune of billions of dollars at the expense of their own people.

We will only be enriching them and showing them that their bad behaviour is something to be rewarded. If terrorism, human rights abuses and incitement to hatred don't prevent us from getting into business with them now, what makes anyone think it will cure them of these ills? Surely it would only further embolden them. It is worth noting, too, that the IRGC controls hundreds of companies outright in Iran, throughout all sectors of the economy. More important, it is linked to dozens, even hundreds of companies, that appear to be private in nature but are run by IRGC veterans.

If Iran chooses to demure from accepting our offer to re-engage because of its dislike of Bill S-219 and to protect the financial interests of these corrupt entities, that is Iran's prerogative, but this bill in no way necessitates or mandates that it should be so. I would, in fact, argue that, if Canada is willing to re-engage with Iran despite the unjust imprisonments and abuse of innocent Canadians in Tehran's torture chambers, Iran should be willing to re-engage with Canada regardless of Bill S-219, which in no way precludes or obstructs lucrative Canadian business deals for the Iranian people.

This seems to me more than a reasonable accommodation for one of the world's most oppressive and aggressive regimes. Let us not forget that it is Canada, not Iran, that is the aggrieved party in this relationship; that it is Iran, not Canada, that has unjustly imprisoned, tortured and murdered Canadian dual citizens in Iran; and that it is Iran, not Canada, that has sponsored terror proxies, like Hezbollah and Hamas, that have inflicted serious injuries and death on Canadian nationals.

If the Iranian leadership is offended by this bill, you will have to forgive me if I do not lose much sleep over their contrived and unfounded sense of grievance.

I, therefore, disagree with some of the bill's critics who have stated that Bill S-219 is going to put us on the "margins of international relations with Iran." It is Iran that has put itself — with malice and forethought — on the margins of the civilized world by its own behaviour. It is Iran that must stop blaming others for its current isolation. Contrary to the regime's propaganda line, Iran's financial and political woes are not the fault of bills like Bill S-219, or Canada, the U.S., Britain or Israel, nor are they the fault of the beleaguered and brutalized Bahá'í minority in Iran, or Iran's ignored and oppressed Sunni minority, or the Jewish people, who continue to be demonized by Tehran as a metaphysical and historical evil.

Despite the conspiracy theories endorsed and sponsored by Iran, it is, in fact, President Rouhani, his acolytes and his predecessors who are responsible for the regime's failures, and it is ultimately the Ayatollah Khomeini's ideology underpinning every outrage committed by this regime that bears full and sole

responsibility for Iran's disenfranchisement from the international community. Bill S-219, therefore, targets only those truly responsible for the anguish of the Iranian people.

But this bill will not add further misery to the Iranian citizens in Iran, many of whom despise the current regime. As noted by Richard Nephew, an architect of the JCPOA, who raised serious concerns regarding this bill and also suggested amendments, Bill S-219 is a smart-sanctions weapon, targeting only those responsible for illicit activity, while not inflicting collateral financial damage on innocent people in Iran.

I will concede that Bill S-219 will also not effect some immediate or miraculous changes in the regime itself. Neither is it designed or intended to. As noted by James Walsh, a Senior Research Associate at MIT, who testified before the House Foreign Affairs Committee, it is not the sole intent of any sanctions regime. Walsh lists three basic purposes in sanctioning a state: coercing it to change behaviour, constraining its ability to act, and signalling disapproval of its violations of the international norm, naming and shaming.

The Iranian regime has made itself perfectly and unabashedly clear, over the last 40 years, that it will not reciprocate our outreach efforts. It was provided with a golden opportunity, with the signing of the JCPOA, to demonstrate some semblance of goodwill and to open a profitable new page with the many countries willing to forgive and forget the savagery that has characterized this regime from the moment it was born. But the regime has responded, as it always has to every outstretched hand extended by the West, with greater belligerence, more executions, more amputations and more vitriol towards Iran's minorities.

It is incontrovertibly documented that the regime's vast industry of atrocities, including the execution of juveniles and members of the LGBT community has only expanded since nuclear sanctions were lifted under the JCPOA. As noted by our colleague Irwin Cotler, it is the President Rouhani who has overseen this massive execution binge. His regime executes one person every nine hours for any of the 80 capital offences in the new Iranian penal code, including the crimes of "corruption on earth" and "enmity with God." It is the same President Rouhani who has rewarded and promoted the worst of Iran's human rights violations and has presided over nine government ministries that are responsible for every manner of human rights abuse that the governing cabal in Tehran has chosen to inflict on its people.

• (1930)

These same thoughts are more pointedly articulated by Terry Glavin, one of Canada's best columnists on international relations, who wrote that:

The regime in Tehran is now more confident, wealthier, more expansionist and belligerent than at any time since the bloody decade of the 1980s. Anyone who tells you otherwise is talking rubbish.

Glavin's perspective has been endorsed in the prestigious U.S. journal *Foreign Affairs*, where the author speculates on the future

of Iran after the aging Supreme Leader Ayatollah Ali Khamenei passes. He is 77 and in ill health.

Here is what they write:

... those hoping for a kinder, gentler Iran are likely to be disappointed. Since he took power in 1989, Khamenei has steadily built an intricate security, intelligence, and economic superstructure composed of underlings who are fiercely loyal to him and his definition of the Islamic Republic, a network that can be called Iran's "deep state." When Khamenei dies, the deep state will ensure that whoever replaces him shares his hard-line views and is committed to protecting its interests.

Some of my honourable colleagues have suggested the bill would constitute Canada going along with its sanctions against Iran and that Canada should not be engaged, for any number of reasons, in unilateral actions of this sort, and this assertion is factually incorrect.

Both the U.S. and the EU maintain sanctions on Iran for terrorism, destabilizing activities in Syria and ballistic missile developments — in addition to human rights. In the case of the EU, in general, the ballistic missile sanctions are connected to its nuclear sanctions and will therefore be lifted in eight years. The United States differentiates between nuclear and ballistic missile sanctions and so there are a number of sanctions that will remain in place even as the nuclear deal moves forward.

But even if that were not the case, I submit to you that as Canadians and as Canadian politicians in a democratic and free society, we have higher obligations to pursue policies that cause discomfort to the Iranian government.

We will not be bound by the inaction of other countries in expressing our condemnation and legislative resolve in the face of extraordinary evil. As Canadian legislators, we should not hesitate to raise our hands and vote yes to a bill that will hold this regime to account for the crimes it has committed against the citizens of our own country.

The key ingredient that differentiates it from other totalitarian entities and renders it worthy of particular attention under Bill S-219 — yes, Iran's domestic policies of repression are staggering in their proportions, but these policies are also part and parcel of this regime's global ambitions which continue to pose a threat to Western and Canadian interests.

As noted in an op-ed piece in the *National Post*, "Iran's threat to global stability is directly proportional, not only to the gravity of its past atrocities, but to the depth of its ideological convictions. . . . [Convictions] enshrined in Iran's constitution and based on a single principle: the establishment of an Islamic state worldwide."

This ideology is the force that compels Iran to sacrifice its financial and national interests in support of al Qaeda, Hezbollah, Hamas and dozens of other terrorist groups. It is the engine that fuels its ongoing public incitement to genocide, calling for annihilation of the Jewish democratic state of Israel as a foreign policy and theological objective. It is the ideology that has made

Iran a full partner with President Assad in the war crimes being committed in Syria, and it is what is used to justify the systemic rape and sexual abuse of female prisoners held in Iran's notorious labyrinth of prisons.

There is no double standard here — only a minimum standard that we are trying to set for re-engaging with a state entity of uniquely wretched proportions. I believe that any of my honourable colleagues, if given the option of having to live either in Iran or in most other autocratic countries, would not hesitate to choose almost anything other than Iran, because we all know that this regime is unique and it's different.

There are truly frightening precedents which no one here would want to support. Therefore, I ask all of you to stand with me in voting for Bill S-219. It is a vote whose thunder will be heard in the darkest recesses of Iranian regimes — even if the critics of the bill admit this — and it is a vote for the unmuzzling of the Canadian conscience that votes neither Conservative nor Liberal, NDP or independent. This bill's objectives and provisions supersede those divisions — and so should we.

I want to add that it was not re-engagement that brought an end to apartheid in South Africa, but sanctions and the continued condemnation of politicians like John Diefenbaker and Brian Mulroney. I think Margaret Thatcher and President Reagan were listening to their bureaucrats saying maybe we should re-engage. It was a failed foreign policy on their part, and it did not contribute to the freeing of Nelson Mandela and the end of apartheid in South Africa.

Iran is frankly a criminal enterprise, no different from the Mafia — although there are strong arguments to be made that the Mafia are kinder and gentler souls. You do not solve the problem of the Mafia by going into business with them.

The Iranians in Canada who support our bill know the regime well and they need our support. We are not bureaucrats. We are politicians, and we have a responsibility to lead. Bill S-219 will send a signal to oppressed people everywhere that Canada can be counted on to condemn totalitarians, of whatever stripe, who abuse their people.

I ask all of you to support this bill. Thank you.

Hon. Frances Lankin: Will you accept a question, senator?

Senator Tkachuk: Yes.

Senator Lankin: Thank you very much.

I appreciate your speech and taking the time to delineate what the bill does and doesn't do, because a lot of information has been swirling around and it's helpful to hear that from your perspective as the author of the bill. It's an important foreign policy matter.

I don't mean to diminish that matter at all, but this is your private member's bill and it has been moved in a fairly expeditious way. I understand, as you spoke to it, that some senators tried to block it at committee because they disagreed with the bill, but better angels took over and agreement was that in fact all bills should be voted on at some point in time.

Do you agree that all private members' bills should, at some point in time — whether you're for it or against it — have the courtesy of a democratic expression of a vote in this chamber?

Senator Tkachuk: I do agree with that. But the proof will be in the pudding on Bill S-219.

Hon. Yuen Pau Woo: Will you take another question, Senator Tkachuk?

Senator Tkachuk: Yes.

Senator Woo: I want to thank you for drawing attention to the huge human rights violations in Iran and the terrific problem of the export of state-sponsored terrorism coming from that country.

I thank you also for confirming that Canada already does have in place a sanctions regime against Iran and that this country is in no way soft on Iran.

You have pooh-poohed Global Affairs Canada's letter to the Foreign Affairs Committee and disagreed with their view that this bill will damage our effort to restore diplomatic relations with Iran. Yet expert witnesses, disinterested specialists, to use a term that you came up with a previous debate, testified that your bill will, first, set back Canada's diplomatic engagement with Iran in the context of the Joint Comprehensive Plan of Action that the UN agreed to. More than that, however, your bill will also be counter-productive in promoting better behaviour on the part of the Iranian government. To quote one expert that you also cited, Richard Nephew, it will be one step forward and two steps backwards.

Is the intention of your bill to return Canada to the situation prior to the Joint Comprehensive Plan of Action, to 2012, when the previous government cut off diplomatic relations with Iran and closed our embassy in Tehran?

Senator Tkachuk: No. I'm not in charge of the Government of Canada. They make those decisions. This bill in no way interferes with the Liberal policy. In fact, it supports the Liberal policy.

• (1940)

All it does — and what it requires the government to do — is that it must show there has been some movement by the Iranian government in a number of areas, and it has to show that after two years there has been some progress on human rights and on other issues. When that happens, they can perhaps lift sanctions.

Now, if the Iranian government thinks that's a difficult problem or thinks that perhaps this bill will cause a problem for them in re-establishing relations with Canada, then perhaps they can stop doing what they're doing. They can stop terrorism. Maybe they can stop at cutting the arm off rather than all arms and legs, and they can stop threatening the country of Israel. If they start doing some of these things, then maybe we can establish negotiations with Iran. Until they do, I don't think we should.

Some Hon. Senators: Hear, hear!

Senator Woo: How, then, Senator Tkachuk, would you respond to the expert witness testimony that claims that your bill is so far-reaching and comprehensive in the criteria that Iran would have to meet in order for to us relax sanctions, that it provides no incentive for them to improve and therefore will lead to a situation that I characterized earlier as one step forward and two steps back?

Senator Tkachuk: The thing about being older is that I listened to all the experts on South Africa. The good point is that John Diefenbaker and Brian Mulroney did not listen to the experts and did what political leadership requires them to do. I think that's what we should do with this bill.

We know what's right here, and we know that we have to show leadership. Of course, the bureaucrats want to keep their jobs safe so they can renegotiate with all this stuff and do whatever they do, but that isn't going to show leadership and that isn't going to do the job.

I'll tell you what, I think it was the same experts telling Ronald Reagan not to make that speech in Berlin that caused the wall to come down. I think the experts were saying, "Be nice to them. Have meetings with them. Everything will work out okay. We can't be tough with them." I think that concept has been proven wrong a lot.

We all know what we have to do, don't we? Don't we all know that the way to stop a bad person is to make him responsible for his actions? If we haven't learned that by now, then we have another problem. As a nation, Canada should do exactly that. They should say to Iran, "When you show us something positive, perhaps then we can show something positive." They're the ones injuring their people. We're not injuring our people. They're the ones injuring Canadians.

Hon. Leo Housakos: Honourable senators, I stand today to speak in support of Bill S-219, An Act to deter Iran-sponsored terrorism, incitement to hatred, and human rights violations.

The title of the bill encapsulates what this legislation aims to help accomplish. The purpose of this bill is to establish a clear framework for Canadian policy vis-à-vis the current Iranian regime, and in so doing, help the international community deter that regime's state sponsorship of terrorism.

The bill must be viewed in the broader context of the steps that have been taken by Canada and other states to deter actions by the Iranian regime that are a threat to international peace and security. This bill is needed, senators, because it is simply not possible to view Iran under its current regime as just another state within the international framework.

Iran is a state that has constantly violated the most fundamental international norms and practices over the past three decades through a state sponsorship of terrorism. It is a state that has also consistently violated international tenets, such as the United Nations Universal Declaration of Human Rights and other international human rights covenants.

These two actions, taken together, have posed and continue to pose a significant threat to international peace and security. This is precisely why Bill S-219 is needed. The bill establishes both a clear framework and clear benchmarks in Canada's domestic law for any re-engagement with the Iranian regime.

How does Bill S-219 help accomplish this, and what does it require?

First, it requires the Minister of Foreign Affairs to publish an annual report on Iran-sponsored terrorism that would incorporate a list of Iranian entities and officials found to be responsible for terrorist activities and other human rights violations. The government would have to outline the measures taken during the previous year to address these terrorist activities and other human rights violations committed by this regime.

Second, the bill specially sanctions entities within Iran that are linked to Iranian government institutions that stand at the centre of state sponsorship of terrorism. These are, principally, the so-called Execution of Imam Khomeini's Order, EIKO, and the Islamic Revolutionary Guard Corps, or the IRGC.

The lifting of sanctions against Iran would require the government to certify in two successive annual reports that there is no credible evidence of Iranian state support for terrorism and the promotion of hatred. It would also require the government to certify that progress has been made in Iran in relation to respecting human rights.

Why is the creation of such a legislative framework so important, colleagues? I believe that the legislative framework proposed in Bill S-219 is important due to the particular character of the Iranian regime. This is a regime that has, for many decades now, been identified as the leading sponsor of terrorism in the world today.

Currently, the Government of Canada itself lists only two countries as state sponsors of international terrorism: Iran and Iran's principal ally, the government of Bashar al-Assad in Syria. In essence, Iran stands at the centre of a terrorist network that poses a threat not only to the neighbouring countries, but the international community as a whole.

In its 2015 report on the state sponsorship of terrorism, the Obama administration catalogued Iranian regime support for Shia terrorist groups in Iraq, Hamas, Palestinian Islamic jihad, the Popular Front for the Liberation of Palestine-General Command and Hezbollah.

Support for Hezbollah has been consistent and extensive. Iranian support for Hezbollah has in fact permitted it to become a state within a state inside Lebanon. It has permitted Hezbollah to mount attacks on Israel and to intervene actively in the Syrian civil war on the side of the Syrian regime.

[Translation]

Iran's support for Hezbollah and the rearmament of this terrorist group is in direct violation of United Nations Security Council Resolution 1701.

I want to make it clear that the Iranian regime's actions within its borders are not sporadic. They are not actions taken in isolation by "factions" of the regime; they are systematic and have been going on for over three decades. They are also enshrined in the Iranian constitution, which explicitly calls for exporting the revolution to other countries, and are a manifestation of the regime's hidden ideology, which Bernard Lewis, an expert in Middle East politics, described as "apocalyptic".

Senators are aware that the Iranian regime's international policies are modeled on the repression it employs for domestic purposes.

This is what Amnesty International's 2015-16 report says about it:

The authorities severely curtailed the rights to freedom of expression, association and assembly, arresting and imprisoning journalists, human rights defenders, trade unionists and others who voiced dissent . . . Torture and other ill-treatment of detainees remained common and was committed with impunity . . . Women and members of ethnic and religious minorities faced pervasive discrimination in law and in practice.

These were deciding factors in the closure of Canada's embassy in the Islamic Republic of Iran in 2012.

Historically, Canada has rarely gone that far, but it did so in Iran's case because the Iranian regime posed an unusual threat to the international community.

• (1950)

[English]

When confronted with a regime of this type, with its track record over the past three decades, I ask you, senators, why is it not correct and proper for Parliament to suggest parameters around re-engagement? It is my view that establishing such parameters is not only appropriate; it is in fact essential. This bill does not prevent re-engagement by the Government of Canada, but it does suggest that the Iranian regime has reciprocal responsibility.

Some senators seem to believe that Canadian re-engagement should be largely one-sided. Senator Woo in fact argued in the Foreign Affairs and International Trade Committee that the government should have unfettered freedom of action to re-engage with the regime. He believes that slowly, over time, the nature of Iranian policy will change. But I must seriously ask: Where is the evidence for that?

I reiterate that Iran's support for international terrorism has been catalogued for three decades now. It stretches credibility to imagine that this will suddenly change if Western countries and Canada now re-engage without any pre-conditions and without any benchmarks.

I believe that proceeding in such a manner would instead embolden the regime. It would not cease state-sponsorship of terrorism. Such an approach would instead lead to more

aggression and contribute to more victims and more suffering over the long term.

The Parliament of this country has the opportunity to encourage the government along a different path. Bill S-219 clearly identifies the threat that the Iranian regime presents to the international community. It sanctions these actions and sets clear benchmarks for any policy of re-engagement. The bill ensures that Canada will continue to take a firm stand against both sponsorship of terrorism and gross human rights violations.

Bill S-219 not only sets clear parameters for Canadian policy, it is also an important statement of principle. And the Parliament of Canada is the ultimate voice of the people of Canada to express, on their behalf, our values on these fundamental issues.

I urge all senators to support Bill S-219.

(On motion of Senator Woo, debate adjourned.)

NATIONAL ANTHEM ACT

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

On the Order:

Resuming debate on the motion of the Honourable Senator Lankin, P.C., seconded by the Honourable Senator Petitclerc, for the third reading of Bill C-210, An Act to amend the National Anthem Act (gender).

Hon. Tobias C. Enverga, Jr.: Honourable senators, I move:

That Bill C-210 be not now read a third time, but that it be amended in the schedule, on page 2, by replacing the words “all of us com-mand” with “all of our com-mand”.

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

Senator Enverga: Honourable senators, I rise today to speak on my amendment to Bill C-210.

I would first like to mention that, in discussion on this bill, we have held a very healthy debate on a very important issue that touches all Canadians. It is important that all of us who wish to speak to this legislation be afforded the opportunity to do so. This opportunity and right is what makes our democracy the envy of the world.

Colleagues, I would like to briefly explain how this amendment came to be. I was able to speak earlier in debate in support of Senator Plett's amendment to Bill C-210. I was asked some very thoughtful and impassioned questions after my speech, including one by our dear colleague, Senator Raine. That question was regarding the grammatical correctness of the amendment. After reflecting on this exchange, if updating “O Canada” is necessary, I

feel that there is a way to improve this bill so that we may move forward more confidently with altering the words of our beloved national anthem.

I would like to sincerely assure and inform my colleagues that this is in no way a tactic or a gimmick so as to delay the bill. I am moving this amendment because I feel it is truly in the best interest of all Canadians that any changes made to our national anthem be grammatically accurate. I am very passionate about “O Canada,” as it is part of our tradition, which transcends merely being a song and is more accurately described as a pledge of allegiance for many newcomers to our country.

Honourable senators, I recognize and appreciate the passion for equity that has been demonstrated by Senator Lankin on this bill. I am equally as respectful of Mr. Mauril Bélanger's intent with this bill. However, I want to ensure that if we are going to make a lasting change to one of Canada's most recognized national symbols, the change is one we can all be proud of, both in its intent as well as its grammar.

Honourable senators, before I delve into the reasons behind this amendment specifically, I would like to reiterate an important point, one which should not be lost on us as we consider my amendment. The point to which I speak is tradition. As many of my colleagues have already stated in this chamber, tradition is not simply just an archaic custom by which we choose to live. With regard to our much revered national anthem, the word “tradition” means something much more than that. Tradition, in this sense, is something deep and historical, a way by which to transmit and pass down our firmly held customs and beliefs from generation to generation.

Dr. Chris Champion, the editor and founder of *The Dorchester Review*, appeared before the Standing Committee on Canadian Heritage on June 2, 2016, to share his views on Bill C-210. About this, he said:

We in Canada have the privilege of being part of a group of countries, like Australia, the United States, India, New Zealand, and other places, many that you can count in the Commonwealth, such as Trinidad and Jamaica, where the tradition is deeply rooted. We have a stable political system. Normally these countries have retained their parliamentary institutions intact, their mode of electing members, and so on.

Honourable senators, tradition, then, is the thread which ties our nation's past to its contemporary, or its current; our oldest settlers to our newest citizens; and even connects us globally to those countries who, despite their own borders, share in our common tradition.

• (2000)

And let us not forget, now more than ever, that tradition is what we celebrate this July 1, when we mark the one hundred and fiftieth year since our Confederation. Tradition, in short, is something that, when linked to the workings of this great nation in which we proudly live and call our own, makes us swell with pride every time it manifests itself, in any medium.

As such, colleagues, a country's national anthem is the manifestation of tradition in its oral form and is undoubtedly quintessential to its tradition. Subsequently, our national anthem should make us swell with pride every time we hear it, whether it be at our children's school assembly or before a hard fought hockey game. Let us not forget this as we consider this amendment.

Honourable colleagues, through my aforementioned reasoning, ideally I would not like to see our national anthem changed because in altering the words to our anthem, we are effectively erasing a piece of our collective memory, of our tradition and of our national pride. But if it must be changed, I believe, as my amendment states, that replacing the words in "all of us" with "all of our" is the best way to proceed with such an action.

Honourable colleagues, "us" is simply not the right choice of word in changing our national anthem. It's not the right word. First and most pressing is the grammatical error that "us" creates here. I take my credit from Senator MacDonald who, on December 6 last, during second reading debate on this bill, stated:

The proper and only acceptable pronoun substitution for the phrase "All thy sons command" is "All of our command." The use of "our" conforms to the use of the rules of English language, as "our" is a plural possessive pronoun, which is required for this change. This is not opinion. This is fact.

Thank you, Senator MacDonald.

Colleagues, I am in agreement with Senator MacDonald on this point. If we must indeed change the anthem, let us fix this fatal flaw and make it grammatically correct.

Honourable senators, the second point I would like to make is simply the connotation and meaning of the language. The word "us," colleagues, is one with an exclusive connotation, while the word "our" is naturally inclusive. Allow me to provide clarity by illustrating this with an example to make it easier to see these differing connotations.

If one says "this belongs to us," its connotation is that it applies to a specific and immediate exclusive group, whoever the "us" might be. However, if one were to say "this is ours," the connotation extends to a larger, more inclusive group, extending beyond those who may only be physically present. In fact, without any background on the sentence, the word "ours" could easily be meant to refer to quite literally everyone.

The word "us" is inherently divisive as it construes an "us" versus "them" mentality — we don't want that — that has no place in the meaning and rhetoric of our national anthem. On the other hand, the word "our" indicates a communal ownership of the command — the command to love, protect and serve Canada. By amending this bill to include the word "our," we then own the command and, as such, we take ownership and responsibility to love and serve Canada.

Although this point may seem frivolous, colleagues, this is certainly not a humorous subject. I ask: If we are to change the

anthem so as to make it more inclusive, should the language not need to appropriately reflect such a sentiment?

Honourable senators, the last point I would like to make is that the language found in Bill C-210 is inherently passive and does not truly give the proper respect to our anthem that it so deserves. "Us" is the objective case of "we" and the connotation of such language then, as objective would suggest, is removed.

As I mentioned at the beginning of my speech, colleagues, a national anthem is an oral manifestation of a nation's tradition —

The Hon. the Speaker: Senator Enverga, your time has expired. Are you asking for five minutes?

Is leave granted, honourable senators?

I hear a no. I'm sorry —

Senator Enverga: Two minutes; come on.

The Hon. the Speaker: I'll ask one more time. Is leave granted, honourable senators?

Hon. Senators: Yes.

Senator Enverga: Thank you.

As I mentioned in the beginning of my speech, colleagues, a national anthem is an oral manifestation of a nation's tradition and therefore should only ever be treated with the utmost respect. To use or apply language which implies that we are at a distance, in any sense, does not do our anthem justice. We should be proud to be singing our anthem and this can certainly not be done if we are removed from it.

Honourable senators, the word "our," which I am proposing to use, is a plural possessive form of "we." This is not only grammatically correct, as pointed out by Senator MacDonald, but actually implies a closeness to the anthem in a way that "us" simply does not. When we are singing our national anthem, we should be proud to take ownership of our words and the tradition they impart.

Honourable colleagues, it is for these reasons I propose the following amendment: to replace the words "all of us command" with "all of our command." By amending this bill, we will respect the legacy of MP Mauril Bélanger, the wishes of our friend Senator Nancy Ruth, everyone in this honourable chamber and all Canadians who wish to change the words of "O Canada" to better reflect gender equity.

Let us all sing "O Canada" with pride, ownership and responsibility. Let us pass this amendment so that on our one hundred and fiftieth anniversary, we can proudly sing "in all of our command!" Thank you.

• (2010)

The Hon. the Speaker: Senator Cordy and Senator Pate wanted to ask a question. You have no more time. Will you ask for time to answer questions?

Is leave granted, honourable senators?

Hon. Senators: Agreed.

Hon. Jane Cordy: Thank you. Senator, I'm a little bit confused, because you spoke the last time about the need for it to be grammatically correct. So as it stands now, it's "O Canada, our home and native land, true patriot love, in all thy sons command." Canada, our home and native land, is getting true patriot love from our sons.

We're asking that the national anthem be more inclusive, so it's "true patriot love in all of us command," so all of us are happy and giving true patriot love. But "O Canada, our home and native land, true patriot love in all of our command," I don't get that that is grammatically correct, number one; and number two, in the first case it was the sons are getting the true patriot love for Canada. The new version brought forward to us is "all of us command," so we're all giving Canada true patriot love. But "true patriot love, in all of our command"? It doesn't make sense to me grammatically.

Senator Enverga: Thank you for the question. I know you really care for our national anthem and our heritage. Thank you for being you, Senator Cordy. But the fact is when you say "us," that is language that comes across as divisive. It can create an "us or them" mentality. It's not unifying. It's language that separates and divides citizens.

Second, the proper and acceptable pronoun substitution for the phrase "all thy sons command" is "all of our command."

The Hon. the Speaker: Senator Cordy, before you ask a supplementary, Senator Pate wanted to ask a question. I think we'll run out of time again. I don't get a sense that more leave will be granted.

Hon. Kim Pate: Senator, given that you mentioned twice in this chamber, just last week, in fact, your intention was not to kill the bill, and given you mentioned today that this was not a tactic, would you please advise the chamber whether or not you're aware that if your amendment is passed that it will essentially kill this bill; and I just wanted to make sure that you're also aware, before you answer that, of the consequences, since even Senator Plett has stated that his intention was not to kill the bill when he introduced his amendment. In fact, he stated that he was unaware of the consequences. So my question now to you is this: Are you aware that this amendment would kill the bill; if so, will you withdraw it? If not, will you admit that your party is using tactics to prevent the Senate from performing its duties?

Senator Enverga: Thank you for your question. I know you care about our anthem. I know you care about the fact that we will be singing this potentially altered national anthem year after year. Maybe for another 150 years. But the fact is by amending this bill, as such, we will maintain respect for the legacy of MP Mauril Bélanger. It was his wish to achieve equity in our anthem, which this amendment provides. You say we're going to kill it, but that is not what I want to do with this amendment. If we pass this amendment, there is still time to bring it to our House of Commons. We still have two weeks' time. We can sing "in all of our command" for July 1, our one hundred and fiftieth birthday. Let's pass this amendment fast so we can make that a reality.

The Hon. the Speaker: Senator Enverga's time is up. But Senator Tardif wishes to enter on debate.

Hon. Claudette Tardif: Thank you, Your Honour.

Honourable colleagues, I would like to speak against the amendment, and in the interest of Senator Enverga's new interest in grammatical correctness, I thought I would share with you an email that I received June 8, just a few days ago.

Good afternoon, Senators Tardif. . . .

I was recently going through the transcripts of the debate in the Senate regarding the proposed changes to our national anthem, and I came across the arguments being put forward on grammar. I just sent an e-mail to Senator MacDonald, explaining why his interpretation is incorrect, and I thought it might be useful to you if I sent you a copy of that e-mail as well, since your interpretation of the anthem is the correct one, and I thought that my explanations might lend more weight to your argument.

Here is the e-mail that I sent:

Good afternoon, Senator MacDonald.

I'm a High School teacher and I recently taught my class the history surrounding Canada's national anthem, as well as the current controversy and proposed changes to the anthem.

In order to prepare properly for the current aspect of the subject, I went digging through the transcripts of the debate in the Senate, where I found your comments about how the proposed change to the anthem is grammatically incorrect. You stated that "all thy sons command" is a possessive phrase, and I suspect that your confusion comes from the fact that you are looking at those four words in isolation, rather than looking at all of the preceding words in the anthem as well. The purpose of this e-mail is to further the debate in the Senate by clearing up the misunderstanding concerning the grammar of the proposed changes.

Firstly, "sons" contains no apostrophe and is therefore not possessive. If it were possessive, and thus written "son's", this would indicate that Canada has only a single son and therefore that "command" belongs to that one son. The opening lines "O Canada! Our home and native land! True patriot love in all thy son's command" would then mean: "O Canada, our home and native land, true patriot love in all of the command of your son's." Beyond being nonsensical, this is not even a full sentence. It is not an independent clause, which means that your interpretation would in fact render our current anthem grammatically incorrect.

Here's what the opening lines (O Canada! Our home and native land! True patriot love in all thy sons command.) actually mean. They translate

as “O Canada, our home and native land, command our sons to have true patriot love.”

What this means is that the original version, (thou dost in us command), the current version (in all thy sons command) and the proposed version (in all of us command) are all grammatically correct. Unfortunately, it is only your proposal (all of our command) that is grammatically incorrect.

Senators, I share this with you. I have received other letters as well and I could share those with you, indicating that certainly “in all of our command” is grammatically incorrect.

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

Hon. Senators: Question.

Hon. Frances Lankin: On debate.

Thank you very much. I’m sorry that we are still talking about this. I’m sorry to see an honourable senator put forward a motion that has been argued in this place, in the media, and he knows would kill this bill. I appreciate the intervention on the issue of grammar; I truly do.

But whether you agree with the words or you disagree with the words is of no matter, Senator Enverga, because this would kill the bill. You know that; I know that. This is a tactic, although you said it wasn’t. This is a tactic to kill the bill.

Senator Plett was unaware. Senator Plett told me on his honour he was unaware. I accepted that. I informed him of the impact. He understands that now. We had that debate. You understand that. This is what I have been informed by members of the Conservative caucus, the official opposition in this place, is an attempt to continue to delay a vote on this bill until there is an adjournment and living perhaps in hope of a prorogation to kill the bill outright over again, over again.

Thirty years now bills have been brought forward to make the amendment. I’m speaking right now. I have an opinion. I know you will speak and you will have an opinion.

• (2020)

So right now we have before us, after 30 years of bills coming forward, a chance to bring this to a democratic expression of a vote. Do you want to talk about tradition and heritage? Talk about democracy. Talk about the democratic expression. Talk about taking votes.

Tonight we’ve had two wonderful examples: Senator Runciman’s private member’s bill, which we expedited, brought through committee, and did it in time for the boating season for this summer, because it was important. It was an issue that people cared about, and we brought it to a vote. In that case, we accepted the vote.

Senator Tkachuk brought forward a bill on an important foreign policy issue. Many people cared about that on both sides; they’re for it or against it. We will have a vote. I don’t know what the outcome will be.

But a certain group of senators over there have decided that we’re not allowed to have a vote and that you’re going to delay this. Thirty years, my friends. The last 15 years, this exact same bill with these exact same words have been before us five different times, and never once has it gotten to a vote in the Senate.

I wish I could find your intervention on this grammatical issue amusing. I say to the honourable senator that I do not.

I wonder what’s changed from last week to this week, that you don’t admit that this amendment will have the effect of killing the bill. I wonder what’s changed that you now think “us” is exclusive, even though it is “all of us” that is expressed.

Let me read to you sentiments that were put forward:

It’s because our national anthem unites us, all of us, as Canadians, in a single chorus.

Those words were spoken by you last week. “All of us.” It was not exclusive then. It was uniting all of us in a single chorus. Your opinion seems to have changed.

I have had the opportunity to read a lot of emails from people who are passionately for and against. I get it. I have said over and over again that I respect there are different opinions. Vote your opinion. Let’s have a vote.

I want to share with you an email I received today which a wonderful woman has sent to me, hoping that it will hearten me, and has said she is sharing it with all senators. Her name is Laura Thomas. It’s a reasoned email. I want to pick up on one paragraph. She talks about the fact that those who oppose the bill often cite tradition and history, and we heard that, honourable senator, in your speech many times, repetitively — tradition, heritage and their importance.

She says:

We can honour our history and the sacrifices and contributions of past generations without abdicating our responsibilities to help build the future for all Canadians. Future Canadian girls should not have to try to believe that the word “sons” means them, too, when it does not. Present and future women who serve in our Armed Forces, police and fire services don’t have to awkwardly read themselves and their contributions into our national anthem. We are all called to help build a better, stronger Canada, men and women alike. Women love this country as much as men. True patriot love is asked of all of us, not just the sons.

Laura, thank you very much for sending that to me. I appreciate beyond belief your words of encouragement. I say to the honourable senators here, particularly those who have told me they’re either for or opposed to this bill, but they agree that we

should vote. I'm looking across the floor at the honourable senators in the official opposition to put an end to a small group of people hijacking the agenda in this place and disallowing a vote to take place.

I say to you once again, honourable senators, if you speak about tradition, heritage and pride of our democratic institutions, speak about the obligation to vote your mind yes or no. Please bring an end to this and bring this bill forward for a vote. Thank you very much.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: Senator Lankin, are you prepared to take a question?

Senator Lankin: I guess, because of tradition.

Senator Enverga: Thank you very much. I can see your passion on this subject. I can see that you want equity in our national anthem. You are so passionate about making sure that everyone is recognized in our national anthem, and I really respect you for that. I respect everyone who believes that our national anthem is an integral part of our tradition. It is an important part of our heritage and culture.

However, you are saying that, "In all of our command" is not grammatically correct. I would like to respectfully disagree, as I based this upon the recommendation of our Library of Parliament. Are you saying that our library is wrong? Are you disputing the library's recommendation?

Senator Lankin: I don't believe I made any comment on correct or incorrect grammar. I said whether you agree or disagree, this amendment would kill the bill. That's the bottom line; that's what you're trying to do. I'm not going to get sucked into your conversation about hypotheticals. The answer is that it doesn't matter; it will kill the bill.

[Translation]

Hon. Ghislain Maltais: Honourable senators, I assure you that I will be very brief. I listened carefully to Senator Lankin and I want to correct something she said. She said earlier that this was something that came from the Conservative caucus. I would humbly remind her that I am a proud member of the Conservative caucus. We received no such directives. We are five francophone senators in the Conservative caucus and we do not need to be given any directives.

There is no grammar problem in the French, so please don't tell us that this came from the Conservative caucus. I simply do not accept that. Whether the rest of you can agree on the correct grammar for our national anthem in English is up to you, but you should not take it out on the rest of us. Thank you.

[English]

Senator Lankin: Will you accept a question, honourable senator?

The Hon. the Speaker: Senator Maltais?

[Senator Lankin]

[Translation]

Senator Maltais: Yes, with pleasure.

[English]

Senator Lankin: Will you accept that I have said on the record that I have been informed by members of your caucus that a discussion took place and an agreement was arrived at to support those senators who want to continue to delay this?

If that's incorrect, then I tell you I have been informed incorrectly, but this is clearly an ongoing tactic to delay, whether or not you were part of the discussion.

Some Hon. Senators: Oh, oh!

The Hon. the Speaker: Honourable senators, caucus meetings, as everyone knows, are in camera, private meetings, and it does not further debate to talk about whether A or B said something in caucus. Please, let us leave conversations from caucus meetings where they belong — in caucuses.

[Translation]

Senator Maltais: Thank you, Mr. Speaker. I will not speak about what happens at caucus. I would simply like to say that one should be prudent when making blanket statements about a group of senators. Prudence is the mother of all virtues. In the case at hand, senator, the way you expressed this is extremely hurtful to us francophone senators. That is all I wanted to say, honourable senators.

• (2030)

[English]

Hon. Yonah Martin (Deputy Leader of the Opposition): Before I take the adjournment on behalf of Senator Plett, who wishes to speak to this amendment, I will simply say that every senator in this chamber has the right to speak on debate, whether on amendment or whatever it may be. I want to assure all senators that Senator Plett will be speaking to the amendment at the next sitting.

I move the adjournment of the debate in the name of Senator Plett.

The Hon. the Speaker: It is moved by the Honourable Senator Martin, seconded by Honourable Senator Wells, that further debate be adjourned in the name of Senator Plett.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour of the motion please say “yea.”

Some Hon. Senators: Yea.

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

An Hon. Senator: Nay.

In my opinion, the “yeas” have it.

No senators rising, the motion is adopted.

(On motion of Senator Martin, for Senator Plett, debate adjourned, on division.)

PROHIBITING CLUSTER MUNITIONS ACT

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Ataullahjan, seconded by the Honourable Senator Plett, for the second reading of Bill S-235, An Act to amend the Prohibiting Cluster Munitions Act (investments).

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak on Bill S-235, An Act to amend the Prohibiting Cluster Munitions Act (investments). This bill may create provisions that would prohibit Canadian financial institutions from investing in entities that breached any prohibitions relating to cluster munitions, explosive submunitions and explosive bomblets.

Before beginning, I would like to thank Senator Ataullahjan and Senator Hubley for speaking so articulately on Bill S-235 and for helping to truly put an end to any part that Canada might play in supporting the use of cluster munitions. As you know, honourable senators, over the course of history there have been weapons that are so horrifying and that result in so many casualties that the world came together and decided to put an end to their use.

Honourable senators, I want to share a personal story with you. When I was in Silla, which is a town near the border between Turkey and Syria, I met a 25-year-old woman who told me about how her daughter had died. When her daughter was three years old, she saw a shiny orange ball in their garden. She picked it up and tripped while she was running towards the house with it. That orange ball was a bomb.

In this tragedy, the young child was killed immediately and the mother lost all of her limbs. Before the blast, the mother was a teacher and a very active woman in the community. Now, this single mother sits on a wheelchair and depends on others even to feed, clean or dress her.

That is why Canada has passed laws prohibiting cluster munitions. However, we now have a situation where Canada

prohibits the use of cluster munitions, yet we still allow people to invest in the companies that make them.

Where companies produce mustard and nerve gases, land mines and biological weapons, these companies make their munitions some of the worst weapons that fall into this category and have been deemed too inhumane for war. These weapons lead to cruel deaths or potentially kill large numbers of civilians who have done no harm and have no desire to participate in conflict.

Cluster munitions are one of those weapons. Cluster munitions include weapons that are designed to carry many smaller munitions inside of them, called submunitions or bomblets. These weapons are usually dropped from the air so that they can detonate while falling and rain their submunitions over the ground below them. A single bomb can cover an entire square kilometre in submunitions.

These weapons are at their most dangerous when they fail. An estimated 20 per cent of all submunitions from the original munition do not detonate upon reaching the ground, leaving them there to act like a land mine for unsuspecting victims walking through the area.

Each submunition is tiny, being about the size of a tennis ball. However, upon detonation, one can send hundreds of hot shrapnel shards flying into their victims. As a result, cluster bombs can even be deadlier than land mines.

Thanks to these features, cluster munitions have become known for the chilling reason that they are able to kill large numbers of civilians. As Senators Ataullahjan and Hubley mentioned, 98 per cent of cluster munition victims are civilians. Worse yet, many of these civilian victims are children.

This happens because of the munitions' appearance. Most submunitions look like small metal balls, usually between the size of a tennis ball and a baseball. To the children who see them, these submunitions look like toys. Children are curious. They want to pick up objects and see what they are. With cluster munitions, this curiosity leads to tragedies. A shocking two of every five cluster bomb victims are children. To truly demonstrate how horrifying these weapons are, I would like to share this story of cluster munition victims.

This is a story of Rum Vet, a Cambodian farmer. When Rum and her brother were young, they were both given the job of working in the nearby fields, despite the fact that many active submunitions were still in the area after the Cambodian Civil War. Rum and her family worked in the field because that was their livelihood. If they did not continue to farm, they would not be able to live or to eat.

In 1992, Rum's brother stepped on one of these submunitions, instantly killing him and leaving Rum legless from the right knee down. Despite the tragedy she faced, Rum still farms the fields every day, knowing that she might encounter another cluster munition.

Rum is far from the only person who lives in fear of cluster bombs like this. U.S. bombing data shows that 26 submunitions were dropped in Cambodia during the Cambodian Civil War.

Currently, an estimated 6 million to 7 million of them are active and could repeat this kind of tragedy.

Other countries face even worse circumstances. During U.S. bombing missions between 1964 and 1973, 270 million submunitions were discharged across Laos. Out of these bombs, a stunning 80 million failed to detonate. According to a 2009 survey, this has led to the death or maiming of 50,000 Laotian civilians.

These are far from the only examples of cluster munition use. Other countries, like Cambodia, Syria, Afghanistan, Iraq, Georgia, Libya, South Sudan, Vietnam and Yemen all have been affected by cluster munitions, forcing their inhabitants to live in fear of being killed by submunitions.

Thankfully, Canada has taken decisive action to eliminate the use of these weapons and to reduce the harm that they have done. Between 1996 and 2011, Canada provided consistent funding to help efforts to remove the 80 million active submunitions from Laos. In 2008, Canada joined over 107 other countries and signed the Convention on Cluster Munitions, which prohibits the use, transfer and stockpiling of all cluster munitions.

By 2015, Canada followed through with its commitment, through Bill S-10, An Act to Implement the Convention on Cluster Munitions. In fact, the bill went far beyond even what Canada had agreed to in the original treaty. Rather than simply prohibiting the use, transfer and stockpiling of cluster munitions, we also took action to help the victims of these terrible weapons.

After the bill was passed, Canada also provided rehabilitation to survivors of cluster munitions and even provided assistance to efforts to clear areas of submunitions.

I'm proud of our history of eliminating and undoing the damage done by cluster munitions. However, honourable senators, there is still work to be done if we wish to truly eliminate any role that Canada plays in the use of cluster bombs.

While the "Act to Implement the Convention on Cluster Munitions" may have stopped Canadian financial institutions from directly contributing to the creation of cluster bombs, there are still loopholes in our laws that allow for to us play an indirect role.

According to PAX, a Dutch peace group, between June 2012 and 2016, Canadian institutions invested \$565 million in companies that produce cluster bombs. That makes up approximately 2 per cent of the entire world's investment in these companies. It also makes Canada one of the 28 countries in the entire world that has failed to create legislation prohibiting this kind of investment.

When Canada's financial institutions invest in producers of cluster munitions, we cannot say that Canada is truly a leader in ending the production of these weapons.

Thankfully, Bill S-235, whose sponsor is Senator Ataullahjan, takes decisive action to put this practice to an end by amending section 6 of the Prohibiting Cluster Munitions Act. It adds a new

subsection to the act, prohibiting Canadian financial institutions from investing in entities that have violated any of the other prohibitions in the current Prohibiting Cluster Munitions Act.

• (2040)

Bill S-235 also closes other existing loopholes by prohibiting Canadian financial institutions from loaning funds to these entities and even prevents them from acting as a guarantor for their loans. By accomplishing this, Bill S-235 effectively seals any parts to funding the continued use of cluster munitions.

Before concluding, I would like to share one final story with you. This is one of a small child who was nearly killed by cluster bombs.

Nabih Bzieh from Lebanon was only a baby when cluster munitions were being used in Lebanon in 2006. However, many years later, his life would be changed by their use. Like many others, a single submunition from a cluster munition did not detonate upon hitting the ground. Instead, it remained active for many years.

Hassan, Nabih's twin, came across the submunition after going to play and swim with his twin brother and cousins. When Hassan picked up the submunition, hot shrapnel covered his face and tore open his abdomen. By the time that rescue teams had reached the group, the children were in critical condition.

When the children arrived at the hospital, it took an entire hospital team of trained medics just to keep them alive.

Honourable senators, this is the horror that is caused by cluster munitions that have been used in countless countries across the world. There is simply no excuse for a Canadian financial institution to put its money in entities that would allow for their continued use. Cluster weapons are simply inhumane. This is why Bill S-235 has been created: to finally stop these kinds of investments.

Honourable senators, in conclusion, I want to share something. Senator Kenny, Senator Black and I had the privilege of visiting the Royal Canadian Air Force base in Cold Lake. We were invited by Minister Sajjan and Lieutenant-General Michael Hood, commander of the Royal Canadian Air Force. I would like to thank them both for this extraordinary opportunity, as I also had the privilege of working with Lieutenant-General Hood in Darfur.

When I was in Cold Lake, I learned a lot about the intricacies of the Royal Canadian Air Force and about the rules of engagement in detail. I asked many questions about cluster munitions, and I was told by all the air force fighter pilots that they are particularly trained on cluster munitions by the Canadian Armed Forces.

Honourable senators, they are trained that they are never ever to use cluster munitions. Cluster munitions are among the worst of inhumane weapons, and it is our responsibility to work toward their eventual elimination.

If our men and women, who risk their lives on our behalf, are prohibited from using cluster munitions, then I agree with Senator Ataullahjan that we should also prohibit investing in cluster munitions.

Thank you very much.

Hon. Lucie Moncion: I have a question for Senator Jaffer.

It's just a matter of understanding. I've been in financial institutions a long time, and there are reports that you can receive about the types of financing that are done by financial institutions. Have you asked to receive these reports and see how much investment is invested by banks into cluster munition financing?

Senator Jaffer: Senator Moncion, that's a very important question. This bill will now go to committee; I understand it will go to the Foreign Affairs Committee. I'm sure the committee will be looking into how the financial institutions look at these.

What I've understood in studying the bill to speak at second reading is that there are many direct and indirect investments in munitions. That is what this bill is trying to stop.

I'm sure that the committee will look at this in more detail.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Ataullahjan, bill referred to the Standing Senate Committee on Foreign Affairs and International Trade.)

BAN ON SHARK FIN IMPORTATION BILL

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator MacDonald, seconded by the Honourable Senator Tkachuk, for the second reading of Bill S-238, An Act to

amend the Fisheries Act and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (importation of shark fins).

Hon. Rosa Galvez: Honourable senators, I rise today to speak to Bill S-238. This is my first opportunity to speak as the critic of a bill. On this occasion, I would like to mention that, in my humble opinion, I consider this role more like a debate facilitator than a critic.

First, I would like to recognize the work of Senator MacDonald, the sponsor of Bill S-238, An Act to amend the Fisheries Act and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (importation of shark fins), more commonly known as the "ban on shark fin importation act."

I believe it is an important piece of legislation. I am in full agreement with the principle behind Bill S-238. The protection of wildlife and global ecosystems is essential to human survival. I hope that debate on this bill will help us to increase awareness of the importance of habitat conservation and species preservation and further entrench these protections in law.

But for now the bill is about sharks, so let us learn more about them.

Sharks play an important role in marine habitats and have done so in the global oceans for hundreds of millions of years. They are apex predators, a species at the top of their food chain. Sharks are a key predator, controlling populations of smaller sharks and fishes. As an example, the loss of large shark populations in the North Atlantic, where they effectively managed the ecosystem, has caused a steep decline of bivalve fisheries, including scallops, clams and oysters.

The disappearance of apex predators, such as sharks, through human activity in recent years has had a major impact on ecosystems and the health of marine and global habitats. While sharks are an ancient species, they are by no means primitive. The earliest known evidence of the existence of sharks is from the Silurian period, 420 million years ago. Modern sharks have been swimming in our oceans since the Triassic and Jurassic periods 200 million years ago.

To use the analogy of the geological clock, if the 4.5-billion-year history of Earth were condensed into one year, the first sharks appeared on November 26, well before us humans.

Humans are a very young species, inflicting dramatic changes to the co-inhabitants of this planet. Sharks are a much older species, and they have thrived in the ocean. It is only in the past century that the demand for shark fins for cultural reasons has caused these important predators to be overfished to the brink of extinction.

Sharks use their fins to propel themselves through the water. If they do not, they will sink. Indeed, most species of sharks are ram ventilators, which means they must swim fast in order to pass water through their gills and breathe. Imagine: After being pulled out of the water, the shark's fins are sawed off with a hot serrated

blade. Then the shark is thrown back in the ocean where it cannot propel itself through the water, and thus it cannot breathe. It is left to sink slowly to the bottom of the ocean and die, or be torn apart by scavengers.

The Wildlife Conservation Society estimates 25 per cent of shark species are under the threat of extinction from overfishing. It is worth noting that not only are sharks affected by overfishing, but related cartilaginous fishes including rays, skates and chimaeras are also vulnerable.

Bill S-238 is one step in protecting sharks from the global practice of shark-finning by banning the importation of shark fins into Canada. It would be difficult to find a good counterargument to this bill, on principle. But this is just a start in protecting one species from a practice that is leading to its extinction. In terms of protecting species threatened with extinction, where do we end?

[Translation]

The demand for animal products resulting from customs and cultural celebrations has led humans to disseminate several species of flora and fauna based on the belief that humans can derive power and new abilities from certain animals. These beliefs are not rooted in science.

• (2050)

Hundreds of rhinoceros are hunted and killed for their horns every year and all five rhinoceros species are endangered. Anti-poaching efforts have helped to boost the population slightly, but rhinoceros are still threatened with extinction.

Every year, 150 million seahorses are fished. Seahorses might become extinct within the next few decades.

Closer to home, although it is legal to hunt black bears with a permit, they are still poached for their paws and gallbladders.

[English]

These aforementioned animal products are listed in the Convention on International Trade in Endangered Species, which means they cannot be imported into Canada. CITES, the Convention on International Trade in Endangered Species, lists 5,000 animal species and 29,000 plant species, yet, illicit trade continues worldwide.

Driven in part by an increasingly richer middle class in many emerging economies, the demand for these products is a global conservation crisis. As a result, a myriad of species, including sharks, are in danger of extinction.

Organizations working to eliminate shark finning face a number of challenges. As with many things in life, there are two sides to any situation. For example, in Indonesia, which is a major shark and ray fishing country, many people depend on shark

finning for their livelihood. Organizations such as the Wildlife Conservation Society are “working with fishers to explore alternative livelihood options.”

One challenge in the global shark fin trade is to create systems that ensure responsible consumption of shark products, including fins, meat and other shark and ray products which come from legal, well-managed and sustainable fisheries.

Another challenge is to reduce demand by increasing awareness that consumption of shark fins has no nutritious value or special properties, that their use in cultural activities is based only in belief. This can only be accomplished through education.

A more responsible shark trade must be balanced to ensure people who rely on this industry have a way to make a living from either sustainable shark fishing or another trade. If not, demand may drive the trade of shark fins to the black market, and shark populations may continue to decline.

Therefore, I ask: What is being done to help people around the world who work in the shark fishery to adapt their skills to sustainable shark fishing or other sustainable fisheries? Is it realistic to implement a sustainable shark fishery that transcends international, regional and national borders?

[Translation]

There are no easy answers to these questions. However, we will keep asking them through the important work being done on these issues, such as the work done by the late Rob Stewart, whose documentary *Sharkwater* highlighted the shark's role in the ocean, as well as the need for a global conservation effort. His work has brought the issue of shark finning to the public's attention, which has helped raise awareness and educate people around the world. We now have a better understanding of what is happening to these creatures and why it is so important to protect and conserve these species.

[English]

According to the Global Sharks and Rays Initiative 2015 report, a lack of data on shark biology and their populations provides a challenge in monitoring and protecting shark populations.

Sharks are found globally and migrate across international waters. Shark fisheries have multiple centres of demand — for example, East Asia — and complex flows of shark products are difficult to trace between different countries, regions and continents, especially where regulations controlling the trade vary. Conservation efforts, where practised, are, unfortunately, fragmented and poorly resourced.

A 2016 study showed that since 2003, the number of sharks that have been caught has dropped by approximately 20 per cent. This decrease, however, is not due to a decrease in the shark fishing; rather, it is due to an overall decline in global shark populations from overfishing. Clearly, this terrible statistic shows that overfishing is also having a significant impact on shark species in the oceans, which constitutes a negative cumulative impact on shark populations.

[Senator Galvez]

Other ecological problems contribute to the decline of sharks. Bycatch is the “catch of non-target fish and ocean wildlife” in longlines, trawls and gillnets. Not only sharks but whales, dolphins, seals, turtles and birds are killed as bycatch. According to OCEANA, bycatch may account for up to 40 per cent of global catch, estimated at almost 30 billion kilograms per year in 2014.

Like with many species of sharks, bycatch is either poorly monitored or not monitored at all, leading to inaccurate estimates of protected species which are drowned or injured in nets or longlines in the course of fishing activities. In the 1990s, an estimated 12 million sharks and rays were killed as bycatch each year in international waters. This figure excludes the 100 million sharks killed for their fins every year.

[Translation]

What can be done to stop the decimation of shark populations through bycatch and finning? The Global Shark and Ray Initiative presented a report underscoring the biggest challenges and objectives for shark and ray conservation. Although there isn't a single strategy that applies to the conservation of various species, efforts must be made to target species at risk, study the populations for which we have little data, try to change the demand for shark products, encourage responsible trade practices, and most of all, raise public awareness and increase education.

[English]

Bill S-238 raises the very important issue of stopping the practice of shark finning by banning imports of shark fins into Canada. However, it also raises several other issues: Does the ban on shark finning go far enough? Can we expand its scope to cover other cartilaginous fishes, such as rays, which may also be targeted? How do we protect sharks and other sea creatures, including sea turtles, dolphins, seals and seabirds from bycatch?

We must increase our efforts to protect marine life, ensuring the preservation of biodiversity in our oceans which is under threat from human activity and climate change.

[Translation]

June 8 was World Oceans Day. We should have marked the occasion in the House and in the Senate. Even though it comes a few days late, I hope that my speech has given the day its due.

[English]

I will end with a quote from the book *Last Chance to See*, by authors Douglas Adams and Mark Carwardine. They travelled around the world in search of species threatened with extinction due to the activities of man.

It's easy to think that as a result of the extinction of the dodo, we are now sadder and wiser, but there's a lot of

evidence to suggest that we are merely sadder and better informed.

This is a bleak vision for the future of biodiversity. Let's prove it wrong.

(On motion of Senator Griffin, debate adjourned.)

• (2100)

CRIMINAL CODE

BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Gold, seconded by the Honourable Senator Saint-Germain, for the second reading of Bill C-305, An Act to amend the Criminal Code (mischief).

Hon. Linda Frum: Honourable senators, I rise to speak as critic to Bill C-305, An Act to amend the Criminal Code as it pertains to mischief against places of religion.

Bill C-305 extends the definition of mischief relating to religious property to include property that is used for educational, cultural or residence for seniors by an identifiable group. This means that perpetrators of mischief against a religious centre or educational institution would face the same 10-year maximum penalty as they would if it was committed against a synagogue, mosque or church.

Senators may recall that only a few weeks ago I put on the record here the results of the disturbing 2015-16 B'nai Brith report on anti-Semitism. The audit found that 2016 was a record year for anti-Semitism, with a 16 per cent increase in incidents of vandalism alone.

It is for this reason and more that I support Bill C-305 and note that it received unanimous consent in the House of Commons.

The Jewish community is the most targeted religious group in Canada and three quarters of hate-motivated crimes against Jews fall under the category of mischief. These are just the reported cases. The reality is many cases go unreported.

Recently in the riding of York Centre, a short stance from my home in Toronto, a seniors' home experienced an anti-Semitic attack where swastikas were placed on the door of residents. Many of those living in the home were Holocaust survivors themselves. This was a deplorable act.

Currently, the Criminal Code protects only places of worship from acts of mischief motivated by bias, prejudice or hate. Bill C-305 aims to extend the legal protection from mischief afforded to houses of worship to other property critical to the livelihood of an identifiable community.

This bill is well intentioned and well timed. Acts of mischief against identifiable communities is on the rise. In the last six months, synagogues, mosques and a church have all been vandalized a short distance from our Parliament. Vandals used swastikas and hateful slurs to deface peaceful places of worship.

These acts are motivated by ugly prejudice and hatred and are part of a disturbing and growing trend. Today, Statistics Canada released new data that indicates hate crimes against people of Islamic faith jumped by 60 per cent between 2014 and 2015.

In my city of Toronto, vandals set fire to the St. John the Evangelist Catholic Church and an Islamic information centre only one month apart.

Thankfully, these acts are strictly punishable under the existing Criminal Code framework. Any perpetrator of such vile acts against places of worship is liable to imprisonment for up to 10 years. Yet, as Senator Gold explained in his remarks, if the same perpetrator motivated by the same hate against the same group should commit the same mischief but against a school, cemetery or recreational facility, that person is not liable to the same punishment. In the latter case, the perpetrator would receive a punishment five times weaker — a two-year maximum sentence. This is a gap in our criminal justice system that must be closed.

When vandals struck the Jewish Yavne Academy in Côte Saint-Luc, their actions became liable to only two years of imprisonment. The story is the same for the vandals of other schools, cultural centres and recreational facilities across the country. Two years or less is not justice for direct acts of bigotry that promote violence and instill fear.

With Bill C-305, we can close the gap, re-equipping and re-calibrating our justice system to properly address the scourge of hate-motivated mischief against identifiable minorities.

I want to thank MP Chandra Arya for bringing forward this much-needed bill and Senator Gold for sponsoring it in the Senate.

Honourable colleagues, I hope you will join me in supporting this bill at second reading so it may quickly go to committee and pass in this chamber to ensure that local authorities and judges are adequately empowered to address the growing threat of mischief against minority communities in Canada. Thank you.

Hon. Joan Fraser: Colleagues, I too wish to speak in support of Bill C-305, for a number of reasons. First, it is only right that in this portion of the Criminal Code we expand the categories that are of persons who are protected to match the categories that we have protected in other elements of our various anti-hate laws. So we will be expanding, if this bill passes, the category under mischief to relate not only to religion, race, colour, national or ethnic origin, but also age, sex, sexual orientation or mental or physical ability.

But as soon as we do that, we realize that then we must also address the category of property against which mischief is committed and is addressed because, as the Criminal Code

clause now stands, it refers only essentially to mischief relating to religious property, to places of worship. But of course the identifiable groups that we will be adding do not necessarily have churches, synagogues, temples, places of worship.

Sexual orientation is not a religion, but persons of a given sexual orientation may well form an identifiable group, as do the other people who would be covered under the new wording of the application of this bill.

That is why it's appropriate to expand protection beyond places of religious worship to include schools, daycare centres, colleges, universities, cultural centres, community centres and seniors' residences when these places are used by members of the identifiable groups that are protected.

It is also right for us to do this because such places — community centres, schools — are for many minority communities at the very heart of their community life. They sustain a community; they give it self-expression and the ability to carry on being a community with the strength that being a community should give. So we owe them that protection.

We owe them that protection because, as Senators Gold and Frum have pointed out, and as we all know, expressions of hate, violent expressions of hate, occur with terrifying regularity in this country. They are not what we stand for. We stand against them. But if we stand against them in principle, then we should stand against them in practice and in all aspects of our law as well.

We need to reach out to identifiable groups who face discrimination, often violent discrimination, and say, "We are with you. We stand with you. We owe you protection. We will give you protection in the places that are dearest and most important to you."

So I urge you to stand with me in supporting this bill.

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

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 and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Gold, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

JUDICIAL ACCOUNTABILITY THROUGH SEXUAL ASSAULT LAW TRAINING BILL

BILL TO AMEND—SECOND READING— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Andreychuk, seconded by the Honourable Senator Seidman, for the second reading of Bill C-337, An Act to amend the Judges Act and the Criminal Code (sexual assault).

Hon. Kim Pate: Honourable senators, I rise today to continue to speak to Bill C-337, the judicial accountability through sexual assault law training bill.

I began my speech last week by stating my support for the bill's goal of responding to the criminal justice system's shameful failure to address violence against women and children, particularly those who have been sexually assaulted.

On the topic of Bill C-337's proposed mandatory sexual assault training for those applying for judgeships, I spoke about Angela Cardinal, a homeless and marginalized indigenous complainant in a sexual assault case, whom a judge ordered to be jailed alongside her attacker and as though she was also the accused, over five nights while she was giving testimony.

The judicial treatment of Ms. Cardinal reminds us that dynamics of misogyny targeted by sexual assault training as contributing to violence against women are also tangled up in dynamics of racism, colonialism, impoverishment and class biases.

• (2110)

During committee hearings in the other place, the Native Women's Association of Canada highlighted the effects of intersectionality that have made indigenous women like Ms. Cardinal three times more likely to experience sexual assault during their lifetimes than non-indigenous women in Canada.

This statistic was confirmed last week in Statistics Canada's new study on women in the criminal justice system. The Native Women's Association of Canada links decisions and comments made by judicial officials, and others for that matter, in sexual assault cases to the perpetuation of racism, sexism and a message that indigenous women's lives are not valued, as well as the pandemic of violence that has given rise to the National Inquiry into Missing and Murdered Indigenous Women and Girls.

The connection between indigenous women's experiences within the justice system and the ongoing effects of colonialism invoked by NWAC has been expounded by Professor Dalee Sambo Dorrough, an expert in international and indigenous human rights. In her essay entitled, "Indigenous Peoples' Rights to Self-Determination and Other Rights Related to Access to Justice: the Normative Framework," Professor Dorrough quotes the Global Alliance Against Trafficking in Women's definition of

access to justice as including not only "removing legal and financial barriers" but also social barriers such as "intimidation by the law and legal institutions."

Professor Dorrough's work encourages us to see, in the harmful stereotypes that indigenous women in particular encounter in the justice system, a dimension of continued colonialism and a denial of rights by denying the status of indigenous women as rights claimants.

In recognition of NWAC's testimony and that of other witnesses, the committee in the other place added to Bill C-337 a requirement for social context, as well as sexual assault training. I applaud this step to raise awareness of dynamics of intersectionality in the context of sexual assault and would encourage further consideration of these new provisions to ensure that they are effective and that they account for how political context and inequality also contribute to the ongoing denial of women's, particularly indigenous women's, legal rights.

Bill C-337's judicial training measures stem from judges' treatment of women and the need to address and challenge misogynist myths. The cases exemplifying the need for such measures continue even more recently than Robin Camp's 2014 comments with respect to such indigenous women as Angela Cardinal and others who have faced impoverishment, homelessness and their own indigeneity.

Bill C-337 also addresses a second set of myths surrounding the presumption that the ability of judges to assess credibility and reliability to do justice for those who have been sexually assaulted is supposed to come naturally, without any training. Professor Elaine Craig drew attention, in her testimony before committee in the other place, to the fact that regardless of the independence of the mechanism that is used to appoint judges, we are still working from a small pool of very privileged individuals. The task of understanding the experience of another and interrogating our own assumptions about gender, race and class is one with which many of us struggle on a daily basis, and that can also be no easier for judges, even in their increasingly relative diversity, to address. As too many cases reveal, the prerequisite for serving as a judge — 10 years of service as a lawyer practising in any field of law — will not necessarily impart these skills.

Bill C-337 proposes mandatory sexual assault and related context training, and it's geared toward ensuring that judges live up to the high standard imposed on them by virtue of their position as gatekeepers of the justice system.

In addition to requiring sexual assault training for judges, the second goal of Bill C-337 is to increase transparency and accountability by requiring that decisions in all sexual assault cases heard by a judge without a jury be written or recorded in order to bring to light those cases where outcomes have been skewed by sexist and other discriminatory assumptions or stereotypes. The recent examples of highly publicized cases of discriminatory and problematic conduct or reasoning by judges in sexual assault cases include questioning why a woman would not simply "keep her knees together," asserting that "drunks can consent" and jailing women to force them to testify in unsupportive and re-victimizing contexts. These known cases highlight the ease with which misogynist and often racist

statements, completely at odds with the experiences of women victims of violence, can go unchecked in our criminal justice system. The reality is that too many women have been virtually normalized to accept, to an outrageous extent, such that, for too many, it really exemplifies the blindfolded iconic symbol of justice, a symbol of our legal system, which becomes a system unable to see the consequences of how it treats those who are victimized, particularly those marginalized by race, sex, impoverishment and, increasingly, disability.

Discounting cases that have received media attention as being abnormal or isolated incidents obscures the extent to which misogyny is normative and systemic, an everyday occurrence in courtrooms across our country. The cases that have received publicity are simply ones that we are able to learn about usually because of someone's research or a reporter happening to be a witness and report on the case after the court case has finished.

Bill C-337 thus requires the recording of judgments as but one step forward, illuminating the full extent of this problem and ensuring greater accountability of judges and, presumably, others in the system and the need for protections for those who have been sexually assaulted. In order to be as effective as possible, however, these requirements aimed at greater transparency must be supported by other measures. Witnesses at committee in the other place notably emphasized the need for adequate resources to support the increased cost and time required to render written decisions.

Another recommendation was to ensure that the resulting written decisions be published in a way that ensures accessibility for researchers and members of the public. In particular, given that the role that researchers such as Professors Elizabeth Sheehy and Elaine Craig have played in studying, exposing and increasing public knowledge of such cases as the Robin Camp case, consideration must be given to directing resources toward regular collection of data by experts in order to permit the study and further the education of all system actors as a whole in order to move beyond the current piecemeal awareness of the problem.

I close by reiterating my support for Bill C-337's goal of making the criminal justice system, and particularly its participants, more aware and respectful of women's realities regarding their often lifelong experiences of marginalization and discrimination.

I hope that we can work together to make Bill C-337 as effective as possible and to offer the beginnings of a long overdue response to the violence against women and children that is all too often condoned by our justice system.

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I rise to briefly speak in support of Bill C-337. This bill has been well described by its sponsor in this chamber, Senator Andreychuk, and very passionately commended to us by Senator Pate.

What I wanted to do was to convey to this chamber the support of the Government of Canada for this initiative and that it be considered a priority as we contemplate bills before us.

[Senator Pate]

This bill comes as a result of work done in the other chamber. The House of Commons Standing Committee on the Status of Women tabled a report entitled, *Taking Action to End Violence Against Young Women and Girls in Canada*. In that report, particularly the section on improving law enforcement in the criminal justice system, the committee reported that:

... many survivors of gender-based violence, particularly sexual assault, do not have confidence that they will obtain justice: there is widespread underreporting of such crimes
 ...

And the number of cases reported to police compared to the number which are pursued through the criminal justice system is very high.

As a result of that finding, the honourable members of the other chamber reflected on what action could be taken. I commend, as does the government, the Honourable Rona Ambrose, the former and then-interim leader of the Conservative Party, for introducing Bill C-337. As a result of the work that was done in the other chamber, Bill C-337 was concurred in at report stage and passed second reading on May 15. The supporters of the bill recognize that quick action to help restore the trust that has been broken is part of a much broader effort to improve how the criminal justice system responds to sexual assault. The other actors in this system, of course, must also take steps to address the deficit in trust. This bill strikes a particular balance in regard to those who would wish to be members of the judiciary or are presently in the judiciary. It strikes a balance to ensure that the judiciary and the organizations that support it are aware of Parliament's expectations regarding the education of judges in relation to sexual assault and other social context training.

• (2120)

On the other hand, it upholds the principle of judicial independence by leaving authority over the precise content and delivery of education for Superior Court judges to the judiciary itself — a point that Senator Andreychuk spent some time underscoring — so that the appropriate relationship between Parliament and the judiciary is preserved. I confirmed that view with the Minister of Justice and want to report that to this chamber.

As for those who have or who intend to apply for judicial office, it provides a powerful incentive to undertake the necessary training. This bill is one of many that we face in the coming weeks. It is an important one. I met with Ms. Ambrose last Thursday to convey that I would be speaking in support of the bill and urging senators to give it appropriate deliberation, but also to see it move as quickly as possible.

Let me close, honourable senators, by also underscoring, in the spirit of goodwill across all in the aisles, that there are other pieces of legislation that equally deserve a hearing, a vote, attention and deliberation. The reference has been made earlier today to Bill C-210. I don't want to belabour the point, but I do want to underscore the goodwill that all sides are exhibiting to many of the bills that have been before us. Playing the jockeying game of holding bills to play against preferences is something that I hope we can end.

With that, I commend the bill to you. I commend other bills that are before us in the hopes that we can deal with them in the coming days so that we can have an appropriate reflection of the deliberation of this chamber, but also our ability to conclude.

(On motion of Senator Cormier, for Senator Gagné, debate adjourned.)

STUDY ON ISSUES RELATED TO THE GOVERNMENT'S CURRENT DEFENCE POLICY REVIEW

ELEVENTH REPORT OF NATIONAL SECURITY AND
DEFENCE COMMITTEE AND REQUEST FOR
GOVERNMENT RESPONSE—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Lang, seconded by the Honourable Senator Martin:

That the eleventh report of the Standing Senate Committee on National Security and Defence, entitled *Reinvesting in the Canadian Armed Forces: A plan for the future*, deposited with the Clerk of the Senate on May 8, 2017, be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the government, with the Minister of National Defence being identified as minister responsible for responding to the report.

Hon. Mobina S. B. Jaffer: Honourable senators, I rise to speak on the eleventh report of the Standing Senate Committee on National Security and Defence entitled: *Reinvesting in the Canadian Armed Forces: A plan for the future*.

Before beginning I would like to thank Senator Lang, the chair of the committee, for his help in directing the study; and Senator Kenny, whose expertise on this subject helped greatly with the drafting of the report. I would also like to thank the other members of the committee who provided their input. Finally, I would like to acknowledge the work of Marcus Pistor, Holly Porteous and Katherine Simmonds from the Library of Parliament, as well as Adam Thompson, Clerk of the Committee.

Reinvesting in the Canadian Armed Forces: A plan for the future is the second report released as part of the Standing Senate Committee on National Security and Defence's study on the Defence Policy Review. This report expands on our previous report, *Military Underfunded: The Walk Must Match the Talk*, by laying out a plan on how the government can effectively address the strategic challenges that confront Canada in the 21st century and the women and men who served their country in the Canadian Armed Forces.

This plan is set out through 30 recommendations, which were adopted by the committee after a long process of discussion, debate and compromise. These recommendations fall into two categories: issues related to the under-equipping of our Canadian Armed Forces and issues related to the women and men of the Canadian Armed Forces.

During his speech on this report, Senator Lang spoke comprehensively on the parts of this plan that involve making urgently needed investments in equipment for our military, so I will not speak at length on them today. I would like to echo his message about the importance of dealing with the underfunding and capacity gaps within the Canadian Armed Forces.

Spending 0.88 per cent of our GDP on defence is simply inadequate to address Canada's many defence requirements. This is why I'm glad that Minister Sajjan has committed to better supporting our troops and veterans to re-equip our military. It is an important first step that Canada must take to fill the many capacity gaps that our committee uncovered in this report, including a quickly aging fighter fleet, many of which are from the Cold War; a lack of ships that can patrol our coasts and navigate into our Arctic; an inability to refuel our ships and planes abroad; and a lack of proper training, equipment and funding for our reserves. Without proper support and equipment, our military will not be able to accomplish everything we expect of it.

However, with that said, I would like to speak tonight on the parts of our report that involve solving the challenges faced by the women and men of the Canadian Armed Forces. Given how much Canadian Armed Forces put on the line as they serve in Canada and abroad, we have a responsibility to ensure that their challenges are addressed. Our report sets out two main areas that the government must address to help support Canadian Armed Forces members: sexual misconduct and diversity.

The first area, sexual misconduct, has consistently been a major issue in the Canadian Armed Forces. According to Statistics Canada, 960 full-time members of the Canadian Armed Forces, or 2 per cent of its members, reported sexual assault over the past year. Further, 27.3 per cent of all women reported having been victims of sexual assault at least once since joining the Canadian Armed Forces. In other words, women in the Canadian Armed Forces are twice as likely to be victims of sexual misconduct compared to other Canadians.

To stress how devastating these experiences are, I would like to share a story of a victim of sexual misconduct in the Canadian Armed Forces. I believe her story will demonstrate how important it is to deal with this problem.

When Lise Gauthier was 18 years old, she joined the Royal Canadian Air Force and served Canada for 25 years. Over the course of her career, Lise dealt with several horrifying cases of rape, sexual assault, harassment and many other forms of abuse by her fellow members. This is how she describes her trauma:

I think about the attacks all the time, 24 hours a day. There's no escape. I wish no one had to go through what I did. I wouldn't wish it on my worst enemy. You stop living. You're in survival mode. The best you can do is breathe.

Honourable senators, this is simply unacceptable. Sexual misconduct in the Canadian Armed Forces makes it an unsafe workplace for women who serve our country. This has serious consequences for the Canadian Armed Forces. Every witness who spoke on this subject was clear: The morale, recruitment and retention of women in the Canadian Armed Forces all decline when members feel that their workplace is unsafe. This has put us far behind our goal of reaching 25 per cent representation for

women within the Canadian Armed Forces. We have barely even met half of that goal. Currently, women only make up 14.6 per cent of our Canadian Armed Forces. In fact, they only make up 8.9 per cent of the Royal Canadian Air Force members. The Canadian Armed Forces will never be able to reach its full potential if it remains an unsafe workplace.

To address this issue, our committee has outlined two steps that the government must take.

• (2130)

First, we are encouraging the government to implement all the recommendations of the Deschamps report, which stresses the need for serious cultural change within the Canadian Armed Forces to put an end to sexual misconduct and sets out several important steps that would enable that change. These steps include vital use of gender-based analysis, clarifying the definition of sexual assault and harassment, creating support structures for the victims of sexual harassment and assault, creating a specialized centre for accountability for complaints about sexual assault and the implementation of training programs to prevent sexual assault and harassment.

Our committee agrees that Justice Deschamps set out an important road map to making the Canadian Armed Forces into a safe workplace and strongly encourages its adoption.

Second, we are encouraging the government to prioritize the implementation of Operation HONOUR, an initiative launched by Chief of the Defence Staff Jonathan Vance to end harmful sexual behaviour within the Canadian Armed Forces using short- and long-term programs. Operation HONOUR has easily been one of Canada's best tools in making real progress towards eliminating sexual misconduct and making the Canadian Armed Forces into a safer workplace.

Review of sexual harassment now happens at the highest levels in the Department of National Defence, and several training programs have been launched to help members address sexual misconduct as they see it.

With that said, there is quite a lot of work left to be done. Over the course of our study, we learned that the progress made under Operation HONOUR has been slow and that many of its initiatives are still only in their earliest stages. Our committee wants to see results and has committed to following up on this subject with future hearings and a report during this Parliament. We are committed to making the Canadian Armed Forces into a safe workplace for women and will continue to push for the implementation of the Deschamps report and Operation HONOUR.

The second challenge deals with the fact that the Canadian Armed Forces is failing to meet its employment equity goals. Our government has set out goals of reaching 11.8 per cent visible minority representation and 3.4 per cent Aboriginal representation. However, we have barely passed half of that goal. Currently, visible minorities only represent about

6.5 per cent of the Canadian Armed Forces, while Aboriginal people only represent 2.5 per cent. When we fail to include all Canadians, we also fail to obtain the skills and talents that Canadians bring with them. We lose the strength that the Auditor General, the Chief of the Defence Staff and Minister Sajjan all agreed are critical to strengthening the operational capability of our Canadian Armed Forces.

There is one simple reason for our failure to reach these goals: We are not even trying to reach out to our diverse and multicultural population. Until the start of this year, Canada has not even had a comprehensive plan to attract visible minorities and Aboriginal peoples. We must continue with this approach. Visible minorities and Aboriginal people will not join the Canadian Armed Forces unless we make a concentrated effort to reach out to them.

We have to reach out to all Canadians. Several first steps have already been made towards this goal. Earlier this year, the Department of National Defence established the recruiting and diversity task force, which is tasked with planning and executing programs to increase diversity at all levels and in all branches of our military.

With that said, this cannot be the only step our government takes. To truly ensure the integration of visible minorities and Aboriginal people, the Canadian Armed Forces must comply with its obligations under the Employment Equity Act. In recognition of how effective this kind of action is, our committee is wishing the government to continue in this direction and to adhere to its obligations under the Employment Equity Act.

Before concluding, I would like to speak briefly on the report as a whole. While I may not support all of its recommendations, that is the nature of committees. Our reports are the product of discussion and compromise. Despite this, I can wholeheartedly say that I support the Canadian Armed Forces and believe that it should be given everything it needs to succeed.

During my time travelling with the Canadian Armed Forces in several countries, people have told me about our military's accomplishments. When I travel with our Canadian Armed Forces in Darfur and in Sudan, the Sudanese and Darfurians told me that the Canadian Armed Forces are exceptional men and women. "During the day, they work hard to save our lives, and at night, in the evenings and on the weekends, they work tirelessly to help us build orphanages and schools and give our country some hope."

Honourable senators, our Canadian Armed Forces put their lives on the line through their work and make both Canada and the world safer. Both parts of this report have outlined the most important issues for our military, ranging from chronic underfunding to aging equipment to an unsafe workplace. The very least that we can do for our Canadian Armed Forces is to address the challenges they face. For this reason, I ask for your support in adopting this report.

(On motion of Senator Eggleton, debate adjourned.)

[Translation]

**STUDY ON THE CHALLENGES ASSOCIATED WITH
ACCESS TO FRENCH-LANGUAGE SCHOOLS
AND FRENCH IMMERSION PROGRAMS IN
BRITISH COLUMBIA**

**FOURTH REPORT OF OFFICIAL LANGUAGES
COMMITTEE AND REQUEST FOR
GOVERNMENT RESPONSE
ADOPTED**

On the Order:

Resuming debate on the motion of the Honourable Senator Tardif, seconded by the Honourable Senator Joyal, P.C.:

That the fourth report of the Standing Senate Committee on Official Languages, entitled *Horizon 2018: Toward Stronger Support of French-language Learning in British Columbia*, tabled in the Senate on May 31, 2017, be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the government, with the Minister of Canadian Heritage being identified as minister responsible for responding to the report, in consultation with the Ministers of Public Services and Procurement, Families, Children and Social Development, Innovation, Science and Economic Development and Immigration, Refugees and Citizenship.

Hon. Mobina S. B. Jaffer: Honourable senators, the Standing Senate Committee on Official Languages produced a study report entitled *Horizon 2018: Toward Stronger Support of French-language Learning in British Columbia*, concerning the challenges that students and parents face getting into French schools and immersion programs in British Columbia.

Before I begin, I would like to thank Senator Tardif, Chair of the Standing Senate Committee on Official Languages, and all members of the committee who contributed to this study in British Columbia.

I would also like to thank the witnesses who participated in the study that resulted in this report. I thank them for shedding light on issues affecting the Francophonie in my home province of British Columbia. Their testimony was indispensable.

In their speeches, Senator Tardif and Senator Gagné presented the report in a very clear and thoughtful manner. They pointed out the recommendations set out in the report regarding Francophonie issues and encouraged the Minister of Canadian Heritage and the British Columbia Ministry of Education to work together. It is essential that the federal and provincial governments work together to ensure that French-language education and French immersion programs are available to students.

In our country, bilingualism is not just a belief; it is a right that is set out in the Canadian Charter of Rights and Freedoms, which reads as follows, and I quote:

The right of citizens of Canada . . . to have their children receive primary and secondary school instruction in the language of the English or French linguistic minority population of a province

(a) applies wherever in the province the number of children of citizens who have such a right is sufficient to warrant the provision to them out of public funds of minority language instruction; and

(b) includes, where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provided out of public funds.

This right therefore entitles francophone parents in my province, where French is a minority language, to have access to education in French for their children.

Honourable senators, I look forward to working with the new Commissioner of Official Languages in order to ensure that this right is implemented and respected in British Columbia. I would like to thank the outgoing Commissioner, Graham Fraser, for the work he has done for Canadians.

Many striking statistics were mentioned in this study. For example, from 2006 to 2011, the francophone population in British Columbia grew. The number of people who use French as their first language increased by 12,400.

Despite the fact that the Standing Senate Committee on Official Languages published an excellent report, conducted excellent research, made great recommendations and talked about future developments, I am still not satisfied. My frustration has to do with the lack of consideration and recognition that we have for francophone communities that are not indigenous to Canada and the limited funding allocated to French immersion programs.

• (2140)

First of all, the report reveals that more than 185,000 immigrants settled in my province of British Columbia between 2006 and 2011. Approximately 30 per cent of British Columbia's francophone population are immigrants. This means that those whose first language is not necessarily French but who can understand and speak the language are increasingly identifying with the francophonie and feeling as though they are part of French-Canadian culture.

I would like to tell you about a francophone woman who was not born in Canada. Benula Larsen is originally from Mauritius. French was one of the first languages she learned, along with Creole. During high school, she became friends with some fellow students of Iranian and Quebecois roots. Together they created

the Conseil jeunesse francophone de la Colombie-Britannique, which still exists today, whose mission is to promote pride in the francophonie among youth.

Ms. Larsen told me, and I quote:

The francophonie and my love for the language made me the person I am today. I am proud to be a French immersion teacher. I have been living in this province for 35 years; it is my home.

It is thanks to the French language that I integrated so well here. In spite of everything, a lot of work remains to be done to ensure that our students can access French-language education. Some immigrants are not told when they arrive in this country that French-language education is possible.

Honourable senators, there are many francophones like Ms. Larsen in my province. My dear friend Padminee Chundunsing is also originally from Mauritius. She is president of the Fédération des francophones de la Colombie-Britannique. Ms. Larsen and Ms. Chundunsing are very involved and constantly contribute to francophone culture in Western Canada.

Francophones like them make up 30 per cent of the francophone population in my province, in other words, people who identify with the French language without be Canadian by birth. This percentage of the francophone population gets little recognition.

In the report of the Standing Committee on Official Languages, recommendation 12 calls on the Minister of Canadian Heritage, the Minister of Immigration, Refugees and Citizenship, as well as the British Columbia department of education, to ensure that francophone immigrants are informed of the possibility of having access to education in French in British Columbia.

The second challenge has to do with the lack of access to French immersion. Between 1997 and 2014, registration at francophone schools increased by 75 per cent and by 65 per cent for immersion programs during that same time period. These statistics, taken from the report, are proof. There is no doubt that the demand and interest are there.

Despite high demand and long waiting lists for French immersion programs, the Vancouver school board is cutting the number of classes by nearly one third for the 2017-18 school year. That is significant. I understand that education may seem like a provincial matter, but to me, bilingualism is a national affair.

My two children are perfectly bilingual. They want to pass on their linguistic heritage to their children. My grandson was on a waiting list at 13 primary immersion schools. My daughter-in-law Shaleena reached out to her personal contacts to get my grandson a spot in an immersion class. Many parents do what they can and hope that their children will get accepted into an immersion school. Preventing children from getting an education in French is unacceptable. It hinders the growth and development of Canadian bilingualism in my province. Funding is not keeping pace with registration.

[Senator Jaffer]

Recommendation 11 calls on the Minister of Canadian Heritage, in collaboration with British Columbia's Ministry of Education, to meet growing demand by guaranteeing access to immersion programs and the funding to sustain them. Giving parents and students access to education in French and immersion programs amounts to honouring their basic language rights under the Canadian Charter of Rights and Freedoms.

As parliamentarians, politicians, and federal government representatives, it is our duty to promote education in French and English across Canada. We must offer students the French-language education they need to construct their cultural identity. These problems have surfaced every year for decades and will not fix themselves.

This official languages committee's report is timely considering that the federal government will be renegotiating the Memorandum of Understanding on Minority-Language Education and Second-Language Instruction in 2018. This is a great time for the federal and provincial governments to show that bilingualism in British Columbia and across the country matters to them.

During negotiations for the new memorandum of understanding on education and the next multi-year official languages plan, I would like the Minister of Canadian Heritage to stand with British Columbia's francophone communities and enhance funding for immersion education. Financial support is urgent, and accessibility is just as big an issue.

If we do not provide children with the resources they need and access to French-language education in British Columbia, we will never be a truly bilingual nation. I am a staunch advocate of minority language rights in British Columbia.

Whether for francophones or francophiles like me, I firmly believe in bilingualism. That is why I am appealing to the government to recognize the 30 per cent of francophones who were not born in Canada who never cease to contribute to my province's rich, francophone culture. If we are really serious about bilingualism, we must provide the necessary resources to French immersion programs.

Honourable senators, English and French bilingualism is what makes our country unique. Bilingualism forms the foundation of our Canadian identity. Bilingualism is the greatest legacy we can leave for future generations. Failing to encourage French education and immersion would undermine this cultural heritage.

We are a bilingual nation, and we have a duty to promote this cultural wealth. Honourable senators, we truly need both an English-speaking Canada, a French-speaking Canada and a bilingual, united Canada.

• (2150)

[English]

Honourable senators, I truly believe that if we are going to be serious that our country becomes a bilingual country, stays a

bilingual country, we have to be serious about the resources we provide to provinces right across the country.

The resources that are provided to children in British Columbia are really bad. That is why I am happy and proud to be in this Senate where, under the leadership of Senator Tardif, we are looking at this issue. I know that she will continuously monitor it so that the children in Newfoundland, in Quebec and in British Columbia, all speak in both our languages, French and English.

[Translation]

Hon. Ghislain Maltais: Honourable senators, I want to congratulate Senator Jaffer on her excellent speech, which I will certainly not repeat.

During our visit to British Columbia, our chair, Senator Tardif, showed us another side of Canada, that of a francophone minority awash in a sea of anglophones. We were introduced to some remarkable parents, children and teachers.

Mr. Speaker, I know you are an excellent fisherman. Let's say that the French language is like a river full of salmon. It is turbulent at times, but in the end, the calm waters return. That is what we saw in British Columbia.

The main challenge facing official language minority communities, both English and French, is that education is a provincial jurisdiction. We could ask the Minister of Heritage to allocate millions of dollars to the provinces, but we would still need to make sure that the money would be spent on education and in the right place. That is the crux of the problem.

When the President of the Treasury Board, Scott Brison, appeared before the committee, we asked him whether there was any way to control accountability and whether the money really was intended for minority language communities. Unfortunately, no such legislation exists in Canada.

However, the President of the Treasury Board did promise to resolve much of the problem within the next year. At present, the federal government, regardless of political stripe, transfers money to the provinces, and the provinces distribute that money to where official language minority communities exist, but unfortunately, it seems as though the provinces may not be doing that, which is why we need to pass framework legislation.

Honourable senators, let us not forget that, when they cease to be shared, languages become dead languages, no matter how beautiful and mellifluous they may sound. I thank the people of British Columbia for welcoming us, especially Senator Jaffer's family, who speak excellent French and who gave us a warm welcome. They are a fine example, honourable senators, of those who experience perfect bilingualism. Thank you.

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

Some Hon. Senators: Yes.

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

Some Hon. Senators: Agreed.

(Motion agreed to)

[English]

STUDY ON THE REPORTS OF THE CHIEF ELECTORAL OFFICER ON THE FORTY-SECOND GENERAL ELECTION

SEVENTEENTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE—DEBATE ADJOURNED

The Senate proceeded to consideration of the seventeenth report of the Standing Senate Committee on Legal and Constitutional Affairs, entitled *Controlling Foreign Influence in Canadian Elections*, deposited with the Clerk of the Senate on June 8, 2017.

Hon. Bob Runciman moved:

That the seventeenth report of the Standing Senate Committee on Legal and Constitutional Affairs, entitled *Controlling Foreign Influence in Canadian Elections*, deposited with the Clerk of the Senate on June 8, 2017, be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the government, with the Minister of Democratic Institutions being identified as minister responsible for responding to the report.

He said: Honourable senators, I have very brief comments.

I was hoping Senator Frum was here to elaborate as well, since she has introduced legislation dealing with this issue.

This was a review of the Canada Elections Act. We had appearing before us the Chief Electoral Officer, Mr. Mayrand, who has since retired, and the Commissioner of Canada Elections, Yves Côté. The recommendations embodied in this report are based on the testimony provided by both gentlemen, I think primarily Mr. Côté. There are serious concerns with respect to the potential for the intervention of foreign entities in the electoral process in Canada. That is the primary recommendation or concern embodied in the report.

We certainly heard significant testimony in terms of the vulnerability under the current Canada Elections Act. As long as the foreign contributions to a third party, and this is one example, are used to pay for things like robo-calls, polling, et cetera, there's no need to report them.

Of course, how much foreign money is going into these third party campaigns? That's another good issue. Foreign entities, under current law, can pump their money into a third party

without having to report it as long as they do it before the six-month lead-up to an election.

They can pour millions of dollars into a third party before the six-month period and those monies can be blended into the third party bank account, if you will. They can be spent on a whole range of initiatives as long as they don't fall under the definition of "advertising."

The definition of advertising — this is another recommendation of the report — is very narrow. It's outdated. It's confined to old display ads and newspapers and the traditional radio ads, the kinds of things that we would construe as advertising. We know there are all sorts of other things that can be used to promote the candidacy of an individual, promote a particular political party.

We have asked for a review with respect to the definition of advertising so that we can bring it up to date with the social media available, the sponsorship of concerts, polling, robo-calling, all of these issues that we believe should be falling under a more modern definition of advertising.

I'm trying to think if there is anything else that I should touch on.

We are also recommending random audits of third parties. That's something that would hopefully constrain their activities to some degree, in terms of taking advantage of the current legislation.

Honourable senators, I think we're really following the advice of the Supreme Court in their *Harper* decision in 2004 where they dealt with the spending limits for third parties.

The goal, in terms of the ruling by the Supreme Court, was to ensure a level playing field. That's what this report is speaking to as well. Certainly, from the testimony we heard from both officers, it's missing at the moment and we are urging the government to respond to this. Another federal election is a little over two years away. If we want to provide remedies, they have to take action soon. That is why we have asked for a complete detailed response from the government.

Hon. Linda Frum: Honourable senators, I will rise briefly to thank the Senate Committee on Legal and Constitutional Affairs for the report that has just been tabled entitled *Controlling Foreign Influence in Canadian Elections*.

• (2200)

I want to commend the chair of the committee, Senator Runciman, and the deputy chair, Senator Baker, and all committee members for taking the initiative to bring attention to this important and troubling issue.

As we learned during committee hearings and against all logic and contrary to the interests of Canada's democracy and our sovereignty, foreign funding in Canadian elections is permitted in the Canada Elections Act under certain conditions. This fact was exposed through testimony and documents shared with us by

Elections Canada. For the benefit of those who have not had had a chance to read this report, allow me to quote one of its important passages:

Despite the challenges in countering foreign interference, Canada's electoral laws must include strong prohibitions and sufficient penal consequences to deter and denounce any violations. Amendments could be considered that would allow for the seizure and forfeiture of assets of foreign entities that attempt to interfere in our elections.

The recommendations put forward in this report are very much in line with Bill S-239, the eliminating foreign funding in elections bill, which I introduced in this chamber on May 30. Bill S-239 seeks to close the loopholes in the Canada Elections Act which allows third-party organizations to receive funding from abroad for the purposes of election activity. Former Chief Electoral Officer Jean-Pierre Kingsley described those loopholes as "large enough to fly a 747 through." I encourage all honourable senators to read this report to better understand the gaps in Canadian law that allow for foreign influence in our elections. In light of the very serious allegations of foreign meddling in the recent U.S. election, foreign interference in our own domestic elections is a threat that Canadians should take extremely seriously.

Thanks again to Senator Runciman and the Senate Legal and Constitutional Affairs Committee for their excellent work.

Hon. Art Eggleton: Will you take a question? You said that you believe this happens now. It's not just theory; it actually happens. Can you give some examples or some evidence that this is happening? You just talked about foreign interference in the U.S. election. Are you saying the Russians are getting involved in hacking? What exactly are the examples you are talking about here?

Senator Frum: Senator, what this report addresses and what my bill addresses are the loopholes that exist right now. I'm not making specific allegations of who interfered how, when and where. I'm simply saying, as we learned in our committee hearings, that foreign interference is legal when it's done via third parties six months before an election. In those conditions, if the money is not being used for advertising expenses as Senator Runciman just explained, it is perfectly legal for a foreign entity to contribute to election-related activities. It's not a question of whether it happened. The point is it is legal. It can happen. It's allowable and that's something that we have to stop.

Senator Eggleton: I understand exactly what an election activity is. We all know that if it involves supporting one party or another, that's easily understood. I quite agree with you; that should definitely not be allowed. But you get into some grey areas such as policy. Environmentalists, for example, from other countries might contribute to an environmental organization in our country. The NRA is a different issue. That might be contributing to a policy issue which maybe one of the parties doesn't like and considers that to be somehow interfering with the election. Is that kind of thing caught by this?

Senator Frum: No, that's not caught by this. If it's policy-related, then it's not included. But election-related activity is something that can be defined and explained. It has to do with

activities, as Senator Runciman described before, things like polling, phone banking and robocalls. So election-related activity is something that Elections Canada understands; it's defined in the act. This is not about trying to prohibit foreign donations to charities or not-for-profits.

Senator Eggleton: Let me just give one more example. When we were discussing the issue of pipelines in the Transport Committee, you were registering complaints at the time about anti-pipeline activities and some funding of that. The oil industry, which is substantially foreign owned, was also contributing to the other side of the story. So that is not what is motivating this? That's not part of what you're looking at here at all?

Senator Frum: What's motivating this is that I, like every other patriotic Canadian, believe that Canada's elections should belong to Canadians and that no foreign voice should be involved in the choices we make as Canadians. That is what is motivating us.

(On motion of Senator Gold, debate adjourned.)

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 CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Ringuette, seconded by the Honourable Senator Lankin, P.C.:

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.

Hon. Elaine McCoy: Honourable senators, I will be very brief, it being this late in the evening.

I am particularly supportive of this motion. It came out of our experience with Bill C-29 last year, when the committee convinced the government to make an amendment to withdraw from the budget bill a portion of it so that it would stand on its own, but indeed be dealt with separately. That was the financial consumer's framework on building a new agency that would apply, because it's a federal bill, all across the nation. So that was actually unanimously supported by Conservatives, Liberals, and ISG members of the committee and taken forward, we were pleased to see, by the government.

That left the question what should be done to take this forward, not just to leave it in limbo. It was agreed that we should have some action on making a federal Financial Consumer Agency that was at least as good if not better than that which the provinces have in their own jurisdictions and the territories have in theirs. The fact is they are not as good as some provinces and they are certainly not better than all provinces.

So the motion was put forward that we actually refer a study to the Banking Committee to take up that very issue, since we have the expertise and we have certainly now a background on this issue. That was what Motion 146 did.

We have not been able to move this matter along as quickly as we would have liked, but we are no less interested in the issue. We are still dedicated to wanting that study to go forward, and I am a great supporter of that initiative. I trust we will get to speak to this matter and indeed inaugurate this study with the Banking Committee.

Now, I do have to point out that we were perhaps overly optimistic last November. We said in the motion that the committee should submit its final report no later than May 31, 2017. We are now June 13, 2017. So rather than simply extending this speaking engagement I'm on and asking the adjournment to be again taken by Senator Tkachuk, who is courteously allowing me to speak even though his name is on the adjournment, I would like to put forward an amendment, which I shall do now.

MOTION IN AMENDMENT

Hon. Elaine McCoy: Honourable senators, in amendment, I move:

That the motion be not now adopted, but it be amended by replacing the words "May 31, 2017" with the words "March 18, 2018".

• (2210)

The Hon. the Speaker: Senator McCoy, are you also asking leave to have the matter adjourned in Senator Tkachuk's name?

Senator McCoy: I would be happy for that to happen.

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

Hon. Senators: Agreed.

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 in amendment?

Hon. Senators: Agreed.

(Motion in amendment agreed to.)

(On motion of Senator McCoy, for Senator Tkachuk, debate adjourned.)

[Translation]

COURT CHALLENGES PROGRAM

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Chaput, calling the attention of the Senate to the Program to Support Linguistic Rights, the importance of ensuring public financing of court actions that seek to create a fair and just society and to the urgent need for the federal government to re-establish the Court Challenges Program.

Hon. Serge Joyal: Honourable senators, I know it's late, but this item has been on the Orders of the Day for 14 days now. Before I seek consent to move adjournment in my name, I would like to explain the three aspects of this motion, which I will expand on in a speech at a later date.

The motion has to do with funding for the Court Challenges Program in matters of official languages. Now, I myself started the program over 33 years ago, so I'm sure you will understand why I want to begin with a look at all of the cases that have gone to court with the help of this funding so we can take stock. In other words, how has the program been used, and what has it accomplished?

The second aspect I want to talk about is how the program serves the Official Languages Act. As you know, the Commissioner of Official Languages tabled a report through the Speaker last week. The report contains but one recommendation: review the Official Languages Act. Regulations have been adopted under the act that I feel conflict with the spirit of the act. The act is more than just a set of ethical principles; it has a spirit. In my opinion, these regulations, particularly those having to do with significant or sufficient demand, are unconstitutional.

Since this year marks the 150th anniversary of Confederation, the third thing I would like to draw your attention to as part of this inquiry is the fact that the Constitution Act, 1867, which is

also 150 years old this year, still only has one official version, the English one.

Section 55 of the Constitution Act, 1982, reads as follows:

[English]

It is going to surprise you because this section of the Constitution, in my humble opinion, has not been implemented after 35 years, and I think this legislation is unconstitutional, as it stands.

Let me read section 55 of the Constitution Act, 1982.

[Translation]

It says:

A French version of the portions of the Constitution of Canada referred to in the schedule shall be prepared by the Minister of Justice of Canada as expeditiously as possible

[English]

Since 1984, or 1982, since the adoption of the Constitution Act, 1982, in our Constitution, through the Minister of Justice, we have the obligation to adopt a French version of the Constitution as soon as possible. While it seems obvious, "as soon as possible," after 35 years, is overdue.

I will read section 55 in English so you have it for thought in the forthcoming days of summer:

A French version of the portions of the Constitution of Canada referred to in the schedule shall be prepared by the Minister of Justice of Canada as expeditiously as possible . . .

That was 35 years ago. Anyone can go to court and challenge the constitutionality of the 1987 legislation.

In the follow-up of my presentation, I would like to expose a problem. When I say "we," I say collectively, as a country, we have a problem.

[Translation]

Since we are celebrating the 150th anniversary of Confederation and since the government has made Canada's bilingualism a priority in the context of these celebrations, I think it would be appropriate for the Standing Senate Committee on Official Languages to report on this issue. It seems to me that all of these celebrations to mark Canada's achievements do not change the fact that there is still a major flaw in the Constitution Act, 1867: the fact that it is still only official in one language, English, the very language in which it was passed by the Westminster Parliament at the time. That said, the 15 pieces of legislation amending the original act that were passed since 1867—they, too, only have force of law in English.

It may seem like a flight of fancy to focus on such an anomaly that does not seem to have any impact on the application of the law. However, you can be sure that, one day or another, a Canadian will appear before the courts with the help of the Court Challenges Program and will challenge the constitutionality of the law, just like the laws in Manitoba were challenged because they were passed only in English. Every law passed in Manitoba over 90 years was declared unconstitutional by the Supreme Court of Canada.

I believe that to be a major problem. I believe that this inquiry, which raises the importance of the Court Challenges Program with regard to the Official Languages Act and the Constitution Act, 1867, should be referred to the Standing Senate Committee on Official Languages in short order. As part of the Canada's 150th, I think that we need to remedy this situation. It is important. The time is right for us, as a parliamentary institution, to take an official position on this issue by calling on the Minister of Justice and the government to respond to a recommendation made by the Senate in this regard.

I have a little bit of time left. I ask for leave of the Senate to adjourn the debate. That would allow me to come back to the other two points that I raised, concerns that I wanted to share with you as part of this inquiry.

The Hon. the Speaker: Is leave granted to adjourn the debate in the name of Senator Joyal for the remainder of his time?

Hon. Senators: Yes.

(On motion of Senator Joyal, debate adjourned.)

• (2220)

[English]

THE SENATE

MOTION TO RESOLVE INTO COMMITTEE OF THE WHOLE TO CONSIDER THE ROLE OF THE COMMUNICATIONS DIRECTORATE— DEBATE ADJOURNED

Hon. Pierrette Ringuette, pursuant to notice of June 8, 2017, moved:

That:

1. the next time Other Business is called after the adoption of this motion, the Senate resolve itself into a Committee of the Whole in order to consider the role of the Communications Directorate;
2. this Committee of the Whole meet at each subsequent sitting of the Senate, at the start of Other Business, until it has completed its work, without having to report progress and seek leave to sit again;

3. while this Committee of the Whole is meeting, the provisions of rule 12-33 be suspended, provided that a senator may at any point move that the committee rise, with that question being put without debate or amendment, and, if adopted, the committee then rising until the next time provided for in paragraph 2 of this order;
4. this Committee of the Whole hear from the Chair of the Standing Committee on Internal Economy, Budgets and Administration; the Director of Communications; the Director of Information Services; the Director of Human Resources; and such other witnesses as it may consider appropriate; and
5. once the committee has completed its work, the chair report as soon as convenient during Presenting or Tabling of Reports from Committees during Routine Proceedings.

She said: Honourable senators, before I make my comments on this motion, I ask leave to table and to distribute to all senators in this chamber three documents that I believe you will find will help to follow the sequence of events that I am about to explain to you.

Hon. Yonah Martin (Deputy Leader of the Opposition): Senator Ringuette, before we give leave, would you explain what those three documents are?

Senator Ringuette: Yes. These are two documents with regard to the organization chart of the Senate Communications Directorate and the Intratel communications directorate.

Senator Martin: You said there were three documents.

Senator Ringuette: Yes.

Senator Martin: You cited two charts.

Senator Ringuette: Yes, there are two charts, one dated May 23 and one dated May 25.

Senator Martin: And the third?

Senator Ringuette: It's from the Senate website.

Senator Martin: Sorry; you said you had three documents. What's the third one?

Senator Ringuette: There are two charts from the website and one from the Intratel.

The Hon. the Speaker: Is leave granted for the tabling of the documents, honourable senators?

Hon. Senators: Agreed.

Senator Ringuette: Honourable senators, what started as a routine question to a committee report has developed into something else, which I believe now requires our attention via my motion to sit as Committee of the Whole to abide by our principle of transparency.

I shall outline the events that have transpired in relation to the Communications Directorate and the Standing Committee on Internal Economy, Budgets and Administration. These events are related to the thirteenth report. However, they are separate from the report itself and require some investigation.

First, let me highlight that the motion in the thirteenth report of the Standing Committee on Internal Economy, Budgets and Administration was put forth at the Internal Economy Committee meeting on December 15, 2016. That was the last sitting day of the Senate before the Christmas break. Since it has taken Senator Housakos five months to present that report to the Senate, there was certainly no urgency to adopt that particular request at the Internal Economy Committee on that last sitting day before Christmas.

Is it also a coincidence that Senator Housakos tried to force a vote in the Senate to adopt the thirteenth report on the last sitting day of May 18, again, before another break?

If not for the actions of Senator Fraser, debate would have been halted and we wouldn't have had the chance to see what transpired next.

I also wish to remind senators that we, individually and collectively, are the guardians of this institution. There should be no shame in asking questions and researching facts in a transparent Senate.

Let me move to the current facts from my research that justify sitting in Committee of the Whole.

Honourable senators, the documents I shall refer to are also available at my office. One document, which you have before you, was altered between May 23 and May 25. Who altered it or who caused it to be altered in the chain of command needs to be investigated. I will refer to this document later in my speech.

Individually and collectively, we must clearly understand the slate of events.

I started my research by reviewing the minutes of the Internal Economy meeting of December 15, 2016. I would first like to thank Senators Wells and Marshall for their questions at that meeting. They certainly highlighted three issues: one, that the chair proposing this motion directly to the Standing Committee on Internal Economy was bypassing the proper process of first submitting this request to the Subcommittee on Committee Budgets; that, if the Senate approved this request, it was also de facto bypassing the Blueprint report recommendation that all chairs of committees are responsible for their committee's media relations; and that this \$108,000 would be permanently removed from the funds available to all other committees to do their work.

If you haven't read the Blueprint report, I would recommend that you do so. It was an in-depth review of communications in the Senate, and its recommendations are at odds with the thirteenth report, despite various claims to the contrary.

Reading the minutes, it was obvious that the request for a special media relations person for the Subcommittee on Communications was unprepared. Within 30 seconds of Senator Housakos' presentation, he started by saying that this position would be a full-time position and ended by saying that it wouldn't be a full-time position. There was no job description, no presentation of qualification requirements, no presentation of an open, transparent process for hiring and/or competition, and no identified selection process, only by referral; in other words, no adequate, transparent plan.

The only elements presented were that this position would be, in Senator Housakos' words, in line with a political staffer, and that he was seeking approval to give the subcommittee the mandate to identify candidates. He further concluded that this media relations person would be the spokesperson for the Senate.

Honourable senators, the expert study and recommendations from the Blueprint report tabled in the Senate in 2015 were not debated or voted in this chamber. The Blueprint report did not recommend two different streams of communications for the Senate. The recommendations were that the spokesperson for the Senate should be the Speaker and his office and that a single Senate Communications Directorate should be operated by communications people who are non-partisan and politically sensitive, as per the Blueprint Recommendations #3, #7e, #7f and #7g.

The expert Blueprint report model did not recommend the Subcommittee on Communications hire its own media relations person, contrary to what Senator Housakos indicated at the Internal Economy meeting five months ago, nor as he stated in this chamber on May 18.

• (2230)

Moving on to the debate of May 18, I asked Senator Housakos how many people there were in the Senate Communications Directorate and what their budget and their *raison d'être* were. I also asked why the Senate Communications Directorate was not able to meet the communication expertise required by Internal Economy while they were mandated to do so for all other Senate standing committees.

He replied that there were 22 people with a budget of \$1 million and indicated that the directorate specifically "only does outreach and promotion of committee work." He further said that the directorate currently, in place, does not do media relations.

When I went to confirm this, the information I found was that there are 26 people in the Communications Directorate, with a yearly budget of \$2,470,205, not a million.

On May 23, the Senate website showed the Senate Communications Directorate had a four-person unit entitled

“Writing and Media Relations.” If you look, it’s in the document on the far left.

On May 23, the Communications Directorate did do media relations.

Honourable senators, during the May break week, as I was researching the issue, the journalist from *The Hill Times* interviewed Senator Housakos and, via email, asked and received information from Senator Housakos’ staff. I had declined to be interviewed by *The Hill Times* until my research was completed, and I have not as yet granted an interview.

From *The Hill Times* article a few days after the May 18 debate, Senator Housakos reiterated that Senate Communications does not do media relations; that he doesn’t find it odd that Senate Communications does not do media relations; that there were 22 staff at Senate Communications with a budget of a million dollars; that they were following the blueprint recommendation; and that he had requested candidates from all senators in order to save costs.

He argued that in order to provide clear and timely answers to media requests, it’s better that media requests are handled by political staff working for Internal Economy instead of nonpolitical Senate Communications staff, and that we give them the information, of course, that is concrete and transparent.

Honourable senators, in regard to this interview, as per *The Hill Times* article of May 29, and following my research, it is certainly not clear to me that the principle of providing concrete and transparent information to the media has occurred.

I have received a copy of email exchanges between Senator Housakos’ staff and *The Hill Times* journalist. One question asked by *The Hill Times* on May 24 was for the list of staffers at the Senate Communications Directorate. The list of positions was forwarded on the same day. However, it did not mention the four-person media relations unit in the Communications Directorate that my office had printed from the Senate website on May 23 and that you have in front of you.

That was just one day earlier.

My office went back to the Senate website to view the Communications Directorate’s org chart. To our surprise, the four-person unit that was identified as “writing and media relations” on May 23 was now, on May 25, altered or redefined as “writing and media outreach.”

I believe that Senate IT is able to tell us when exactly this change occurred. However, I do not know who caused this change and how the Senate Human Resources are involved in this change in title and position.

I wish to remind senators that the Senate website is managed by the Senate, but the Intratel site that you have on your computer is managed from the House of Commons. Therein lies why you have the third document of Intratel.

Although the Senate website was changed within 24 hours, between May 23 and 25, to reflect Senator Housakos’ statements in this chamber of May 18 and his interview with *The Hill Times* journalist that our Communications Directorate did not do media relations —

The Hon. the Speaker: Senator Ringuette, your time has expired. Are you asking for more time?

Senator Ringuette: About three minutes.

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

Hon. Senators: Agreed.

Senator Ringuette: Our Intratel site still confirms the titles of these persons as media relations.

Honourable senators, the facts and transparency around the thirteenth report is questionable, at best. The concrete facts and required transparency to both our Senate chamber and to the media require further investigation.

I reiterate that my questions on May 18 to the Internal Economy report were routine questions, but what followed outside our chamber has developed into something else. I have to say that I am bewildered by the events that followed my line of questions. Some statements could be considered honest mistakes. However, the overnight change to the designation of the four staff from “media relations” to “media outreach” is a deliberate action and raises questions that need to be addressed. We need to know what the role of the Senate Communications Directorate is and whether they do or do not do media relations and why. What is the relationship between the Communications Directorate and the Subcommittee on Communications? We need to have accurate numbers as to employees and budget. We need to know how and why the website was conveniently changed at the same time that these questions were being brought up.

This is why I’m asking for a Committee of the Whole, with the witnesses listed in my motion. I urge senators to vote expeditiously to proceed with Committee of the Whole. Let us get answers to our questions and get to the facts before we adjourn for the summer.

Hon. Leo Housakos: Honourable senators, I understand this is an issue of Internal Economy and an issue of process, but this is an issue that needs to be addressed. A number of allegations have been made that are completely unfounded, and I think I’m obligated to address them and address them right away.

• (2240)

First and foremost, I’d like to respond to the issue about the comments I made last week about budgets and staff. I said in this chamber last week that the staff was 22, and I said it’s a little over \$2 million. That’s what I understood my response to have been.

I said 22. Obviously I wasn’t specific in terms of 26 because it’s just another clear indication that myself and the Subcommittee on Communications don’t micromanage our Communications

Directorate. I didn't know the exact figure of \$2,200,000-odd of budget because, again, we don't micromanage the directorate, but we certainly know that it was a little over \$2 million.

The other comments you have made in terms of the Blueprint report and the fact that they recommended that the media relations and the press secretary or the spokesperson of the institution come from the Speaker's office, certainly was the case at that time. I want to put it in context. I want to remind colleagues that when we did the Blueprint report, I was Chair of Internal Economy, and I also happened to be Speaker of the Senate at the time. Blueprint also thought that the Chair of Internal Economy should be the spokesperson in order to create the direct link with the media and in order to address some of the questions at hand.

We had, if you remember the context at the time, a lot of difficulty because the media was not getting timely answers to important questions that had arisen. It was left to the administration. Sometimes it was days before the press gallery got answers to those important questions.

Blueprint — and I encourage all senators to read that report — certainly recommended that the people who speak on behalf of the institution have to be senators and not bureaucrats. That was the decision at the time. We've gone forward with doing that. I think it has served the institution well.

As a result of that, we took an unprecedented step, and we formed the Subcommittee on Communications. Colleagues, I didn't do that unilaterally, and it certainly wasn't this caucus that did it unilaterally. It was a decision taken by Internal Economy in a collective discussion, a consensus discussion, with all leaderships and all caucuses in this chamber, and we created that subcommittee.

Furthermore, I can assure all senators that all caucuses have had representation on that subcommittee from day one when it was constituted. I can also assure colleagues that not on one occasion did we have a vote on an issue. If we didn't have a consensus on an issue, we wouldn't go forward, whatever that issue was. One of those issues was, again, handling media relations.

We took the collective decision that the chair and deputy chair of the Subcommittee on Communications should be the chair and deputy chair of Internal Economy because it would reinforce the accuracy of information we would give to the press gallery; it would allow us to give timely answers and responses, and that's what happened.

Senator Ringuette indicates that somehow everything was done at five minutes to midnight, at the last minute, that there was some big conspiracy, and that Senator Housakos brought this to Internal Economy before we rose at Christmas.

Sure I did, because it was a year and a half earlier that the Subcommittee on Communications — and Senator Cordy can confirm this — and all members that were on that committee were saying, "We have to hire someone permanently who is going to

work for the chair and deputy chair of this committee to address issues management and media relations," because for the last two years it was handled out of my office primarily.

We all know what Jacqui Delaney managed for that subcommittee, very often with the assistance of one of the staffers in Senator Cordy's office. But we have, over a number of months now, come to the conclusion that we needed somebody specific for that committee.

Colleagues, in the past, Internal Economy, which happens to be the most operationally intense committee in this place, has never had a unique budget or a unique staff to deal with media relations or any other issues.

When we took that decision two years ago to empower ourselves because we thought we needed to respond to the press gallery when it comes to whatever issues that affect the institution and, particularly, Internal Economy, that we have to answer directly, we had this discussion: Should the position be permanent? Should it be temporary?

Senator Ringuette, at the end of the day, the only reason the subcommittee came to the conclusion that it should be a contractual employee is because we felt that in the few months when there was the possibility of change of chairs and deputy chairs, that we didn't want a situation where this chamber would come back and say, "Senator Cordy, Senator Housakos and your committee, you've determined to hire a permanent employee for this position, and that doesn't necessarily work well or reflect the wishes of the incoming chairs." That was the only reason we came to the conclusion that it should be a contractual employee.

You said that I tried somehow to rush a vote through this place. I was not rushing any vote. It was a request to this chamber for funding.

The decision of how we would hire the individual would be taken by that same subcommittee, as every decision has been taken.

That subcommittee has representation from all caucuses: Liberal, Conservative and the government caucus. There's a full-time representative on that subcommittee, including the Independent Senators Group.

No decision has been taken by this subcommittee at any time without full consultation of your own leadership. Furthermore, those decisions are taken to Internal Economy, at steering, which, again, your caucus is represented at.

We're not trying to pull the wool over anybody's eyes here. At the end of the day, if you felt that you wanted the position to be permanent, you wanted a competition, not once has our committee turned down a suggestion from anybody, minority group or majority group. So I don't particularly see where the conspiracy is in all of this.

You brought up the point of the Subcommittee on Communications.

Colleagues, I haven't had an opportunity to prepare myself like Senator Ringuette. I'm answering off the cuff. I'm stating the facts, and I'm ready to live by them.

I do not know how "media relations coordinator" got here on the website of the Communications Directorate because I don't micromanage that. I can assure you that at no time have I ever instructed the Communications Directorate to figure out how they post the titles of their employees.

Senator Mitchell knows; we've worked on that committee. Senator Cordy and your colleagues who have worked on that committee know. When they come before us, I don't micromanage titles.

I can assure you one thing, that when it comes to Sonja Noreau, the media relations coordinator, her job is outreach coordination for the committees. That's what her job is. When the committee prepares a report and they want to publish that report, be it Defence or National Security, they will work with the chair and deputy chair, and they'll come up with an outreach program.

But she doesn't handle media relations. She can call her "media relations coordinator," but at no point in time will she field a question from the press in terms of institutional questions, and at no point will she answer those questions.

Now, how did she give herself that title? I really don't know, but I and members of our Subcommittee on Communications can assure you that all media relations issues for the last two years have been handled directly by Jacqui Delaney, and we have a system in place where we consult, in terms of the questions and answers, with all members of that committee.

Colleagues, at the end of the day, I have not at any point in time, come to the Committee of the Whole with any recommendation on communications where I tried to ram anything down the throat of anybody.

If Senator Ringuette or anybody else wants to create another oversight committee in order to review the subcommittee, which will have another oversight committee to review Internal Economy because she doesn't have faith in her own colleagues, in her own caucus, I will allow this chamber to come to that conclusion.

The Hon. the Speaker: A question or debate?

Hon. Jane Cordy: A question, please.

Senator Housakos, first of all, I want to thank you very much. It's a pleasure to work with you on Communications, and it's through your hard work that so much has been done in Communications over the years.

For those who haven't read the Blueprint report, 10 recommendations were made. A permanent Communications

Subcommittee which reports directly to Internal Economy was established. Also recommended in the report was:

Build a modern media relations function; this includes updating the media monitoring function, establishing formal spokesperson roles and creating a permanent issues-management function.

That's directly from the Blueprint report. The committee has certainly tried to follow all the recommendations of the Blueprint report.

Senator Housakos, are not all senators in this chamber invited to attend all Communications Committee meetings? Is not everybody in this chamber able to attend and to make recommendations? We've certainly asked for input from Internal Economy and the members who are attending the meetings. Would not anybody who has a lot of interest in this be encouraged to attend our communications meetings?

Senator Housakos: Thank you, Senator Cordy. The answer is: Yes, absolutely.

All colleagues can attend all committees. They can attend Internal Economy and the Subcommittee on Communications. We've always encouraged senators that have a particular interest in that area to do so.

I'll go a step further: We've gone out of our way in order to consult leadership — both the Speaker, the government side, the opposition side, and all caucus leadership — before every major or, for that matter, minor decision is taken. And that, of course, is done in the spirit of understanding that when we take on this role that we understand we speak for the institution and when we speak for the institution it's for every senator in this place.

• (2250)

We also understand the importance, and that's why this committee has been functioning 100 per cent on a consensus basis. Whenever we don't have consensus on something, we just don't move forward.

Again, my colleague and any colleagues here who have any issues of this nature, it should have been brought right away to our attention, whatever those issues may be.

Senator Ringuette: Senator Housakos, I listened very carefully to you repeat again that you said on May 18 that it was a budget of \$2 million. I want to reiterate that on May 18 you said it was a budget of \$1 million and you reiterated that to the media.

However, my question is the following: Why and who has altered this Communications Directorate chart from May 23 to May 25?

Senator Housakos: Senator Ringuette, I don't know. The only thing I can think of is that somebody has obviously followed our debate in this chamber and went through this and came to the

conclusion. Again, I'm being very honest and frank with you. I certainly would not have given them instructions, first, to put these titles on this website in the first place. If you're implying that I gave somebody instructions to change them, you're completely misguided on that.

Senator Ringuette: Then I guess, Senator Housakos, in order to understand the complete slate of events, that you will agree that we go into Committee of the Whole and seek the facts.

(On motion of Senator Martin, debate adjourned.)

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO DEPOSIT REPORT ON STUDY OF THE EFFECTS OF TRANSITIONING TO A LOW CARBON ECONOMY WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Richard Neufeld, pursuant to notice of June 8, 2017, moved:

That the Standing Senate Committee on Energy, the Environment and Natural Resources be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate, between June 15 and June 23, 2017, a report relating to its study on the transition to a lower carbon economy, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Chamber.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

PALLIATIVE CARE

INQUIRY—DEBATE ADJOURNED

Hon. Jane Cordy rose pursuant to notice of April 13, 2017:

That she will call the attention of the Senate to the importance of identifying palliative care as an insured health service covered under the Canada Health Act and to the

importance of developing a national strategy for uniform standards and delivery of palliative care.

She said: Honourable senators, it is my pleasure to rise today to call the attention of the Senate to the importance of identifying palliative care as an insured health service covered under the Canada Health Act and to the importance of developing a national strategy for uniform standards and delivery of palliative care.

The World Health Organization defines palliative care as an approach that improves the quality of life of patients and their families facing the problems associated with life-threatening illnesses, through the prevention and relief of suffering by means of early identification and impeccable assessment and treatment of pain and other problems — psychosocial and spiritual.

In essence, honourable colleagues, palliative care is about living well until the end of life. By its very nature, palliative care embodies an integrated, whole-person vision of health care seeking to prevent and relieve suffering and distress in all its dimensions. In fact, in a 2013 Harris/Decima poll, 94 per cent of Canadians felt palliative care improves the quality of life for patients. Palliative care programs allow patients to gain more control over their lives and to manage pain and symptoms more effectively. Of course, palliative care programs provide support to family caregivers at what is a very vulnerable time for them.

Palliative care is about providing the right care, in the right place, at the right time. This requires an interdisciplinary team of both formal and informal care providers who provide care in all settings — hospitals, hospices, long-term care and home — to individuals and their families, regardless of age. So too should services be available in all parts of the country, whether urban, rural, remote or First Nations and Inuit communities. Yet there remains a patchwork approach to palliative care across Canada.

This is not the first time I have risen in this chamber to speak on the importance of palliative care. In fact, this important issue has been raised many times in this chamber, not just by me but by other colleagues on both sides of this house, particularly our former colleague the Honourable Senator Sharon Carstairs, who also served as Canada's first and only minister with special responsibility for palliative care.

June marks the anniversary of the tabling of no less than three reports on palliative care in this chamber, in 2000, 2005 and 2010, all spearheaded by former Senator Carstairs. Adding the Special Senate Committee on Aging in 2009, the Social Affairs, Science and Technology Special Study on the Future of Health Care in 2002, both of which I had the honour of serving on, and the Special Senate Committee on Euthanasia and Assisted Suicide in 1995, there have been at least six reports in this chamber in the past 22 years that have included unanimous recommendations on the need for quality integrated palliative care.

Yet, despite these, and other national reports from the Romanow Commission, the Parliamentary Committee on Palliative Care and Compassionate Care of the other house, the Canadian Cancer Society, the Canadian Medical Association, the Canadian Nurses Association and others, there remain significant gaps in care. While there are pockets of excellence across the

country, the lack of uniform national standards and stable funding has led to inequitable access to care for persons with life-threatening illnesses and their families.

There has definitely been an evolution in hospice palliative care since the first palliative care programs were established in Canada in 1974 in Montreal and in Winnipeg. Originally, palliative care was developed to support cancer patients, but treatment advances have helped extend our lives, not just in cancer care but for those with chronic illness or frailty.

Canadians are living longer, yet we are living longer with multiple chronic illnesses. Statistics tell us only 10 per cent of us will die suddenly. The other 90 per cent of us will require care and support at the end of life. However, no longer is it as easy to predict the terminal phase of an illness, especially since individuals can sometimes be living with multiple co-morbidities. Chronic diseases now account for 70 per cent of all deaths. Because of these complex health care needs, individuals can deteriorate suddenly and die, or they can experience periodic crises and complications which can lead to death, without that patient ever being identified as being near the end of life. The progression of diseases such as Alzheimer's means that the trajectory of illness has changed, making it much more difficult to predict someone as being close to death.

At the same time, a paradox is being created as research demonstrates most older patients value quality of life and they want to avoid unnecessary prolongation of life through the use of technology. Yet aggressive life-sustaining technologies are often provided to patients during the final stages of illness and dying, even when the patient or family prefers comfort care.

Currently in the Western world, of those elderly patients who die in hospital, one in five of them die in the intensive care unit. The proportion of patients 80 years or older who are admitted to the ICU in Canada has increased from 10 per cent in the mid-1990s to nearly 20 per cent today.

Although technology can be extremely beneficial to support Canadians in living better and longer with chronic disease, there is mounting evidence that the unwanted use of technology at the end of life is associated with lower ratings of quality of life for both patients and families and results in increased family ratings of anxiety and depression. Understanding goals of care is critical to providing appropriate care. Yet in our death-denying society, those conversations are often not happening as they should.

So how do we close the care gap if being diagnosed as close to death is no longer the trigger to receive palliative care services? How do we ensure that patients and their families have an opportunity to talk openly about their health and the possibility of dying to ensure that their goals of care are met, especially as the goals may change over time?

• (2300)

As our population ages and additional stresses are placed upon our health care system, we need to find innovative ways to enable patients to live well until the end, to receive care in the setting of their choice and to reduce the demands on acute care resources. We also need solutions that allow us to provide quality care to all Canadians, regardless of where they live.

The Way Forward, a recent three-year federally funded project, led by the Quality End-of-life Care Coalition of Canada, has developed a national framework to implement an integrated palliative approach to care. The coalition itself is made up of 39 national health organizations, including the Canadian Medical Association, Canadian Nurses Association and the Canadian Hospice Palliative Care Association. In this pan-Canadian initiative, the coalition worked with federal, provincial and territorial policy-makers, health care providers, organizations, families and caregivers across all sectors.

The integrated palliative approach to care focuses on advanced care planning and care for people with life-limiting illness, across all health care settings, to meet a person's and family's full range of needs — physical, psychosocial and spiritual — at all stages of illness or stages of frailty, not just at the end of life. By moving away from thinking of palliative care as end-of-life care once curative treatment has stopped and instead embracing a palliative approach to care that can be delivered by a range of health care providers armed with basic palliative care knowledge, we can provide care in all settings, as well as rural and remote communities.

The palliative approach to care is a shared care model, where expert teams support local care teams and share the care, recognizing that, while 90 per cent of those who die can benefit from palliative care supports, only about 15 per cent of dying Canadians will receive highly specialized expert care because of complex care needs. In these cases, referrals to expert palliative care teams would be made.

The palliative approach recognizes the whole person, leading to a better use of health care resources, more autonomy and control for patients, seamless transitions and better care outcomes.

As an example of the palliative approach to care in practice, a new program has been initiated with paramedics in Nova Scotia and Prince Edward Island, who have been given some basic palliative care education, allowing them to provide after-hours, in-home care for palliative patients more effectively and to reduce transfers to hospitals if patients do not want to go. The initiative is now being examined by Alberta.

Honourable senators, there is no doubt that provincial and territorial governments are responsible for the delivery of health care services. However, the federal government does have a role to play. It is responsible for setting and administering national standards through the Canada Health Act, providing funding support through transfers to the provinces and territories, and as a direct care service provider. The federal government has responsibility to six specific groups in Canada: First Nations and Inuit, Canadian Forces personnel, veterans, Royal Canadian Mounted Police, inmates in federal penitentiaries, and refugee claimants. In fact, the federal government is the fifth largest provider of health care services in Canada and in terms of dollars spent.

The federal government also has a role in providing national leadership, in bringing people together to share best practices, a responsibility that, in my view, extends to supporting the development of a national strategy for uniform standards and delivery of palliative care in Canada.

The Canada Health Act does not specifically mention palliative care. The function of the Canada Health Act is to establish the conditions and criteria that the provinces must meet in order to qualify for federal funding transfers. The Health Act makes a distinction between insured services, which are medically necessary hospital and physician services and must follow the five criteria outlined in the act for their delivery, and non-insured services, so-called extended services, which are left to the provinces to determine if and how they will be delivered. It is under extended services that palliative care has fallen, resulting in a patchwork of approaches across the country.

Honourable senators, there have been numerous organizations that have recommended that the Canada Health Act be amended to include palliative care services as an insured service under the act. In fact, in 2002, the Senate Social Affairs, Science and Technology Committee, on the future of health care in Canada, called for a review of the act to include such services as home care, pharmacare and palliative care. The 2002 Romanow Commission report also called for inclusion of palliative care services in the act. In 2011, the All-Party Parliamentary Committee on Palliative Care and Compassionate Care, in the other place, recommended that:

... the federal government in collaboration with the provinces and territories implement a right to home care, long term care and palliative care, for all residents of Canada, equal to the current rights in the Canada Health Act, to those services defined as “insured health services”, including hospital services, physician services and surgical dental services.

In 2016, the Liberal Party of Canada passed a resolution at its policy conference calling for, in part:

... new, fully cost accounted legislation to implement, in cooperation with the Provinces and Territories, national programs in home and palliative care that are universal and accountable and complementary to the Canada Health Act.

Most recently, in November 2016, Covenant Health hosted an independent lay panel of Canadians to review the scientific evidence, engage in debate and develop a national consensus on palliative care, under an initiative known as Palliative Care Matters. This national dialogue resulted in a consensus statement, which recommended that an accessible, equitable, portable and adequately resourced, integrated palliative care model be enshrined in the Canada Health Act.

The Canadian Cancer Society has called for palliative care to be embedded in federal and provincial health care legislation, with recognition that palliative care is an essential part of health care and that governments must guarantee that all Canadians have equitable access to it.

The Canadian Medical Association has adopted a policy statement that all Canadian residents should have access to comprehensive, quality palliative care services, regardless of age, care setting, diagnosis, ethnicity, language and financial status.

The Catholic Women’s League, at their national convention last August, also passed a resolution calling on the federal government to amend the Canada Health Act to include palliative care as an insured service under the act. The resolution also called for the development of uniform national standards.

In 2014, the World Health Organization passed a resolution urging member states to ensure palliative care is available and accessible, stating that:

... palliative care is an ethical responsibility of health systems.

Honourable senators, amending the Canada Health Act would be no easy undertaking. The current act is the result of some compromise. However, recognizing palliative care and a palliative approach to care as medically necessary, insured services may be desirable. In fact, arguments are now being made that there is a constitutional duty to do so.

In 2011, an article was published in the *McGill Journal of Law and Health* by Yude M. Henteleff, Mary J. Shariff and Darcy L. MacPherson. The article examined whether palliative care was an enforceable human right, identifying two potential Charter challenges, under sections 7 and 15 of the Charter.

Section 7 protects the right to life, liberty and security of the person in accordance with the principles of fundamental justice. Section 3 of the Canada Health Act indicates:

... primary objective of Canadian health care policy is to protect, promote and restore the physical and mental well-being of residents of Canada and to facilitate reasonable access to health services without financial or other barriers.

The argument is that, rather than protecting and promoting —

The Hon. the Speaker: Senator Cordy, your time has expired. Are you asking for more time?

Senator Cordy: Please. Five minutes, please.

The Hon. the Speaker: Five minutes, honourable colleagues?

Hon. Senators: Agreed.

Senator Cordy: The argument is that, rather than protecting and promoting the mental health and well-being of Canadians, the inadequate and inconsistent funding for and access to palliative care is endangering the lives and security of persons, imposing an unacceptable level of psychological stress on those at end of life.

Section 15 of the Charter protects the right to equality without discrimination. The potential challenge is based on the argument that, since palliative care is provided unevenly to those who

require it, the equality provisions of the Charter could compel equitable provision. The argument is discrimination on the provision of quality and affordable care suited to the specific needs of the aged and disabled.

As noted in a recent article from Bakerlaw, a law firm specializing in human rights and disability: “Current research is supporting a shift in thinking of palliative care as being medically necessary. If it is understood as a medically necessary service, then the failure to provide for it would be a violation of section 15 rights.”

Furthermore, according to Henteleff: “Quite simply, access to health care should be determined on the basis of need. If caring for the person is as important as curing the person, palliative care

should fall within the definition of insured services under the CHA, and, in fact, justice demands it.”

Honourable senators, medical knowledge and practice do not sit still. They constantly advance and change. This chamber has, in the past, shown great leadership in bringing palliative care to the forefront of Canadian thinking. But, just as medical practice first recognized palliative care, then has advanced to embrace the palliative approach to care, our institutions must keep up. Palliative care is now a recognized medical necessity, but access to these services still depends on where you live in our great country. That, honourable senators, is unacceptable.

(On motion of Senator Eaton, debate adjourned.)

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

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