



# DEBATES OF THE SENATE

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OFFICIAL REPORT  
(HANSARD)

Monday, June 19, 2017

The Honourable GEORGE J. FUREY  
Speaker

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## THE SENATE

Monday, June 19, 2017

The Senate met at 4 p.m., the Speaker in the chair.

Prayers.

[Translation]

### ROYAL ASSENT

#### NOTICE

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

#### RIDEAU HALL

June 19th, 2017

Mr. Speaker,

I have the honour to inform you that the Right Honourable David Johnston, Governor General of Canada, will proceed to the Senate Chamber today, the 19th day of June, 2017, at 7:00 p.m., for the purpose of giving Royal Assent to certain bills of law.

Yours sincerely,

Stephen Wallace

*Secretary to the Governor General*

The Honourable  
The Speaker of the Senate  
Ottawa

[English]

## SENATORS' STATEMENTS

### INDIGENOUS LEADERSHIP

**Hon. Daniel Christmas:** Honourable senators, earlier today, His Excellency the Right Honourable David Johnston, Governor General of Canada, with Prime Minister Justin Trudeau in attendance, presented honours in recognition of outstanding indigenous leadership to 30 recipients at Rideau Hall.

Governor General Johnston paid tribute to those being honoured, noting that:

These individuals are working in myriad ways to strengthen urban and rural Indigenous communities, to raise awareness of Indigenous histories, cultures, achievements and concerns, and to create an environment in which reconciliation is possible.

His Excellency also noted that today's ceremony represented one more step toward a more fair, just and dynamic country.

Among the awards being presented are the Sovereign's Medal for Volunteers.

These medals are an official Canadian honour and are conferred by the Governor General as a means of recognizing and paying tribute to the dedication and exemplary commitment of volunteers.

One of the award recipients honoured today was Ms. Pamela Glode-Desrochers of Halifax, Nova Scotia. Ms. Glode-Desrochers is executive director of that city's Mi'kmaw Native Friendship Centre. She has worked tirelessly for 24 years to reduce poverty and crime and to promote the personal and community well-being of Halifax's off-reserve urban indigenous population.

Ms. Glode-Desrochers also serves on the board of directors for the National Association of Friendship Centres, the Mi'kmaw Legal Support Network and the Mi'kmaq Employment and Training Secretariat.

Pamela possesses expert skills in governance and administration. She is a Mi'kmaw woman with a deep understanding and a keen appreciation of indigenous perspectives. She's passionate about helping urban indigenous people gain access, support and guidance in matters of social justice, health and education.

She is driven by a strong desire to meaningfully contribute to a safer, healthier and more vibrant urban indigenous community and she is resolutely committed to the holistic well-being of the people she serves.

The urban indigenous community in Halifax is blessed to have such a tireless champion in its midst, and I can think of no one more deserving of honours such as those bestowed upon her today by His Excellency the Governor General.

Honourable senators, it is in the spirit of thanks, gratitude and appreciation that I commend to you Ms. Pamela Glode-Desrochers, a model of selfless service to Halifax's indigenous community. *Wela'liog.*

## NATIONAL ARTS CENTRE

## CAFÉ DAUGHTER

**Hon. Kim Pate:** Honourable senators, this past Friday I had the pleasure of taking up Senator Woo's suggestion to attend celebrated Cree playwright Kenneth T. Williams' one-woman play, *Café Daughter*. *Café Daughter* is the story of Yvette Wong, a young woman living in Saskatchewan in the 1950s and 1960s, whose dreams of becoming a doctor are repeatedly challenged by those who believe her race, class and gender disintitled her to harbour such hopes.

Tiffany Ayalik, the actress who movingly and skillfully brings to life not only Yvette, but a dozen other characters, more than lived up to the promise made on the play's poster that by the end of the show, we would feel like we knew all these characters. However, in this chamber, we are fortunate enough to have some extra insight into one character in particular, the main character, Yvette, who is based on none other than our honourable colleague Senator Lillian Dyck.

On stage, this young character's sharp wits, drive, compassion and sense of justice were immediately familiar to anyone who has had the privilege of working with Senator Dyck. I wish to thank her for her courage in sharing her personal history with the same courage that she has shown throughout her life, not only in persevering with her childhood dream of becoming a doctor — and a very famous doctor in Saskatchewan — but also in claiming her Cree heritage and becoming a fierce and tireless advocate on behalf of and alongside indigenous peoples, particularly indigenous women.

In the words of Ms. Ayalik on *Café Daughter*'s 1950s setting today, she said, "I like period pieces because we with think we've come a long way but the point of period pieces is, have we really come that far?" As we reflect on the eve of Canada's one hundred and fiftieth anniversary of Confederation, the answer that we must give ourselves is no, we have not come that far in rectifying Canada's shameful continuing legacy of colonialism, racism and entrenched discrimination, particularly vis-à-vis indigenous women.

Ms. Ayalik speaks of the "lift" she had gets from playing the "thinly veiled racist people in the play. To be able to take control of that voice is highly effective."

• (1610)

As we embark on a new relationship of respect and reconciliation, we in the Senate, following the leadership that Senator Dyck has shown, have an opportunity that cannot be missed to support and promote all indigenous peoples, particularly women, by ensuring that they have the voice, the authority and the self-determination that our country has denied them for too long. Thank you. Merci. *Meegwetch*.

## MELVA JONES

**Hon. Gwen Boniface:** Honourable senators, I rise today to speak about a very special resident of Orillia, Ontario, Melva Jones.

In her eightieth year, a mother of four, grandmother of ten and great-grandmother of three, Melva has been chosen by the Canadian National Shuffleboard Association to represent Canada in the World Shuffleboard Championship to be held in Rio de Janeiro, Brazil, on July 23, 2017.

She was chosen based upon her achievements in the Florida shuffling circuit in both recreational and pro-am tournaments. As an avid lawn bowler who has represented Ontario in the Canadian championships, she transitioned into shuffling while wintering in Florida with her husband and in recent years has participated more competitively. She has taken this appointment to the Canadian shuffleboard team seriously, training at a local club for the summer in Ontario and honing her skills in order to represent Canada to the best of her ability.

She is thrilled for this opportunity to represent her country and we in the community are absolutely delighted for her. She will be competing against opponents of all ages, not just seniors.

Please join me in congratulating this most impressive athlete and in wishing her good luck in the championships.

## SENATE ETHICS OFFICER

## LYSE RICARD

**The Hon. the Speaker:** Honourable senators, I wish to inform you that I have been advised that, due to sudden and unforeseen family obligations requiring her full attention, Lyse Ricard, the Senate Ethics Officer, has decided to resign from her position effective June 30, 2017.

Honourable senators, we have all appreciated and thank Ms. Ricard for her dedication and hard work for more than five years. With your indulgence, I will call upon Senator Andreychuk, who has worked with her during all her time here, to say a few words.

**Hon. A. Raynell Andreychuk:** On behalf of the Senate Ethics and Conflict of Interest Committee, on my own behalf, on behalf of Senator Joyal, Deputy Chair, and members Senators Wetston, Sinclair and Patterson, all former members of the committee, and all senators, I believe, I wish to acknowledge the dedication, professionalism, hard work and integrity that Ms. Lyse Ricard, as the Senate Ethics Officer, brought to her position.

During her tenure, the Senate Conflict of Interest Code was transformed into an Ethics and Conflict of Interest Code, truly giving credibility to her title as Senate Ethics Officer.

Ms. Ricard resigned due to the unexpected illness of her husband. Our thoughts and best wishes for Mr. Jean-Pierre Dubeau's recovery with Ms. Ricard at his side. I'm sure I speak for all senators.

[Translation]

## ROUTINE PROCEEDINGS

### PUBLIC SECTOR INTEGRITY 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 2016-17 annual reports of the Office of the Public Sector Integrity Commissioner for the fiscal year ended March 31, 2017, pursuant to the Access to Information Act and to the Privacy Act.

### COMMUNICATIONS SECURITY ESTABLISHMENT

#### CYBER THREATS TO CANADA'S DEMOCRATIC PROCESS—DOCUMENT TABLED

**Hon. Peter Harder (Government Representative in the Senate):** Honourable senators, I have the honour to table, in both official languages, a document entitled "Cyber Threats to Canada's Democratic Process."

[English]

### ABORIGINAL PEOPLES

#### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES—STUDY ON A NEW RELATIONSHIP BETWEEN CANADA AND FIRST NATIONS, INUIT AND METIS PEOPLES—SEVENTH REPORT OF COMMITTEE PRESENTED

**Hon. Lillian Eva Dyck,** Chair of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Monday, June 19, 2017

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

#### SEVENTH REPORT

Your committee, which was authorized by the Senate on Thursday, December 15, 2016, to study a new relationship between Canada and First Nations, Inuit and Métis peoples, respectfully requests funds for the fiscal year ending March 31, 2018, and requests, for the purpose of such study, that it be empowered to engage the services of such counsel, technical, clerical and other personnel as may be necessary.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and

Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

LILLIAN EVA DYCK

*Chair*

(For text of budget, see today's Journals of the Senate, Appendix, p. 2285.)

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

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

[Translation]

### NATIONAL SECURITY AND INTELLIGENCE COMMITTEE OF PARLIAMENTARIANS BILL

#### THIRTEENTH REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE PRESENTED

**Hon. Jean-Guy Dagenais,** on behalf of Senator Lang, Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Monday, June 19, 2017

The Standing Senate Committee on National Security and Defence has the honour to present its

#### THIRTEENTH REPORT

Your committee, to which was referred Bill C-22, An Act to establish the National Security and Intelligence Committee of Parliamentarians and to make consequential amendments to certain Acts, has, in obedience to the order of reference of Tuesday, May 30, 2017, examined the said bill and now reports the same without amendment but with certain observations, which are appended to this report.

Respectfully submitted,

DANIEL LANG

*Chair*

(For text of observations, see today's Journals of the Senate, p. 2270.)

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

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

## FEDERAL FRAMEWORK ON POST-TRAUMATIC STRESS DISORDER BILL

### FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-211, An Act respecting a federal framework on post-traumatic stress disorder.

(Bill read first time.)

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

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

• (1620)

## NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO  
EXTEND DATE OF FINAL REPORT ON STUDY OF  
ISSUES RELATING TO CREATING A DEFINED,  
PROFESSIONAL AND CONSISTENT SYSTEM FOR  
VETERANS AS THEY LEAVE THE CANADIAN ARMED  
FORCES AND DEPOSIT REPORT WITH THE CLERK  
DURING ADJOURNMENT OF THE SENATE

**Hon. Jean-Guy Dagenais:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding the order of the Senate adopted on Tuesday, March 7, 2017, the date for the final report of the Standing Senate Committee on National Security and Defence in relation to its study of issues related to creating a defined, professional and consistent system for veterans as they leave the Canadian Armed Forces be extended from June 30, 2017 to October 31, 2017; and

That the committee be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate its report if the Senate is not then sitting, and that the report be deemed to have been tabled in the Chamber.

[English]

## CRISIS IN CHURCHILL, MANITOBA

### NOTICE OF INQUIRY

**Hon. Patricia Bovey:** Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to the crisis in Churchill, Manitoba.

[Translation]

## QUESTION PERIOD

### FINANCE

#### ACCESS TO INFORMATION

**Hon. Larry W. Smith (Leader of the Opposition):** Honourable senators, my question today is for the Leader of the Government in the Senate. Canadian media reported recently that the Prime Minister said the following: "We will take note of the recommendations they make, but on the issues of the budget, it's a well-established fact the Senate defers on money bills, on budget bills particularly, to the legitimacy of the House of Commons. The work of the upper chamber consists in correcting bills that have shortcomings, which is done fairly frequently under the current government."

[English]

The Prime Minister has a short memory. The government's consumer protection framework was pulled out of the last budget this past December because the government failed to do its homework. Budget bill or not, as parliamentarians we are here to stand up for the individual rights of taxpayers and demand transparency and accountability.

Since we have the right to correct legislation, Division 20 of Bill C-44, which enacts the "Invest in Canada Act," authorizes the spending of millions of dollars of taxpayer money yet wants to be able to spend it without the scrutiny of the Auditor General, the Treasury Board or even journalists through access to information.

Senator Harder, why has the government created a department that would operate in secrecy?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for his question. Clearly, this is a matter that has been and will be again before this chamber. It is the view of the government that the proposed infrastructure bank has exactly the right governance structure to it, and it is one on which we will have further debate and I'm sure appropriate division.

**Senator Smith:** Sir, why would the government create a new government bureaucracy with a clause that removes it from public scrutiny by making it exempt from access to information? Why would with the same bureaucracy be exempt from the Financial Administration Act and the public service employment standards?

**Senator Harder:** As the minister made clear before our committee, and indeed in the other place, it is the view of the Government of Canada that this is entirely the appropriate machinery of government to be attached to this endeavour.

## PRIVY COUNCIL OFFICE

### PRIME MINISTER'S TRAVEL

**Hon. David Tkachuk:** Senator Harder, I've asked you several times about the Prime Minister's trip to the Aga Khan's private island at Christmas 2016, and I have yet to receive any answers from you. Is the reason for not giving me answers because the Aga Khan is not only a family friend of the Prime Minister's but also a friend of yours, someone you have known for 25 years?

**Hon. Peter Harder (Government Representative in the Senate):** While I confess to the acquaintance and the admiration I have had and continue to have for the Aga Khan over many years, I don't think that has any bearing to the premise of the question.

**Senator Tkachuk:** Senator Harder, did you vacation at the Aga Khan's private island in 2016? If not, have you ever been on the Aga Khan's private island?

**Senator Harder:** Not that it's particularly relevant, but no.

## INDIGENOUS AND NORTHERN AFFAIRS

### STATUS REGISTRY

**Hon. Lillian Eva Dyck:** My question is for the Leader of the Government in the Senate.

As you know, Bill S-3, An Act to amend the Indian Act (elimination of sex-based inequities in registration), is now before the House of Commons. Under previous legislative attempts to remove sex-based discrimination from the registration provisions of the Indian Act, each amendment to the Indian Act added more status Indians to the registry.

In 1985, under Bill C-31, approximately 130,000 people were added to the registry. In 2010, under Bill C-3, another 45,000 people were added. And now, with Bill S-3, when it includes Senator McPhedran's amendment 6(1)(a) "all the way," the government has thrown out a broad estimate for the number of potential new entitled registrants. This estimate, as the minister admits, isn't based on any good, concrete data. It's maybe 80,000, but it is certainly not the 2 million figure she put out. As our colleague Senator Sinclair said at committee, that range is like fearmongering.

Why is it that the government's view that adding more status Indians to the registry is something to be afraid of?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for her question and want to assure her that that is not in any way a motivation of the Government of Canada.

The motivation of the minister and the government with respect to Bill S-3 is to ensure appropriate and adequate consultation in the true sense of nation-to-nation consultation.

As the honourable senator referenced, Bill S-3 is now in the other place and has not yet begun third reading debate. It would be preemptive of me to determine or suggest how the other place

ought to treat it. Should the other place send us a bill, there will be ample opportunity for us to debate it in this chamber.

**Senator Dyck:** When 130,000 new status Indians were added in 1985, that's far less than the 80,000 predicted currently under Bill S-3. When those 130,000 new status Indians were added to the registry, were there any drastic consequences? Did the sky fall, as Chicken Little feared? What happened after the 130,000 were added?

**Senator Harder:** As the Government Representative in the Senate, I will take those as questions to ask the minister, but I suggest the honourable senator probably knows the answer: The sky did not fall.

### DEADLINE OF BILL S-3

**Hon. Kim Pate:** My question is for the Leader of the Government in the Senate.

It has come to the attention of this chamber that Justice Masse, the presiding judge in the *Descheneaux* case, has appointed today and tomorrow as days to hear the motion to allow for a court extension on Bill S-3.

If a court extension is granted, this would remove the July 3, 2017 deadline that we are all rushing to meet. The plaintiffs in the case, Mr. Descheneaux and the Yantha family, are before the court today seeking such an extension because they share the concerns of Dr. Palmater, Sharon McIvor and others that Bill S-3, as amended at committee in the other place, will perpetuate the sex discrimination the government was directed to eliminate by Justice Masse in the *Descheneaux* case.

They're also seeking this extension because the government has thus far refused to do so. *The Globe and Mail* reported on June 14 that the government lawyer Nancy Bonsaint wrote that Minister Bennett wishes the legislative process to follow its normal course, while reserving the right to request such an extension closer to the deadline.

My question to the Government Representative in the Senate is what did Ms. Bonsaint mean when she said that the government is reserving the right to request an extension closer to the deadline? We are pretty close as it is — in fact, we are two weeks away from that deadline. Is this not close enough?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for her question and will seek the views of the minister with respect to the question she has posed. I want to reassure all senators of the seriousness with which the minister is approaching this issue.

• (1630)

**Senator Pate:** Thank you, senator.

Will you also ask the government to seek an extension if the Senate agrees with the House of Commons and refuses to accept their changes to Bill S-3?

**Senator Harder:** I thank the honourable senator for her question. It is hypothetical in nature and premature for me to say anything.



## TRANSPORT

### ASSISTANCE FOR CHURCHILL, MANITOBA

**Hon. Patricia Bovey:** My question is for the Leader of the Government in the Senate.

My question is regarding the current dire situation in Churchill, Manitoba. Twice this year the rail line to Churchill has been shut down: in the late winter for 17 days due to a blizzard, and now due to flooding. As we all know, there is no road connecting the town to other parts of the province, and thus rail and air are the only means of getting food, gas, building materials and medical supplies in.

Unfortunately, air is three times more expensive. Calm Air has added two flights per day from Thompson and has reduced freight rates somewhat, but it is clear the situation is not sustainable. We know even with rail systems working that milk costs more than alcohol.

It now looks as if the rail line will not be back in service until some point in 2018. The Mayor of Churchill has called on the federal government to assist with subsidies.

Is the federal government working with the Province of Manitoba and the Municipality of Churchill to not only deal with the immediate pressures facing Churchill but to put together a plan to get the community through the upcoming winter months?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for her question and, indeed, for her earlier notice of an inquiry to raise our collective awareness on this important matter.

I want to assure her and all senators that the Minister of Public Safety and the government as a whole are actively engaged with their provincial counterparts, and both governments continue to monitor the situation very closely, particularly with respect to the issue of rail suspension.

The high priority for the Government of Canada is the focus on getting supplies through the port and airport in the absence of rail availability. The government shares the concerns of the citizens of Churchill, and northern Manitoba generally, regarding the disruption of services on the Hudson Bay rail line as a result of the disruption.

Transport Canada officials are currently assessing the impact to increased freight and passenger traffic at both the Churchill Airport and the Port of Churchill so that the alternate infrastructure is able to handle the situation that has developed. The government continues to operate the Churchill Airport to support increased air traffic and are also monitoring the situation to provide any needed regulatory assistance, if necessary, in support of increased marine traffic to resupply through the Port of Churchill.

I want to, on behalf of Ministers Garneau and Goodale, indicate that I am quite happy to ask them for regular updates and report this to this chamber and perhaps, if there is a desire, to find other fora in which all senators with a deep interest in this could be so updated.

**Senator Bovey:** Thank you.

I think we should also be aware that the crisis is having a serious impact on the town's sources of revenues given that about 50 per cent of their revenues come from tourism, and many of those tourists get up there by train. Of course, all the services for those tourists will be more expensive.

I wonder, Senator Harder, if you could add this to the complexity of the situation and make sure that all relevant cabinet ministers are working to resolve the bigger issue.

**Senator Harder:** I will indeed.

[Translation]

## JUSTICE

### JUDICIAL APPOINTMENTS

**Hon. Pierre-Hugues Boisvenu:** Honourable senators, my question is for the Leader of the Government in the Senate. Since October 2016, several senators have asked questions about court delays in Canada and on judicial appointments. As of June 1, there were 46 superior court judicial vacancies, including some in Quebec, where the situation is quite critical, as you know. To date, hundreds of cases have been thrown out, including two murder cases.

You probably followed the work of the Standing Senate Committee on Legal and Constitutional Affairs. Last week it tabled a report that was very well received by the media. In order to protect the public's trust in Canada's justice system, can we ask that you hold very serious discussions with the Minister of Justice to ensure that the government follows through on the committee's recommendations as soon as possible in order to prevent hundreds more cases from being thrown out in the years to come?

[English]

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

As the Minister of Justice made clear in her public comments with respect to the report, the Government of Canada welcomes the work of the Senate in respect of this important issue. The minister is studying the report, and, as appropriate, she is dealing also with her counterparts across the country on this matter.

I also would like to use this occasion to inform the Senate that last week the minister made five appointments to Superior Courts in British Columbia and Ontario, which brings the total of Superior Court appointments by this Minister of Justice to 77.

[Translation]

**Senator Boisvenu:** Leader, along the same lines, last Friday, the Supreme Court of Canada upheld its very strict position on court delays in its *Cody* decision, while offering some small concessions in terms of the time that is given to the defence. We also know that Victims and Survivors of Crime Week was in early June this year and went largely unnoticed, which goes to show how important victims of crime are to the Government of Canada.

For victims of crime, stayed charges are a terrible thing. Criminals do not undergo trial; they go back to where they came from, back to where their victims are, and they don't have to comply with any conditions at all. This is catastrophic.

Can I look forward to the Leader of the Government in the Senate discussing this matter with the Minister of Justice to ensure that she is aware of the irreparable harm done to victims and their families when a murderer gets off scot-free?

[English]

**Senator Harder:** I want to assure the honourable senator that I would be happy to convey the sentiments of the question directly and personally to the minister concerned.

## INDIGENOUS AND NORTHERN AFFAIRS

### GENDER-BASED DISCRIMINATION

**Hon. Sandra Lovelace Nicholas:** My question is to the Government Representative in the Senate.

Honourable senators, I stand before you a very disheartened and dispirited indigenous woman to learn that the government will not support the Senate's amendment to Bill S-3 that would eliminate gender discrimination completely from the Indian Act.

I am especially offended that the Minister of Indigenous and Northern Affairs would promote the continuing discrimination against other women by strongly advising the members of Parliament not to support the Senate's amendment, but instead to support her plan in engaging in a second phase of consultation to examine how to make the act less discriminatory. Honourable senators, discrimination is discrimination.

This also goes against the government's election promise to have a better relationship with indigenous people and a more gender-inclusive approach to governing. Another broken promise.

How can the government justify leaving out the female descendants of these disenfranchised indigenous women whose status was taken away by the government when we know this will increase their likelihood of being preyed upon, go missing, sexually assaulted or murdered?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for her question and want to repeat the commitment Minister Bennett has given before the Senate committee, the House of Commons committee and in the chamber of the House of Commons to her urgent priority to not just passage of Bill S-3 as presented by the government but also a commitment to a second phase to deal with those more broadly affected than those who are defined in the case before us in law.

That commitment is personal and represents the government's commitment to the priority that she is attaching to this consultation process and the requirement for it to be meaningful consultation as the government has committed to.

[ Senator Boisvenu ]

• (1640)

**Senator Lovelace Nicholas:** Senator, there is a time limit again. What will happen in two years if your government doesn't win the next election?

**Some Hon. Senators:** Oh, oh!

**Senator Harder:** Despite the comments from the other side, that is entirely hypothetical.

### STATEMENTS OF MINISTER

**Hon. Marilou McPhedran:** Your Honour, this is a question to the Government Representative in the Senate.

On June 8, Minister Carolyn Bennett made statements to the House of Commons Standing Committee on Indigenous and Northern Affairs. I was present to hear this and have checked the transcript. In those statements, the minister indicated that Senator Murray Sinclair voted against the Bill S-3 amendment, "section 6(1)(a) all the way." My question is whether Minister Bennett has corrected the record on that and also whether the information that she offered to the committee has also been offered to the house?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for her question, and I will make inquiries.

### GENDER-BASED DISCRIMINATION

**Hon. Daniel Christmas:** Honourable senators, my question is also for the Government Representative in the Senate.

Senator Harder, as you know, the Senate study of Bill S-3 has been a marathon undertaking. The Standing Senate Committee on Aboriginal Peoples review of the provisions in the legislation has been a difficult and often fraught process of seeking to gain accommodation of suggested improvements. It is the role of this place to amend and improve the legislation in such a way that it meets the stated purpose, which in this legislation is to put an end to gender discrimination in the Indian status provisions of the Indian Act.

The term in the long title of this bill refers to the "elimination" of sex-based inequities in the registration, not to reduce, minimize or lessen. The choice of the word "eliminate" is entirely appropriate. Because discrimination of any kind against women and what's more First Nations women — already oppressed for over a half century — is a crime. It abrogates the rights of First Nations women and girls. Such rights are protected under the Charter, and I remind this chamber that it's a Charter of all rights and freedoms, not some rights and freedoms.

Will the government, in the true spirit of reconciliation, agree to take all necessary steps to ensure the total elimination of gender discrimination in the Indian status provisions of the Indian Act?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for his question. Let me assure him and all senators that the objective of the minister and of the

government with respect to gender discrimination in the Indian Act is one held in common. What is under dispute is the process through which that comes about with a combination of both legislative and meaningful consultations leading to further legislation. It's whether or not you believe in the mechanism of this bill as an exclusive bill or a phase two approach. It is the government's view that a phase two approach and a commitment to a phase two is the best way forward. As I mentioned earlier, this is a matter before the other chamber on which the other chamber has not yet even begun third reading of this debate.

**Senator Christmas:** It seems fundamentally clear to me and to my indigenous brothers and sisters both in this place and in First Nations communities across the country that the government wishes to pursue a way forward in a relationship that is founded in doing what is just and moral and in the best interests of healing divides between us. Why then in 2017 is it appearing so determined to do otherwise and act only within the parameters as described by the court?

Were this chamber and the other place to reach a place of impasse, would the government agree to a convention of a parliamentary conference as a means of mediating a way out of such a position and thus ensure that the government would keep its own laws and end sexual discrimination of First Nations women?

**Senator Harder:** Again, I thank the honourable senator for his question. It too is forward-looking and hypothetical and it would be premature for me to comment.

**Hon. Terry M. Mercer:** In the Standing Senate Committee on Aboriginal Peoples' study, many experts testified to the importance of the UN declaration articles that guarantee the right of indigenous peoples to live free from discrimination, specifically from sex-based discrimination affirmed in Articles 1, 2, 22, and 44. Bill S-3 as now amended by the House of Commons does not address all discrimination, particularly all the sex-based discrimination in the registration provisions of the Indian Act.

How can the government, which has signed on to the declaration, ignore the fact that Bill S-3 contravenes these articles in the declaration regarding non-discrimination and equality rights for indigenous women and their descendants? How can they do that?

**Senator Harder:** I thank the honourable senator for his question. It is the view of the Government of Canada that Bill S-3 as before the House of Commons, and the commitment of the government and the personal commitment of the minister, to engage in urgent and meaningful consultations to find the appropriate approach to the residual sex-based discrimination in the Indian Act is the best way forward.

**Senator Mercer:** The Assembly of First Nations unequivocally embraced the UN declaration and has included provisions in their memorandum of understanding with the Government of Canada signed on Monday, June 12, 2017:

... to support the full and meaningful implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

Additionally, in the press release from June 14, on Bill S-3, the AFN has taken the position that:

We understand that, in the next phase of its engagement First Nations, the government planned to consult on longstanding issues of discrimination not captured by the government's current proposed amendments. . . However, Canada and First Nations can no longer wait. We must end the debate now.

We must get on with it. Why is this government ignoring the advice of the Assembly of First Nations?

**Senator Harder:** I thank the honourable senator for his comments. With respect to his question, the Government of Canada is proceeding at what they believe is the appropriate level of meaningful consultations, responding urgently to a particular court decision, and engaging in a broader agenda of engagement with our Aboriginal community and the Aboriginal leadership as reflected in the statement of June 12 with the AFN. That is the view of the Government of Canada and has been since it has taken office, of restoring and improving our relationships on the basis of nation-to-nation respect and dialogue.

#### DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Peter Harder (Government Representative in the Senate):** Honourable senators, I have the honour to table the following delayed answers to oral questions: first, the response to the question raised by Senator McIntyre on May 9, 2017, concerning the Parliamentary Budget Officer; second, the response to the question raised by Senator Plett on May 11, 2017, concerning provisions of the Fair Rail for Grain Farmers Act; third, two responses to the question by Senator Marshall on May 11, 2017, concerning the Canada Mortgage and Housing Corporation; fourth, the response to the question raised by Senator Enverga, on March 29, 2017, concerning cardboard cutouts of the Prime Minister; and fifth, the response to the question raised by Senator McIntyre on May 4, 2017, concerning the Vacancies and Backlog of Cases at Immigration and Refugee Board of Canada.

#### MINISTRY OF INFRASTRUCTURE AND COMMUNITIES

##### PARLIAMENTARY BUDGET OFFICER

*(Response to question raised by the Honourable Paul E. McIntyre on May 9, 2017)*

The Canada Infrastructure Bank (the Bank) would be accountable to Parliament in a number of important ways. It would be required to submit, through its responsible Minister, an annual report to Parliament, as well as a summary of its annual corporate plan.

It would also be subject to the *Privacy Act* and *Access to Information Act*, although similar to the enacting legislation for other financial Crown corporations, there are provisions

in the proposed *Canada Infrastructure Bank Act* intended to ensure that commercially sensitive counterparty information is kept confidential.

The Bank would have the highest standard of having its books audited by both the Auditor General of Canada and a private-sector auditor. Finally, a review of the Bank's legislation would be conducted and tabled in Parliament every five years.

The Parliamentary Budget Office would have the same access to information from the Bank as it has for other Crown corporations, subject to the confidentiality of counterparty information provisions described above. Amendments in Part 4, Division 7 of the proposed *Budget Implementation Act* provide that the Parliamentary Budget Office would be entitled to free and timely access to required information under control of Crown corporations, including the Canada Infrastructure Bank.

## TRANSPORTATION

### PROVISIONS OF FAIR RAIL FOR GRAIN FARMERS ACT

*(Response to question raised by the Honourable Donald Neil Plett on May 11, 2017)*

The *Fair Rail for Grain Farmers Act* focused on meeting the short-term needs of the Western grain sector. It is scheduled to sunset August 1<sup>st</sup>, 2017.

The Government's upcoming legislation would ensure the long-term needs of its users are met by supporting a Canadian freight rail system that is more transparent, balanced, efficient, and safe. It would also address the future of the temporary provisions provided under the *Fair Rail for Grain Farmers Act*.

The Government committed to introducing legislation this spring and this commitment will be upheld. The government has held numerous consultations over the past year and a half, and has heard from Western Canadian farmers as part of this process.

## FAMILIES, CHILDREN AND SOCIAL DEVELOPMENT

### CANADA MORTGAGE AND HOUSING CORPORATION

*(Response to question raised by the Honourable Elizabeth Marshall on May 11, 2017)*

Canada Mortgage and Housing Corporation (CMHC) conducts stress testing on an annual basis to evaluate how various economic and operational scenarios could potentially affect the financial performance, operational resilience, capital levels, and risk tolerance thresholds of its three business lines: mortgage loan insurance, securitization,

and assisted housing and direct lending. CMHC follows the guidance set by the Office of the Superintendent of Financial Institutions (OSFI).

CMHC recognizes that an economic environment comprising of elevated consumer debt levels and elevated house prices places unfavourable pressure on the potential for an increase in the number of mortgage defaults. A substantial increase in the number of defaults for CMHC insured mortgages would result in financial loss to the corporation. However, recent stress testing has concluded that CMHC is well capitalized to withstand severe economic events, including significant house price declines or an increase to current unemployment rates.

Additionally, CMHC has fully supported recent Government changes with regard to mortgage eligibility requirements pertaining to down payment and the additional mortgage rate stress test. These changes are expected to result in decreased volumes of new insured mortgages, which in turn decreases CMHC's, and the Government's, overall exposure to the Canadian mortgage market.

### FINANCE CANADA MORTGAGE AND HOUSING CORPORATION

*(Response to question raised by the Honourable Elizabeth Marshall on May 11, 2017)*

The Canadian housing finance system is sound, with strong foundations that promote financial stability, including robust regulation, prudential supervision of regulated financial institutions, and high underwriting standards. Moreover, the Canadian financial sector is sound and well capitalized with Canada's big six banks continuing to be highly rated by the credit rating agencies. Nevertheless, high levels of household indebtedness warrant proactive and prudent management of evolving housing-related vulnerabilities and risks.

As the Bank of Canada describes in its regular *Financial System Review*, high household debt and housing market imbalances are vulnerabilities that could exacerbate the impacts of an adverse shock to the economy. While the probability of a severe shock occurring is considered low, if it materialized, the impacts of the shock could be significant given the pre-existing vulnerabilities in household balance sheets and housing markets. This is why the Government has been actively engaged in monitoring these vulnerabilities and has taken measures to contain them.

Measures announced by the Government include tighter eligibility criteria for government-backed mortgage insurance to promote the financial security of individual Canadians and the stability of the overall housing market, financial system, and economy. Adjustments to mortgage insurance rules also improve loan credit quality for mortgage insurers, including Canada Mortgage and Housing Corporation, and thereby protect taxpayers who ultimately back government-backed mortgage insurance.

## FOREIGN AFFAIRS

• (1650)

## CARDBOARD CUT-OUTS OF PRIME MINISTER

*(Response to question raised by the Honourable Tobias C. Enverga, Jr. on March 29, 2017)*

As outlined in Global Affairs Canada's response to Q-938 tabled in the House on May 8, 2017 (Sessional Paper No. 8555-421-938), these promotional items were at the discretion of our missions in the United States. Missions have been asked to no longer use these items for their events.

Nonetheless, under our government, Canada is re-engaging with the world to champion the values that Canadians hold dear and advance our interests.

This includes taking all opportunities to engage with our international counterparts, including the United States, Canada's friend, partner, and ally.

The expenses associated with the purchase of cardboard cutouts was \$1,877.24.

## IMMIGRATION, REFUGEES AND CITIZENSHIP

VACANCIES AND BACKLOG OF CASES AT  
IMMIGRATION AND REFUGEE  
BOARD OF CANADA

*(Response to question raised by the Honourable Paul E. McIntyre on May 4, 2017)*

As of May 24, 2017, the Immigration and Refugee Board of Canada (IRB) had 23 Governor-in-Council (GIC)-appointed member vacancies in its Refugee Appeal Division and four vacancies in its Immigration Appeal Division (IAD). In the Refugee Protection and Immigration Divisions — where members are public servants and not GIC Appointees — there were no vacancies.

Candidates seeking appointment to GIC positions are subject to a rigorous selection process consisting of tests and interviews. Candidates are then reviewed by the Committee led by the Privy Council Office.

The appointment of high-quality members allows the IRB to make well-reasoned decisions on immigration and refugee matters efficiently, fairly and in accordance with the law.

Since the Prime Minister announced the new GIC selection process in February 2016, a total of 35 appointments and reappointments were made to the IRB. As part of the Committee, the IRB continues to participate in GIC selection processes and recommends candidates to the Minister for consideration.

## ORDERS OF THE DAY

RECOGNITION OF CHARLOTTETOWN AS THE  
BIRTHPLACE OF CONFEDERATION BILL

## THIRD READING—DEBATE ADJOURNED

**Hon. Diane Griffin** moved third reading of Bill S-236, An Act to recognize Charlottetown as the birthplace of Confederation, as amended.

She said: Honourable senators, it's my honour today to speak at third reading of Bill S-236, An Act to recognize Charlottetown as the birthplace of Confederation.

At the Legal and Constitutional Affairs Committee, four amendments were made to the bill, two of them proposed by me and two by Senator McIntyre. One was a correction in translation, but the other three improved the context and clarified the content of the bill. I want to thank Senator McIntyre for his work to make this a better piece of legislation.

It was a delight to hear him and Senator Joyal expound on the history of Confederation, as they are both avid scholars of Canadian history. We are proud Canadians who will shortly be celebrating 150 years since the British North America Act came into effect on July 1, 1867.

Confederation is an important part of Canadian history and has served us well in the last one and a half centuries. Senator Joyal has pointed out in this chamber and in committee that Prince Edward Island did not join Confederation right away in 1867, when Ontario, Quebec, New Brunswick and Nova Scotia did. The Island did not join until 1873; however, this bill honours the city of Charlottetown, not the province.

Prince Edward Islanders readily concede that Confederation was a process and that the Charlottetown Conference of 1864 was but one event. However, it is noteworthy that it was the first meeting of the four Atlantic colonies and the province of Canada to discuss union. The groundwork was laid and agreement in principle was reached on the necessary characteristics to undertake a confederation.

Dr. Ed MacDonald, who appeared as an expert witness at the Legal and Constitutional Affairs Committee, noted that Canada is unlike other nations that are usually formed at the tip of a sword; we were formed at the tip of a pen. As I mentioned during debate on second reading of this bill, the United States has Independence Hall in Philadelphia and Mexico has its National Palace in Mexico City, both of which clothed a definitive moment in the birth of their nations.

Province House in Charlottetown also served an equally important function in our nation and is the only surviving building from any of the three Confederation conferences. It was in Charlottetown that the delegates found the Senate compromise — a Parliament with an upper house consisting of 20 Maritimers,

20 Ontarians and 20 Quebecers — was indeed the greatest condition for Confederation in order to protect the Maritime provinces' interests from the quickly growing populations to their west.

Delegates came to Charlottetown with ideas, some of which centered exclusively on a Maritime union rather than a grand one, but left with a vision. The wheels were now rolling. Canada was the only way forward.

It is noteworthy that the Fathers of Confederation were indeed that: fathers. There were no women at the discussions and no indigenous people. It was a rather homogeneous set of participants, unlike the Canada of today, which has a greater diversity of voices participating at our national Parliament and our provincial and territorial legislatures.

On this point, I thank Senators Omidvar and Pate for their questions related to whether the Mi'kmaq people of Prince Edward Island were consulted in the development of this bill. As I indicated at committee, I am simply serving as the facilitator of a bill that had many forms in the House of Commons over the past 20 years and was part of a greater project initiated by the P.E.I. government, but I could not provide a definitive answer at that time on whether the Mi'kmaq people had been consulted.

Therefore, I have since contacted the Mi'kmaq Confederacy of PEI and asked whether they supported Charlottetown as the birthplace of Confederation and if they had any comments they would like to form as part of the legislative record of this bill. Therefore, on behalf of the Mi'kmaq Confederacy, I would like to read the following comments:

While the chiefs are generally supportive of the concept of Charlottetown being recognized as the birthplace of Confederation, they note that Prince Edward Island has been the home of the Mi'kmaq people for over 12,000 years, yet they were not invited to the Charlottetown Conference. In creating this legislative recognition, the chiefs believe that moving forward, the Government of Canada must include the indigenous peoples of this land on a nation-to-nation basis in all matters. This would also involve honouring the historic peace and friendship treaties with the Mi'kmaq.

Honourable senators, I view this bill as an educational opportunity. For me, the comments from the Mi'kmaq Confederacy highlight the distinction between the legal duty to consult and simply consultation. Bill S-236 does not trigger a duty to consult. However, that does not mean consultation with indigenous people should not occur. It is the difference between consultation because you have to do it and because you want to.

Honourable senators, Bill S-236 educates Canadians about their history, in this instance about the Confederation story. It is a good thing that the discussion on this bill, both within the Senate and in the public media, caused national attention for the Confederation process.

I therefore ask for your support on Bill S-236, An Act to recognize Charlottetown as the birthplace of Confederation.

[ Senator Griffin ]

**Hon. Anne C. Cools:** Honourable senators, I thank our colleague for her remarks.

I just wonder, do you really think there is anybody in Canada who doesn't know where Charlottetown is and how important it was? Do you think there is anybody who doesn't know this?

**Senator Griffin:** Well, I would hope you are correct, and I think you are when a TV station from Halifax asked a woman on the street in Halifax, "Where did Confederation occur," she said, "P.E.I." She used the province rather than the city, but this recognizes the city.

**Senator Cools:** I do sincerely believe it was a very fantastic event that happened, and as you know, I worship at the altar of Sir John A. Macdonald anyway.

I have so much to say on the subject that perhaps I will take the adjournment, speak to the bill and confirm your opinion that Charlottetown is very important.

(On motion of Senator Cools, debate adjourned.)

• (1700)

## FRAMEWORK ON PALLIATIVE CARE IN CANADA BILL

### SECOND READING—DEBATE SUSPENDED

**Hon. Nicole Eaton** moved second reading of Bill C-277, An Act providing for the development of a framework on palliative care in Canada.

She said: Your Honour, colleagues, I'm pleased to present Bill C-277, an Act providing for the development of a framework on palliative care in Canada. I'm very pleased to support and sponsor this private member's bill that received unanimous support in the House of Commons.

This bill provides for the development of a framework designed to facilitate improved access to palliative care in Canada. I wish to commend the member of Parliament for Sarnia—Lambton, who developed this bill. She worked very hard to consult, discuss and build consensus around important issues such as the need for medical training, more research and greater access to patient-centred palliative care through home care, community-based settings, long-term care facilities and hospitals.

The development of such a framework will ensure that the key issues in palliative care get the attention needed while still respecting the federal and provincial roles in the delivery of health care. The Minister of Health has been very receptive and positive towards Bill C-277.

[Translation]

We know that the minister has allocated \$3 billion to home and palliative care over the next four years. We realize that resources are stretched and woefully inadequate. However, priorities must

be set based on current knowledge and best practices and in concert with health care providers to make palliative care the best it can possibly be for Canadians.

[English]

The minister has said, “Ensuring better access to home, palliative, and community-based care leads to better support for patients, at a more affordable cost.” I agree with that statement and I want colleagues to keep that in mind as we think about the issue of palliative and end-of-life care.

I was also pleased to hear the remarks by the parliamentary secretary to the Minister of Health during debate, when she said, “Our government believes that Bill C-277 would provide us with a timely opportunity to take a leadership role on this issue, and we support the creation of a framework of palliative care.”

There have been a number of parliamentary studies over many years on end-of-life palliative care. In 1995, the Special Senate Committee on Euthanasia and Assisted Suicide released its report and called for governments to make palliative care programs a top priority in the restructuring of the health care system.

In 2000, the subcommittee of the Standing Senate Committee on Social Affairs, Science and Technology recommended that quality end-of-life care become an entrenched core value of Canada’s health care system.

In 2005, the Honourable Sharon Carstairs released a report, *Still Not There: Quality End-of-Life Care: A Progress Report*. This was followed by the Special Senate Committee on Aging in 2009, chaired by Senator Carstairs and deputy chair Senator Keon, which included palliative care in their study of the needs of the aging population, and in 2011 an all-party Parliamentary Committee on Palliative and Compassionate Care released its report, entitled *Not to be Forgotten: Care of Vulnerable Canadians*. This committee produced a number of recommendations and serves as the basis of Bill C-277.

Bill C-277 calls on the Minister of Health, in consultation with representatives from provincial and territorial governments, in conjunction with palliative care providers to develop a framework designed to support improved access to palliative care through hospitals, home care, long-term care facilities and residential hospices. Among other things, Bill C-277 defines what palliative care is; identifies the palliative care training and education needs of health care providers as well as other caregivers; identifies measures to support palliative care providers; promotes research and the collection of data on palliative care; identifies measures to facilitate consistent access to palliative care across Canada; and takes into consideration existing palliative care frameworks, strategies and best practices; and evaluates the advisability of re-establishing the Department of Health’s Secretariat on Palliative and End-of-Life Care.

In conclusion, the Minister of Health must initiate the consultations within six months after the day the act comes into force; and the minister must prepare a report setting out the framework on palliative care and table the report in Parliament within one year after the act comes into force; and within five

years after the report is tabled in Parliament, the Minister of Health must prepare a report on the state of palliative care in Canada and table that report in Parliament.

[Translation]

A palliative care framework like the one set out in Bill C-277 targets important areas where resources, capacity-building, and cohesion are lacking, which leads to fragmented service delivery or even the absence of services across the country.

This framework provides guidance and gets both levels of government working together with front-line palliative care providers. It doesn’t create more red tape, and it homes in on what needs to be done now based on what we already know and current best practices.

[English]

This is the right approach: respecting provincial and federal jurisdiction and working together to effectively address all of these issues and implement change to give Canadians more consistent and high-quality care.

There is already substantive work that has been done developing a framework structure through the support of the Quality End-of-life Care Coalition, made up of 37 member organizations across the country. This framework structure is a road map for integrated palliative care contained in the document *The Way Forward*. This road map is helping guide health care professionals as they adopt more integrated approaches to palliative care.

Right now in Canada there are more people aged 65 or over than children aged 14 and under. Given the number of seniors now and only increasing in the future, we need to be more prepared than we currently are.

I would like to turn to a few critical areas that are of particular concern. One of these is the lack of access to palliative care in this country. On May 30, during hearings as part of our study on the economic impacts of our aging population at the Senate Committee on National Finance, we heard from the Honourable Sharon Carstairs and former New Brunswick premier Bernard Lord.

Former Senator Carstairs, who has done extensive work in the area of aging and palliative care, told our committee that when she began her work on death and dying in 1994, about 5 per cent of Canadians who needed palliative care had access to it. That number is now closer to 35 per cent, which means there is still 65 per cent of dying Canadians not receiving quality end-of-life care.

Colleagues, for a country such as ours, these are sobering statistics. Both former Senator Carstairs and Mr. Lord provided some interesting demographics that hit Atlantic Canada particularly hard, as higher numbers of seniors live in Atlantic Canada. Mr. Lord outlined that over a 15-year period between 2001 and 2016, population growth in Canada was 17 per cent, while in Atlantic Canada the population grew by just over

2 per cent. Looking at the population of those who are 65 and older, the population grew by 52 per cent across Canada and by 50 per cent in Atlantic Canada.

• (1710)

Former Senator Carstairs told the committee that there are no hospices in Prince Edward Island, Newfoundland and Labrador or Nova Scotia. There are only two hospices in New Brunswick.

[Translation]

The most recent report of the all-party parliamentary committee, which was issued in 2011 and, as I mentioned, served as the basis for Bill C-277, drew similar conclusions. For example, one of the witnesses that appeared before the committee, Dr. Fred McGinn, from the Hospice Society of Greater Halifax, indicated that, at the national level, there are only 30 free-standing residential hospices in Canada compared to 200 in the United Kingdom and over 1,300 in the United States.

[English]

The same committee also heard testimony about the comparative costs for the delivery of palliative care. It costs about \$200 a day to have a palliative care bed at home; it costs about \$300 a day to maintain a hospice bed; it costs \$600 to \$800 a day to have a palliative care bed in a hospital; and in many provinces, people are dying in acute care beds at \$1,200 a day or more.

Accessing services in urban versus rural or remote areas of the country can also highlight an inequity for those who need palliative care. Not only are there fewer resources or sometimes non-existent services in more remote and rural settings but transportation becomes an even greater challenge. For example, it is not easy for an 85-year-old patient or family member who needs to drive 30 or 40 minutes to a medical appointment in another community compared to a younger person making that same drive. Also, if a patient enters a care facility miles from home, it further isolates them from the very people they need close, their family and friends.

A key reason why accessing palliative care is of such concern is due to the significant lack of trained health care professionals to provide palliative end-of-life care.

This is another reason why I strongly support Bill C-277, because it emphasizes the need for training and education to address the shortages and help to establish standard training requirements for various levels of service providers.

According to Dr. José Pereira, who has over 20 years of experience as a palliative care physician and is the co-founder and Chief Scientific Officer with Pallium Canada, a non-profit organization that trains the health care profession in palliative care, he believes there is a need to train generalists in palliative care. He told the House of Commons Health Committee in March:

If we provide . . . those . . . competencies from a palliative care perspective — how to assess symptoms; how to start managing them; how to ask about the

understanding of the illness; what the psychological, social, or spiritual needs are; and how one can help — then we start implementing that palliative care approach.

Dr. Henderson of the Canadian Society of Palliative Care Physicians advises that the majority of the 17 medical schools in Canada report less than 20 hours of training in palliative care. Nursing students also spend as little as 20 hours of training studying palliative and end-of-life care.

In addition to insufficient training, what is really acute is that there are fewer than 200 geriatricians in Canada in 2011, and today Canada needs an estimated 600 geriatricians.

[Translation]

Dr. Laura Diachun, from Western University's Schulich School of Medicine and Dentistry in London, Ontario, told the committee in 2011 that it was essential to understand how to better teach students the principles of care for seniors. She believes that as baby boomers grow older doctors will spend half of their time seeing patients over the age of 65.

[English]

Honourable senators, these are serious challenges we are currently facing with the lack of training and its impact on access to care in 2017. What is going to happen as the population continues to age?

This rather stark information certainly causes one to realize that the need is great and structurally things must improve. There is a lack of good research and data on palliative care in Canada, and Bill C-277 also addresses this as part of the framework.

There needs to be more data collected on patients who need palliative care, where they are going for care, how the services are being delivered, where they are effective and where the gaps are. This type of information is important for all partners as more resources and structures are developed and implemented in providing better access and care.

[Translation]

All of us here and the population in general are becoming increasingly aware of issues related to palliative care in light of the passage and recent implementation of the medical assistance in dying bill.

**The Hon. the Speaker:** Excuse me for interrupting, Senator Eaton, but it is now 5:15 p.m..

[English]

Honourable senators, it being 5:15 p.m., I must interrupt the proceedings pursuant to rule 9-6. The bells will ring to call in the senators for the taking of a deferred vote at 5:30 p.m. on the motion in amendment to Bill C-210. Call in the senators.

(Debate suspended.)

[ Senator Eaton ]



• (1730)

### NATIONAL ANTHEM ACT

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

On the Order:

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

And on the motion in amendment of the Honourable Senator Enverga, seconded by the Honourable Senator Ngo:

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:** Honourable senators, the question is as follows:

It was moved by the Honourable Senator Enverga, seconded by Honourable Senator Ngo:

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”.

Motion in amendment negatived on the following division:

#### YEAS THE HONOURABLE SENATORS

Ataullahjan  
Batters  
Doyle  
Eaton  
Enverga  
Housakos  
MacDonald  
Manning

Mockler  
Ngo  
Oh  
Smith  
Tannas  
Tkachuk  
Unger  
Wells—16

#### NAYS THE HONOURABLE SENATORS

Baker  
Bellemare  
Black  
Boniface  
Bovey  
Brazeau  
Campbell  
Christmas  
Cools  
Cormier

Joyal  
Kenny  
Lang  
Lankin  
Lovelace Nicholas  
Massicotte  
McCoy  
McPhedran  
Mégie  
Mercer

Dawson  
Day  
Dean  
Dupuis  
Dyck  
Eggleton  
Forest  
Fraser  
Gagné  
Galvez  
Gold  
Greene  
Griffin  
Harder  
Hartling  
Hubley

Mitchell  
Moncion  
Munson  
Omidvar  
Pate  
Patterson  
Petittclerc  
Pratte  
Ringuette  
Saint-Germain  
Seidman  
Tardif  
Watt  
Wetston  
White  
Woo—52

#### ABSTENTIONS THE HONOURABLE SENATORS

Andreychuk  
Beyak  
Boisvenu  
Dagenais  
Marshall

McIntyre  
McInnis  
Plett  
Poirier  
Runciman—10

**Hon. Lynn Beyak:** Your Honour, I would like to speak to Bill C-210 on debate.

**The Hon. the Speaker:** I am going to take a moment before you start, Senator Beyak.

• (1740)

Honourable senators, to explain where we are, because the Senate has passed the point at which we would deal with Bill C-210 before 5:15, we will now resume debate on Bill C-210. We will resume consideration of Bill C-277 once we have finished Bill C-210, and Senator Eaton, of course, will have the balance of her time.

Bill C-210, on debate.

**Senator Beyak:** Thank you, Your Honour.

Honourable senators, I'm pleased to rise today to speak on Bill C-210, An Act to amend the National Anthem Act. I'm particularly pleased to speak about this legislation after so many other excellent speeches in this chamber.

On July 1, voices will carry onward to the Prairies and to the land of the midnight sun before settling down past the Rocky Mountains on the Pacific Coast — all singing the praises of our country's past glories and our future hopes together, in English and in French; maybe even in Gaelic or in their own native tongues. Here on Parliament Hill, right outside these windows, hundreds of thousands will wear their red and white, proudly wave our Maple Leaf flag and loudly sing our national anthem to mark the occasion of our one hundred and fiftieth birthday.

I am proud to be part of the deliberations on this legislation and within this honourable chamber. I'm also proud of the level of debate and discussion that has accompanied this particular bill on

its legislative journey, especially in the Senate. I want to acknowledge and thank those who have spoken before me, whether you have stood for change or to defend our long-standing beliefs and traditions. I salute you and your contributions.

Sometimes we forget how great a country we are now and how much of an example we are to the rest of the world. This is particularly true today, as we survey the global landscape. Sometimes we only know we are a great country when we hear others tell us. Even our neighbours to the south often cast an envious eye towards our peaceful land.

Honourable senators, I remind you of the words of our other founding Father of Confederation and our first Prime Minister, Sir John A. Macdonald, who said, "Let us be French, let us be English, but most importantly let us be Canadian!" Let us endeavour, as we move forward from here, to live up to those hopes and join together, maintaining our great country's traditions, to mark our national birthday this year, our wonderful one hundred and fiftieth.

I am opposed to this bill and want to amend it today because Canadians were not consulted in any way on their national anthem change. This is not a government bill; it's a private member's bill. If the government wants to change our national anthem, it must go to the people.

The private member's bill was passed in the house compassionately and out of sadness for a dying colleague. While that is touching, it is not the way we make public policy in this country and it is not the way we do our legislation. The Senate provided sober second thought, but we also did not consult widely and there is no reason to bring this to a vote. Whether the bill is passed or not, I wish Canadians to sing our national anthem on Canada's one hundred and fiftieth birthday in the traditional way they have been singing it for decades.

#### MOTION IN AMENDMENT

**Hon. Lynn Beyak:** Honourable senators, for those reasons, I move:

That Bill C-210 be not now read a third time, but that it be amended, on page 1, by adding the following after line 6:

"2 This Act comes into force on the later of July 1, 2017 and the day on which it receives royal assent."

Thank you for your time and consideration, colleagues.

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

**Hon. Senators:** Question.

**Hon. Leo Housakos (Acting Deputy Leader of the Opposition):** I will take the adjournment of the debate.

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

[ Senator Beyak ]

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

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

**Some Hon. Senators:** Yea.

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

**Some Hon. Senators:** Nay.

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

*And two honourable senators having risen:*

**The Hon. the Speaker:** Is there an agreement on the bell?

**Senator Plett:** No whip. One hour.

**Senator Bellemare:** Fifteen.

**The Hon. the Speaker:** It will be a one-hour bell.

Honourable senators, we have a bit of a problem here. We have Royal Assent scheduled around that time. It's a quarter to six now. If we have a one-hour bell it will be a quarter to seven. Just give me a moment, please.

**Senator Housakos:** Your Honour, a point of order.

**The Hon. the Speaker:** Honourable senators, we do have time to do a one-hour bell, but immediately after the vote we would have to suspend for the arrival of the Governor General.

**Senator Housakos:** Your Honour, with all due respect, I do understand that there's a tradition in the chamber that in order for bells to be determined, there would have to be agreement on the side of both whips. In this particular instance, we do not have a whip of the government on one side of the chamber. I would like to raise that point of order.

[*Translation*]

**Senator Bellemare:** When Senator Mitchell is absent, I usually serve as acting whip. I see that Senator Mitchell is on his way, and I believe he plans to ask that the vote be deferred until tomorrow.

[*English*]

**The Hon. the Speaker:** Senator Bellemare is quite able to act in lieu of Senator Mitchell if he wasn't here as Deputy Government Representative. However, we cannot delay a vote on an adjournment. An adjournment vote has to take place when the parties are in agreement. It cannot be deferred. So we have a one-hour bell. The vote will take place at 6:45.

Call in the senators.

• (1840)

Motion negated on the following division:

YEAS  
THE HONOURABLE SENATORS

Ataullahjan	Mockler
Batters	Ngo
Beyak	Oh
Carignan	Patterson
Doyle	Plett
Eaton	Poirier
Enverga	Runciman
Frum	Seidman
Housakos	Smith
Lang	Stewart Olsen
MacDonald	Tannas
Manning	Tkachuk
Marshall	Unger
McInnis	Wells
McIntyre	White—30

NAYS  
THE HONOURABLE SENATORS

Baker	Joyal
Bellemare	Kenny
Black	Lankin
Boniface	Lovelace Nicholas
Bovey	Massicotte
Campbell	McPhedran
Christmas	Mégie
Cormier	Mercer
Dawson	Mitchell
Dean	Moncion
Dupuis	Munson
Dyck	Omidvar
Eggleton	Pate
Forest	Petitclerc
Fraser	Pratte
Gagné	Ringuette
Galvez	Saint-Germain
Gold	Tardif
Greene	Verner
Griffin	Watt
Harder	Wetston
Hartling	Woo—45
Hubley	

ABSTENTIONS  
THE HONOURABLE SENATORS

Andreychuk	Cools
Boisvenu	Dagenais—4

• (1850)

VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to point out that in the Governor General's Gallery, we have the very distinct

pleasure and honour of having with us tonight 10 of our provincial lieutenant governors and one of our territorial commissioners: Her Honour the Honourable Elizabeth Dowdeswell, Lieutenant Governor of Ontario; His Honour the Honourable J. Michel Doyon, Lieutenant Governor of Québec; the Honourable Justice Arthur J. LeBlanc, Lieutenant Governor-designate of Nova Scotia; Her Honour the Honourable Jocelyne Roy-Vienneau, Lieutenant Governor of Nouveau-Brunswick; Her Honour the Honourable Janice Filmon, Lieutenant Governor of Manitoba; Her Honour the Honourable Judith Guichon, Lieutenant Governor of British Columbia; His Honour the Honourable H. Frank Lewis, Lieutenant Governor of Prince Edward Island; Her Honour the Honourable Vaughn Solomon Schofield, Lieutenant Governor of Saskatchewan; Her Honour the Honourable Lois Mitchell, Lieutenant Governor of Alberta; His Honour the Honourable Frank F. Fagan, Lieutenant Governor of Newfoundland and Labrador; and The Honourable Douglas George Philips, Commissioner of Yukon.

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

**Hon. Senators:** Hear, hear!

[Translation]

BUSINESS OF THE SENATE

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

**Hon. Senators:** Agreed.

(The Senate adjourned during pleasure.)

• (1900)

ROYAL ASSENT

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

An Act to amend the Public Service Labour Relations Act, the Public Service Labour Relations and Employment Board Act and other Acts and to provide for certain other measures (*Bill C-7, Chapter 9, 2017*)

An Act to amend the Rouge National Urban Park Act, the Parks Canada Agency Act and the Canada National Parks Act (*Bill C-18, Chapter 10, 2017*)

An Act to amend the Customs Act and the Immigration and Refugee Protection Act (presentation and reporting requirements) (*Bill S-233, Chapter 11, 2017*)

An Act to amend the Canada Labour Code, the Parliamentary Employment and Staff Relations Act, the

Public Service Labour Relations Act and the Income Tax Act (*Bill C-4, Chapter 12, 2017*)

An Act to amend the Canadian Human Rights Act and the Criminal Code (*Bill C-16, Chapter 13, 2017*)

An Act to amend the Citizenship Act and to make consequential amendments to another Act (*Bill C-6, Chapter 14, 2017*)

The House of Commons withdrew.

His Excellency the Governor General was pleased to retire.

(The sitting of the Senate was resumed.)

• (1910)

[English]

## NATIONAL ANTHEM ACT

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

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).

And on the motion in amendment of the Honourable Senator Beyak, seconded by the Honourable Senator Dagenais:

That Bill C-210 be not now read a third time, but that it be amended, on page 1, by adding the following after line 6:

**“2 This Act comes into force on the later of July 1, 2017 and the day on which it receives royal assent.”.**

**The Hon. the Speaker:** Honourable senators, resuming debate on the amendment of Senator Beyak to Bill C-210.

**Hon. David M. Wells:** Thank you, Your Honour.

I'm here to speak on Senator Beyak's amendment. It won't be lost on any of you that I don't like this bill. I don't think it's the will of Canadians. It may be the will of the house in a debate that was passed with a great deal of sympathy, but I don't think it was passed with a great deal of consideration for what Canadians want.

I know in Newfoundland and Labrador, the province I represent, a majority of people in a poll commissioned, thousands of people did not want the wording of the national anthem changed.

Senator Lankin said to me the other day in a sidebar that she felt that it's not right for a handful of senators to block this bill. Well, I think it's not right for a handful of senators to push this through without it going to the Canadian public for their opinion as well. Senator Lang last Thursday spoke about that.

I spoke with another senator just this afternoon who was at a function in Atlantic Canada on the weekend. Two hundred fifty people were in the room, and at the end of the event that that senator was hosting the question was asked, “Do you know that there is a bill currently before Parliament to change the national anthem?” It was explained, it would be changed from “all our sons command” to “all of us command.” A poll was taken in a room of about 250 people and not one person put up their hand to have the anthem changed. When we talk about our national anthem, about the traditions that we Canadians have, these are the traditions that I think we as senators and as Canadians need to maintain.

I spoke at length in my second reading speech a number of months back about changing things for the flavour of the day. I think being politically correct is the flavour of the day. I talked about this piece of art up in the corner and the pieces of art all around, where women may not be represented. Would we airbrush women just to make sure there was gender equality in that art?

• (1920)

Finally, senators, I think in the Senate we can do one of four things to a piece of legislation. We can approve it or give our assent to it. We can deny it. We can amend it. We also, colleagues, have the tools to delay it. I think it would be disingenuous for me to propose an amendment or an alteration and say that I think it's a great idea if we accept this amendment or subamendment based on the merits of the amendment.

I'll be very clear, colleagues; I don't think this bill is a good bill, and I recognize, as has come to light for those of us who don't know parliamentary procedure in the House of Commons that well, that if this goes back to the House of Commons amended, it effectively dies, unless there is full agreement to accept a new mover of that bill. I don't think it's lost on any of us, colleagues, that I don't think that will happen.

Of course, if it's a good bill, it will eventually pass. It will pass in the fall. Maybe it will pass tonight or tomorrow night or next week. Of course, we all know it has been to both houses of Parliament a number of times and it has not passed. It has failed each time, and it failed for a reason, because there hasn't been overwhelming support to see it passed. It has been noted that there haven't been votes. Well, there has been a vote. There was a vote in 2015 over in the House of Commons, and I believe the number was 147 to 122. It was voted to not accept the proposed wording.

Of course, in a song, anyone can sing the words they want. If they don't feel they are included in the national anthem because of their gender or for whatever reason, because their region isn't named or for whatever reason they might have, they can change the words as they wish, as they can with any song, speech or representation they would like, to give them comfort in their

country. That's why Canada is a great country, because we can have those comforts and speak our minds and speak to what we believe in.

Colleagues, I will be proposing a subamendment to Senator Beyak's amendment, but I wanted to make it clear why I was doing that, and that was the essence of my speech. I don't think this bill should pass. One thing we can do, as I said, is delay. I know I can't delay this forever, nor can I do anything single-handedly in here.

#### MOTION IN SUBAMENDMENT

**Hon. David M. Wells:** Therefore, I move, seconded by the Honourable Senator MacDonald:

That the motion in amendment moved by the Honourable Senator Beyak be amended by replacing the words "**the later of July 1, 2017 and the day on which it receives royal assent**" by the words "**September 1, 2017**".

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

Are honourable senators ready for the question?

**Hon. Senators:** Question!

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

**Some Hon. Senators:** Yes!

**Some Hon. Senators:** No!

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

**Some Hon. Senators:** Yea.

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

**Some Hon. Senators:** Nay.

**The Hon. the Speaker *pro tempore*:** I think the "nays" have it.

*And two honourable senators having risen:*

**The Hon. the Speaker *pro tempore*:** I see two senators rising. Are the whips in agreement?

**Senator Plett:** We'll defer until tomorrow.

**The Hon. the Speaker *pro tempore*:** Pursuant to rule 9-10, the vote is deferred to 5:30 p.m. on the next day the Senate sits, with the bells to ring at 5:15 p.m.

(Vote deferred.)

### FRAMEWORK ON PALLIATIVE CARE IN CANADA BILL

#### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Eaton, seconded by the Honourable Senator Seidman, for the second reading of Bill C-277, An Act providing for the development of a framework on palliative care in Canada.

**Hon. Nicole Eaton:** The final report of the External Panel on Options for a Legislative Response to *Carter v. Canada* emphasized the importance of palliative care in the context of medically assisted dying, "... that a request for physician-assisted death cannot be truly voluntary if the option of proper palliative care is not available to alleviate a person's suffering."

I strongly believe that for those facing the end of their life, we need to ensure all of the best options are available, which provide real choice for patients and their families. The medically assisted dying debate forced all of us to look deeper at issues facing Canadians who are requiring palliative care. It also provided an opportunity to learn more about what palliative care really is and the positive influence that good palliative care can make in a person's qualities of life and for their families.

During the Bill C-14 debate, I was very pleased that an amendment I put forward was passed by senators, which added that individuals have a palliative care consultation so that they are informed of treatment, technology or support options available to relieve their suffering prior to making a final decision.

According to the Canadian Medical Association, between 1 to 3 per cent of Canadians will be the ones to pursue medically assisted deaths while the other 90 per cent could benefit from good palliative care. I know all of us agree that we do not want patients making decisions to end their lives because they do not have access to palliative care that could provide relief from suffering.

Dr. Elisabeth Kübler-Ross, the Swiss psychiatrist, developed the "five stages of grief" model, which she described as common experiences that occur with terminally ill patients. This has served as a general model used in understanding and helping patients as well as anyone going through loss.

The five stages are: denial, where individuals early on, after diagnosis, deny what is happening; anger, where frustration sets in at their circumstances, how and why this is happening to me

and looking to point blame; bargaining is a phase where an individual thinks if they can change certain behaviours, they may be able to negotiate more time; depression, where a patient feels hopeless and perhaps becomes more withdrawn from family and friends; and finally, acceptance, the final or later stage where the individual may become more calm, serene and reflective in their view of the situation and their mortality.

I mention the Kübler-Ross model of experiences because some, if not all, of these experiences can occur for patients and their families, and the palliative care approach is much more than just a person's final week of life; it can serve to support the patient and their family as they go through these experiences. Palliative care supports can begin approximately a year before a patient's death, providing assistance physically, emotionally and spiritually.

[Translation]

Understanding palliative care is vital to the discussion for parents and families dealing with the situation, so they can see and experience the benefits, and for us here as we debate these major issues.

[English]

During Bill C-14 debate, I referenced the definition of palliative care from the World Health Organization. I believe it is important to go back to that definition because it reminds us that this is not just about the very final stages of a person's life.

- (1930)

The WHO definition of palliative care is:

Palliative care is an approach that improves the quality of life for patients and their families facing the problem associated with life-threatening illness, through the prevention and relief of suffering by means of early identification and impeccable assessment and treatment of pain and other problems, physical, psychosocial and spiritual. Palliative care:

- provides relief from pain and other distressing symptoms;
- affirms life and regards dying as a normal process;
- intends neither to hasten or postpone death;
- integrates the psychological and spiritual aspects of patient care;
- offers a support system to help patients live as actively as possible until death;
- offers a support system to help the family cope during the patient's illness and in their own bereavement;

[ Senator Eaton ]

- uses a team approach to address the needs of patients and their families, including bereavement counselling, if indicated;
- will enhance quality of life, and may also positively influence the course of the illness; . . . .

There is widespread support for this bill. Governments have an opportunity to actually leverage the many national and provincial organizations and related stakeholders that have experience, knowledge and have already been doing extensive work, which can save valuable time and resources.

This is not an exhaustive list, but some of the supportive and experienced organizations are the Canadian Medical Association, the Canadian Nurses Association, Canadian Society of Palliative Care Physicians, Pallium Canada, Bruyère Continuing Care, St. Joseph's Hospice, West Island Palliative Care Residence, Canadian Cancer Society, and I could go on and on.

I would like to close my remarks today with something that Dr. David Henderson of the Canadian Society of Palliative Care Physicians said:

Much great work has been done, but we are still in desperate need for improved access to high-quality palliative care. It is time we all roll up our sleeves to make this happen. With the will of all levels of government working together in collaboration with palliative care experts from across the country, and a strong primary care system, we can do this. Our families deserve this care.

Thank you, honourable colleagues. I ask your support for this very worthwhile and important bill. Let's do our part and show our support.

**Hon. Patricia Bovey:** Honourable senators, I rise in support of Bill C-277 and the eloquent comments of Senator Eaton, underlining the need to develop a framework on palliative care in Canada, to enhance palliative care across the country, and to do so with equal access from coast to coast to coast. Believe me, it is needed.

I also applaud the speech of Senator Cordy and her very significant research for her inquiry.

Our palliative care units in Canada's hospitals and hospices do a wonderful job, and I am pleased that home palliative care is increasing and I trust its profile is too. These critical services are relatively new.

According to the May 27 *Winnipeg Free Press*, the family of Karalee Grant only learned what Palliative Care Manitoba could have offered them almost a year after the 2010 passing of this honoured and courageous young woman. Her mother is now board president of Palliative Care Manitoba, whose vision is "that all Manitobans experiencing a life-threatening condition live well until the end of their life, and that those around them are cared for in the process." They begin offering support when an individual is diagnosed as having about six months to live.

Indeed, the hospice and palliative care system dates back to the 1960s in the U.K. and has since been implemented in Canada. In Winnipeg its first office was in 1986 and I have to commend the teams of researchers, doctors, health care professionals and academics who continue to do pioneering work in the field. We need that work, and we need palliative care services to be accessible across this country, both in health care organizations and at home.

Please allow me to be personal on this issue. I have lived it and did so over a number of months.

First, I want to challenge a major general misunderstanding. Palliative care is not, and should not, be just about the last days or weeks of a person's life, entered into when all other options have come to a close. Palliative care should be available to patients while there are still treatment options ahead. It should be about ensuring the highest quality of life possible for those with a terminal illness. It should not require a patient to sign off on, or agree to forgo, future treatments, thus denying themselves of new treatment opportunities if they become available.

I know my situation is one with which many have to deal every year, so I tell my tale in tribute to them and as a positive call for expanded programs, particularly in home palliative care, which has been demonstrated as being compassionate, less stressful and less expensive than long-term hospitalization.

Diagnosed just a few months after we were married, the last three and a half years of my husband's life, following his diagnosis, gave us wonderful times, as well as very tough ones. He faced those last three years, especially his last nine months, with courage, optimism and realism. When we learned he was facing the "one-way street," he made it very clear that he wanted to die at home. I was there to support in any way I could.

The psychological difficulty before us? In order for him to receive the benefits of home palliative care, he had to sign off on any new or experimental treatments. He did not want to do that as he was quite willing to be a "test" case for new medications. While accepting reality, he did not want to sign a document saying there was no hope — he lived with hope. He therefore did not sign the document for about six months after the point when it would have been most beneficial. I do want to stress, though, that his doctors were brilliant, honest about his situation, and compassionate, as were all the cancer care staff, and I thank and applaud them — much-needed, appreciated and difficult professions.

We reached the point of signing that dreaded piece of paper so we could get a hospital bed at home. Life became much easier after we had the bed, for him and for me. As an art curator, I could and did obviously lift art. As a mother and grandmother, I could and certainly do lift children. But I had no training in lifting patients, especially one larger than I, who had metastasized bone cancer. I learned, but I could not have done that if I had not been physically fit.

Once that piece of paper was signed we also got home palliative care help of 20 to 30 minutes a day in the morning. I had already learned to give injections, as the system could not commit that a nurse could come daily at the required time. I had to track all the

medications — and there were many — at one point with the opioids reaching about \$13,500 worth a month. Some, but not all, were covered.

Finally, our level of help was expanded to two more sessions a week to cover my teaching commitments — the duration of my class plus 15 minutes on either side. That was almost impossible — driving to the university, parking, getting the computer set up and projects and all and be ready to go within 15 minutes. I'm glad I live close by.

[Translation]

My students were very accommodating when I had to ask them to come see me at home, and they were glad to do it. They also called me with their questions and concerns instead of asking for private meetings after class.

Snowstorms, of course, were another problem, as were the caregivers' sick days and vacation days. Every one of those professionals was wonderful. They were truly sorry when, for one reason or another, they couldn't come. Friends helped too, taking over so that I could go to the grocery store or the pharmacy or take care of various professional obligations.

[English]

Urgent cancer care was a blessing. We were also very fortunate that his GP still made house calls. What I would have done if he hadn't I honestly don't know. It was hard enough getting to cancer care several times a week and often daily. I had to leave him in a wheelchair in the lobby while I parked a number of blocks away. Handi-Transit finally approved him the day after he passed away. All this to say, it was hard, as it is for anyone in these situations, emotionally, physically and practically. We tried to keep life as normal as possible, and I am one who was long used to juggling and planning. I was also healthy and may I say, I hope, young enough. Also having been widowed once before, I knew what I was facing. My concern was his comfort, his dignity and his being able to do what he wanted, and could, as long as he was able. But I worry about others in similar circumstances.

• (1940)

What do those do whose work has to be done in offices or workplaces elsewhere and those with specific unalterable work times and shifts? How do people 10, 20 or more years older than I handle it? And what about partners who are not physically able to do the lifting, cooking, assisting with wheelchairs, getting in and out of the car and to appointments or, indeed, the myriad other care needs? What do those do who do not have friends and family who can help, or those who do not have financial flexibility to hire caregivers and other assistance? The 20 minutes of help a day was great, but honestly it did not cut it. The daily needs were larger.

I'm grateful that we were able to make it work fairly well, at least until his last 36 hours when a sudden shift made it impossible to cope at home, requiring pain medication I could not administer.

Honourable senators, I look forward to the day when palliative home care is not dependent on a partner whose employment, physical and mental ability and personal finances have the flexibility to enable their loved one to stay at home, if that is their

wish. I look forward to the day when one can access home palliative care without having to agree to foregoing other or new experimental treatments.

Having spent as much time as I have working in St. Boniface Hospital in the public gallery I started 10 years ago, I do know the positive power of engaging in one's interests and activities. I also know the power of home and the power of being able to continue connecting with one's interests in the safety and comfort of one's own space.

Let us make sure we enable our palliative care system to develop across this country giving everyone, regardless of where they live, equal opportunity to live their lives the way they wish. I hope you will join me in supporting Bill C-277.

(On motion of Senator Hubley, for Senator Cordy, debate adjourned.)

### 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. Serge Joyal:** Honourable senators, I committed last Thursday to take part in this debate today. I'm pleased to be in a position to do that tonight.

I would also like to mention that I had an opportunity earlier today to speak to the sponsor of the bill in the other place, the Honourable Rona Ambrose, and I have absolutely no doubt about the objectives that Ms. Ambrose is pursuing in relation to the bill. I would also like to commend Senator Andreychuk for the way she presented the bill, because I think she outlined the objective of the bill very well.

I have, however, a certain number of preoccupations I want to share with you tonight in relation to this bill. This bill received close attention from the Canadian Judicial Council of Canada, the Canadian Bar and the Barreau du Québec. Those briefs tabled in the other place, on April 19 and 20, raised important questions, and I want to offer my thinking in relation to those three briefs.

The bill has two objectives. The first objective, as is stated in the summary of the bill, is to make sure that each candidate in appointment to a judicial position in the federal government, under federal government jurisdiction:

. . . have completed comprehensive education in respect of matters related to sexual assault . . .

That's the first objective, to compel comprehensive education in matters of sexual assault.

The second objective of the bill is to make sure that the Canadian Judicial Council reports on continuing education seminars to the Minister of Justice, who will table the report to Parliament.

In relation to the first objective of the bill, to ensure that there is comprehensive education, I had a number of reflections. The first one is that any candidate who is a lawyer who has been practising law for 10 years, or has been a member of the bar for 10 years, will be compelled, before being considered for an appointment, to have attended a seminar that is spelled out in clause 3 of the bill, a seminar that will be conducted to the satisfaction of the commissioner of the Judges Act.

Who is the commissioner? It is provided for in section 74 of the Judges Act. The commissioner essentially has the status of a deputy head of a department who is responsible for the administration of Part 1 of the bill and the administrative arrangements provided in the act and also by law within the responsibility of the proper functioning of the judicial system in Canada.

What we are doing, essentially, is investing a civil servant with the responsibility to ensure that those seminars are conducted specifically the way they are provided for in clause 3 of the bill, and also to make sure that only those candidates who have attended those seminars and have completed them to the satisfaction of the commissioner will be considered as an admissible candidate.

I was reflecting on that because according to the provincial law that rules the professional order, normally the training information of lawyers is provided under provincial jurisdiction. I read the responsibility of the order of the law du profession du Québec, because I've checked, and here it is the responsibility of law du profession. To make sure that they —

[Translation]

—that they can control the competence and integrity of their members. That way, before admitting a candidate as a practising professional or issuing a licence, the order ensures that the candidate has the requisite training and skills.

The inspection committee primarily verifies the quality of the professional services. It can also recommend that the order's board of directors require a member to first attend a seminar, second, take professional development courses, and finally, have the member's right to practise limited or suspended.

[English]

It is clear, according to me, that to compel any lawyer to do a seminar to the satisfaction of a federal commissioner is an intrusion into provincial responsibility in relation to the professional order, because all those candidates are not only candidates for a Superior Court position or an appointment that will deal with sexual assault but with any cases that pertain to a Federal Court judge, an appellate Federal Court judge, a member of the Admiralty Court, the Tax Court and a Superior Court, and because of his or her professional training in the matter, for instance, of labour law or commercial law or civil law, will never hear a case related to sexual assault.

[ Senator Bovey ]



• (1950)

In other words, it is a pervasive obligation that will be monitored and determined by a federal civil servant. In relation to this, honourable senators, I think the bill in that way, in my opinion, is an intrusion into the responsibility of the province to rule the profession of lawyer. I don't question the intent of the bill. I subscribe totally to the general objective of the bill, which is to make sure that judges who hear sexual assault cases get the proper training, as the bill says, in the social context and in all that relates to:

... sexual assault law that ... includes instruction in evidentiary prohibitions, principles of consent and the conduct of sexual assault proceedings, as well as education regarding myths and stereotypes associated with sexual assault complainants.

That's my first preoccupation in relation to clause 3 of the bill.

I have a second group of preoccupations in relation to clause 3 of the bill that pertains to once a judge has been appointed, he or she will be compelled to attend a seminar in relation to the matter of sexual assault, and that that seminar will have to be provided in consultation with sexual assault survivors, as well as with groups and organizations that support them.

The problem I have is with section 11(d) of the Charter. Section 11(d) of the Charter provides the following:

Any person charged with an offence has the right . . . to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and impartial tribunal . . .

So the question is: What is an independent and impartial tribunal? The Canadian courts, especially the Supreme Court of Canada, have had an opportunity in the last 30 years to delve into section 11(d) to determine what we understand in the Canadian law about impartiality and independence. In three cases, especially, in the *Valente* case in 1985, in the *Beauregard* case in 1986 and in a more recent case, the reference in relation to remuneration of judges that was introduced by Prince Edward Island in 1997.

In those three cases, the Supreme Court has had an opportunity to establish how much the independence principle of the judiciary is fundamental to the Canadian structural order. In fact, there are three powers in our system of government. There is the judicial system, or governance; there is the executive, that is, the government; and the legislative. Each one is balanced in a way that the judicial system has to remain totally independent from the executive and from the legislative power. The courts have been very clear on that. They have repeatedly, through those three cases, mentioned that not only does the independence have to be respected, but it has to appear independent.

So not only does the law have to provide for independence, as section 99 of the Constitution states, which provides for security of tenure, and section 100, for financial autonomy of the justices, but the overall system has to ensure that judges are immune from legislative pressure, from the pressure of the parties to the litigation, and more from the pressure of the public.

What the impact of the bill will realize, in my opinion, is the fact that you will have those statistics about judges who have attended seminars and judges who will have heard sexual assault cases. People will put the two together and use that as pressure on the judicial system to provide for a different way of approaching sexual assault cases.

Judges have to be impartial. It is an essential element of section 11(d) of the Charter, as I mentioned, that the hearing has to be by an independent and impartial tribunal. What is an independent and impartial tribunal? An impartial tribunal, to quote Justice Le Dain in the first case I mentioned, the *Valente* case of 1988, means an "objective state of mind, which is fostered by reliance on law to resolve disputes."

In other words, the justice has to be in a state of mind that puts him totally in an objective position to hear the parties that are in front of him: the victim and the accused. Not more the victim and less the accused. Our system of criminal law is based on the assumption of the presumption of innocence, and the Crown has to prove beyond a reasonable doubt that the accused person, of course, benefits from that presumption.

As Professor Greene has written in an article that I referred to you, which is *The Doctrine of Judicial Independence Developed by the Supreme Court of Canada*, Professor Greene from York University, at page 191, writes the following:

It is central to the adjudicative process that judges decide disputes, as much as possible, without any preconceived notions of favouritism or animosity toward any of the litigants, that is with impartiality. One method of promoting impartiality is to attempt to ensure that the judge is free from outside interference by the litigants or other interested parties, interference which is intended to bias the judge.

The way I read the bill — and that's my humble submission to you — the bill, of course, puts the essential emphasis on, "sexual assault survivors, as well as with groups and organizations that support them."

In other words, there's only one part of the trial that has to be the focus of the attention, which is the sexual assault survivors and the group and organizations that support them. So it's quite clear that we are here outside the boundaries of a victim and an accused. We are in the context of the social networks that exist in our society to promote, to improve the conditions of sexual assault victims. If we are to do that, it has to be in a balanced way, otherwise, there will be the perception that when the judge is on the bench, he or she has to put the weight of his attention to the victim at the expense of the overall impartial objective hearing. That's the perception that's created by the bill. I don't mean it will happen, but the perception is that when you read the bill, this is the intent of the bill.

So as much as I support the training of justices in —

May I have five more minutes?

**The Hon. the Speaker:** Five more minutes, colleagues?

**Hon. Senators:** Agreed.

**Senator Joyal:** As much as I support the training of justices or judges who will hear sexual assault cases, I think that to put that in legislation is a precedent that compels me with sober second thought. If we do that for the sexual assault victim, why don't we do it for the Aboriginal people? The Aboriginal people are in a dire situation in relation to justice. I read Recommendations 27 and 28 of our colleague Senator Sinclair in relation to Aboriginal people in the justice system.

The Truth and Reconciliation report states:

27. We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the United Nations Declaration on Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

• (2000)

Then paragraph 28:

We Call upon law schools in Canada to require all law students to take a course in Aboriginal people and the law, . . . This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism

In other words, I think our colleague Senator Sinclair has put it properly: It's for the Federation of Law Societies and the law schools to train the lawyers. Once those lawyers have been appointed judges or act in cases in relation to Aboriginal peoples as much as with sexual assault cases, they will have the proper training. But if we amend the Judges Act to do this, my contention to you is that we should do it for the Aboriginal people because we know that 23 per cent of prisoners in Canada are Aboriginal people. In the province of our esteemed colleague Senator Andreychuk, Saskatchewan, 48 per cent of inmates are Aboriginal people. We can conclude that there are systemic problems with the Aboriginal people in the justice system, as much as there might be systemic problems with sexual assault victims. My humble conclusion in relation to those is that if we do that in the same way that the bill proposes, we should do it or we should be called to it for another group of peoples who bear the weight of the justice system in a systemic, discriminatory way.

Before we accept the principles that are put forward Bill C-337, I humbly submit to you, honourable senators, that we need to bring sober second thought to that bill — not because I'm opposed to it. With regard to its objective, I subscribe to it 100 per cent. The government in the other place introduced Bill C-51 last week, which reviewed the level of proof and the protection of the victim in relation to the Criminal Code. I read the bill. At first sight, I think it's totally constitutional. However, this bill raises constitutional issues that have been well identified by the Canadian Judicial Council.

Who is the Canadian Judicial Council, honourable senators? It's found at section 59 of the Judges Act. The Canadian Judicial

Council consists — listen to this — of the Chief Justice of Canada, who will be the chair, and:

**b)** the chief justice and any senior associate chief justice and associate chief justice of each superior court or branch or division thereof;

**(c)** the senior judges . . . of the Supreme Court of Yukon, the Supreme Court of the Northwest Territories and the Nunavut Court of Justice; and

**(d)** the Chief Justice of the Court Martial Appeal Court of Canada.

Thirty-nine of the highest judges in Canada came forward with a brief in the other place, two months ago, with this conclusion at paragraph 28:

. . . We are of the view that such a requirement would infringe on the judiciary's independence to maintain control over judicial education and judicial discipline matters.

The Canadian Bar Association, as I mentioned, came with a similar brief which stated:

While we appreciate that the Bill is not intended to challenge the judiciary in this manner, any such effect may be found constitutionally unacceptable.

The Quebec bar came to a similar conclusion.

**The Hon. the Speaker:** I am sorry to interrupt, but I must advise that the honourable senator's time has expired.

**Senator Joyal:** Honourable senators, I am finished.

I suggest, honourable senators, that we think seriously about the constitutional impact of this bill and I thank you for your hearing in relation to that.

(On motion of Senator Fraser, debate adjourned.).

[Translation]

## SENATE MODERNIZATION

### FIRST REPORT OF SPECIAL COMMITTEE— DEBATE CONTINUED

On the Order:

Resuming debate on the consideration of the first report (interim) of the Special Senate Committee on Senate Modernization, entitled *Senate Modernization: Moving Forward*, deposited with the Clerk of the Senate on October 4, 2016.

**Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate):** Honourable senators, I did not yet finish organizing all the ideas that I wanted to share with you

regarding the first report of the Special Senate Committee on Senate Modernization.

With your permission, honourable senators, I would like to be able to come back to this at a later date.

(On motion of Senator Bellemare, debate adjourned.)

[English]

#### NINTH REPORT OF SPECIAL COMMITTEE— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Frum, seconded by the Honourable Senator Beyak, for the adoption of the ninth report (interim) of the Special Senate Committee on Senate Modernization, entitled *Senate Modernization: Moving Forward (Question Period)*, presented in the Senate on October 25, 2016.

**Hon. Terry M. Mercer:** Colleagues, I would appreciate the opportunity to go back a few more years in my research than I have. Therefore, I would appreciate it if we could reset the clock.

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

**Hon. Senators:** Agreed.

(On motion of Senator Mercer, debate adjourned.)

#### RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

##### SIXTH REPORT OF COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the sixth report of the Standing Committee on Rules, Procedures and the Rights of Parliament, entitled *Report on the Case of Privilege Relating to Leaks of the Auditor General's Report on the Audit of Senators' Expenses*, presented in the Senate on April 13, 2017.

**Hon. Joan Fraser:** Colleagues, I know that not everyone in this chamber shares my fascination with every dot and comma of the *Rules of the Senate* and of reports from the Rules Committee concerning rules, procedures and the rights of Parliament. I have not quite figured out yet how to make my remarks on this particular report sufficiently entrancing so you will all be riveted, so I ask your permission to adjourn for the balance of my time.

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

**Hon. Senators:** Agreed.

(On motion of Senator Fraser, debate adjourned.)

[Translation]

#### OFFICIAL LANGUAGES

##### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON CANADIANS' VIEWS ABOUT MODERNIZING THE OFFICIAL LANGUAGES ACT—FIFTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fifth report of the Standing Senate Committee on Official Languages (*Budget—study on Canadians' views about modernizing the Official Languages Act—power to hire staff and to travel*), presented in the Senate on June 15, 2017.

**Hon. Claudette Tardif:** Honourable senators, the Standing Senate Committee on Official Languages proposes that it travel to Prince Edward Island to hold public hearings and conduct a fact-finding mission on Canadians' views about modernizing the Official Languages Act.

The committee considers this study to be of great importance, since 2019 will mark the 50th anniversary of the enactment of the Official Languages Act. Since its enactment, the legislative framework for official languages has undergone major amendments twice in its history. However, we feel that the Official Languages Act has not been sufficiently modernized to reflect sociolinguistic, demographic or sociological changes, or evolving legal precedents in this country.

The Société Nationale de l'Acadie, which includes youth organizations from New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador, will hold its general assembly from September 22 to 24, 2017. We think it would be an excellent opportunity for committee members to meet with Acadian youth and take advantage of the gathering to hold public hearings. The proposed budget is \$67,400 for travel and accommodations for senators and support staff, including an analyst, reporters and interpreters.

• (2010)

Honourable senators, on behalf of the committee, thank you for your attention to the budget request for this study, which we feel is of tremendous importance.

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

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

[English]

## AGRICULTURE AND FORESTRY

### BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—STUDY ON THE POTENTIAL IMPACT OF THE EFFECTS OF CLIMATE CHANGE ON THE AGRICULTURE, AGRI-FOOD AND FORESTRY SECTORS—EIGHTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the eighth report of the Standing Senate Committee on Agriculture and Forestry (Budget—the potential impact of the effects of climate change on the agriculture, agri-food and forestry sectors—power to hire staff and to travel), presented in the Senate on June 15, 2017.

**Hon. Terry M. Mercer**, for Senator Maltais, moved the adoption of the report.

He said: Colleagues, I rise to speak on the eighth report of the Standing Senate Committee on Agriculture and Forestry. In this report we're talking about our study on the potential impact of the effects of climate change on agriculture, agri-foods and forestry sectors.

This is a request for a budget that will include travel to Halifax and Montreal on October 1 to 6 of this year, including staff, communications officers and interpreters. The request is for \$115,770. I think you will find it reasonable. This is an important study. We're anxious to get on with it, and I look forward to your support.

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

**Hon. Senators:** Question.

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

(Motion agreed to and report adopted.)

## BUDGET IMPLEMENTATION BILL, 2017, NO. 1

### MOTION TO INSTRUCT NATIONAL FINANCE COMMITTEE TO DIVIDE BILL INTO TWO BILLS NEGATIVED

On the Order:

Resuming debate on the motion of the Honourable Senator Pratte, seconded by the Honourable Senator Gagné:

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.

**Hon. Larry W. Smith (Leader of the Opposition):** Honourable senators, I want to speak briefly to a number of points that support the separation of the infrastructure bank provisions from Bill C-44.

When Minister Morneau appeared before the Senate Finance Committee he said that the next step of our government's plan is to strengthen and grow the middle class, something we have heard him say many times before.

With the same level enthusiasm he stated the infrastructure bank is a cornerstone to this effort, and I quote:

... it's fundamental to our plan to make historic investments in public infrastructure to build stronger, healthier communities, and to prepare our economy for the future.

Yet, when his officials testified before the same committee they described the proposed infrastructure bank as a relatively small part of the overall program. A "niche" I believe was the term they used.

In a matter of days, this proposal has gone from a niche in the overall plan to being the centrepiece of the government's fiscal framework.

The principal reason we need to separate this part of the bill from Bill C-44 is because the government has not provided adequate detail of its plan.

Let me provide facts. Bill C-44, Division 18 provides clauses 403 to 406 enacting the infrastructure bank act. The four clauses are simply a blank slate.

Senator Pratte is quite right to propose we separate these four clauses from Bill C-44. Parliamentarians deserve more information to evaluate how \$35 billion of taxpayer money will be governed, implemented and what benefit will be delivered under what risk conditions. Journalists, experts and provincial governments are equally eager to learn more.

Let me read headlines from newspaper reports that have come out in the last month: "Failures past haunt the Infrastructure Bank," says *National Post*, May 19; "Many things will have to click for Canada Infrastructure Bank to work," *The Globe and Mail* June 10; "Too many unanswered questions around the Canada Infrastructure Bank," *The Globe and Mail*, June 12; "Infrastructure bank won't best serve the public," *Toronto Star*, May 11; "The Liberals have ended up with an infrastructure bank that offers Canadians only downsides and risk," *National Post*, June 2; and "The infrastructure bank's boondoggle breeding program." That's not me saying it; it is *The Globe and Mail*, May 19.

Honourable senators, all we are asking for is more information to answer basic questions. I remind everyone in this room that the Quebec government has issued a request that the provincial

jurisdiction of each of the provinces be respected in dealing with the infrastructure bank. Quebec has added its voice to the scenario.

However, there are questions. What is Canada's infrastructure vision and plan? What is the purpose of the Canada infrastructure bank? How will risk and pricing be managed? What role will the provinces and territories we represent play in the decision-making process? What framework guarantees the provincial and territorial input on approvals and outcomes? 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?

Honourable senators, the only clear thing about the Canada infrastructure bank is that the business case has not yet been made. Too many fundamental questions remain unanswered, especially when \$35 billion of taxpayer money is at stake.

I agree with Senator Pratte. The enactment of an infrastructure bank requires further consideration. Separating these four clauses will allow the budget bill to proceed without delay, without compromising our role as parliamentarians to exercise due diligence. Thank you.

**Some Hon. Senators:** Hear, hear.

**Hon. Peter Harder (Government Representative in the Senate):** Would the leader take a question?

**The Hon. the Speaker *pro tempore*:** Will you accept a question?

**Senator Smith:** I will do my best to answer your question.

**Senator Harder:** It's a good role reversal.

**Senator Plett:** Let's see if he answers better than you.

**Senator Harder:** I'm sure he will, Senator Plett.

**Senator Mitchell:** He'll just quote *The Globe and Mail*.

**Senator Harder:** Senator Smith, would you agree with me that your comments with respect to federal-provincial jurisdiction are a red herring? Particularly as Minister Morneau, in committee, assured the members, saying the following:

I want to be clear that the bank does not encroach on provincial jurisdiction. We have every certainty that this bank will be subject to municipal, provincial and federal laws. It will respect the division of powers between the provincial and federal governments.

All relevant provincial and territorial laws will apply for all projects in which the bank invests. There are no special exemptions for the bank or for bank projects. We have sought counsel on this, and that is absolutely clear.

Subsequently a letter from the deputy ministers responsible affirmed the following:

The agent status for the bank in these limited circumstances is consistent with the status of many existing federal Crown corporations. Even when acting as an agent of the Crown, all applicable provincial, territorial and municipal laws will continue to apply to local infrastructure projects supported by the bank.

It is a red herring. I would ask you to confirm that.

**Senator Smith:** Thank you, Senator Harder, for that perspective. One thing we have learned through this exercise when we were looking at Madeleine Meilleur was it's great that you vocalize and verbalize our government's position. The question is: Do the people on the other side in the provinces have complete understanding? Had there been discussions?

• (2020)

When we look at things such as the excise tax and ask the question, "Did you do an evaluation of this particular activity with industry?" and 100 per cent of industry says "no," then it leads us to the question, "Has this type of conversation taken place between the federal government and the provinces?" And if the answer is no, then the governments in the provinces have the right to exercise concerns. So you could be 100 per cent right in terms of what we think inside the walls of our government in Ottawa, but has that messaging been properly communicated to the people in the provinces, which trickles down through the municipalities, cities, et cetera?

That's the only answer I could give you, and it's based on the perception I have of just listening and trying to understand what's going on in terms of the dynamics, listening to Senator Pratte and some of the people that talked about this with passion, because this is darned well important. One hundred eighty billion dollars for infrastructure, \$35 billion of which will go into the infrastructure bank, if I understand correctly.

So there's a lot of activity, and we're studying in our little Finance group with software to see how many projects have started. What is the completion rate and the percentage of success?

What we're finding out is there is a lot of talk and not a lot of execution. Maybe the execution is improving, but I think there is an issue of communication here that is a great opportunity for the federal government to take with the provinces.

**An Hon. Senator:** Good answer.

[Translation]

**Hon. Paul J. Massicotte:** Honourable senators, let me begin by saying that I support the right of the Senate to split a budget bill. Senator Pratte is perfectly entitled to exercise that right regarding Bill C-44.

That said, in this case Senator Pratte wants to separate the Canada infrastructure bank act from the rest of the budget implementation bill to give us more time to study it.

[English]

The question then becomes whether we really need to split Bill C-44 to allow us more time to complete our sober second thought on this infrastructure bank legislation. This is the critical question, in my opinion.

With all due respect to Senator Pratte and for the arguments he shared with us last Thursday, I simply don't see the need for extra time to study the Canada infrastructure bank act. As part of my work as a member of the Standing Senate Committee on Banking, Trade and Commerce, I can assure you that we have had enough time to do a thorough study of the bill.

Last week, the committee's chair, Senator Tkachuk, testified in the Senate that we devoted six meetings to the infrastructure bank legislation. We heard 29 experts, for a total of more than 10 hours. In both Senator Tkachuk's and my opinion, we heard enough testimony and had adequate time to study this bill so as to develop an adequately informed opinion.

[Translation]

I therefore see no reason to split Bill C-44 into two bills.

[English]

The question we should be focused on from now on is the following: With everything that we learned about this legislation and the different stakeholders' positions, the question is: Is there merit to amend the Canada infrastructure bank act within the budget bill? This is the real issue.

Even though I admit that the answer is less simple and obvious to me, this is certainly not due to a lack of information. That's why I do not feel that allowing more time for a study would help.

**Hon. Tony Dean:** Honourable senators, I'd like to start by thanking the Speaker for his ruling last week on the point of order. I respect that ruling and agree with it. It is consistent with my understanding of our mandate in the Senate under the Constitution Act when I walked into this place last November, and that opinion has not changed since.

I want to applaud my colleague Senator Pratte for his acceptance of the Speaker's ruling even though he disagreed with it.

Honourable senators, this is an important discussion with some major differences of view and a number of interests, some of which are coalescing and falling apart in a number of interesting ways. Those interests are strikingly transparent.

The issues in play here are important. They are significant, but they are reconcilable, and there is obvious middle ground.

Let's start with our point of agreement. We all agree that Bill C-44 might, and probably does, merit more scrutiny. Predominantly, we differ only on how that should occur. That's

the difference between us. How should that scrutiny take place and under what timelines?

The time required for additional scrutiny has been described in terms of weeks — I recently heard three weeks — and in this sense I agree with Senator Fraser and Senator Massicotte that it makes sense to take the time to exercise that scrutiny sooner rather than later and certainly without deferring it to the fall. We all understand in here the importance of budget bills.

Frankly, I can't see why anyone would agree that we would do other than get to this as quickly as we can, unless, of course, there is some political interest on the part of some in this place to delay the progress of this bill just for the sake of delaying it.

I don't say that lightly. I've had six months now to observe the approach to delay on the part of some in this place. So I'm not going out too much on a limb, but I make that point only for context, only for backdrop, just so that we understand. I say that without casting any shadow on my friend Senator Pratte. I'm not directing that in his direction.

Here is our challenge as I see it: There are two areas of concern, and they have become intertwined. The first is the nature of omnibus bills, and the second is about the substance of Bill C-44, and the proposed infrastructure bank, in particular. Those two things have become conflated, and I think it's time to disentangle them.

Let's look at omnibus bills first. There has been a growing concern in the Senate about omnibus bills. We have talked about it at the Modernization Committee. Bill C-44 has been magnified in that context.

Senator Pratte set out to bring a spotlight to omnibus bills using, I believe, Bill C-44 as an example. He succeeded mightily in doing that. He's put a terrific spotlight on omnibus bills in general, looking at the lens of Bill C-44.

In that sense, I think we'd all congratulate Senator Pratte for a mission well accomplished. While the government might well defend the current bill as being entirely reasonable, it will have heard and has heard loud and widely broadcasted concerns about omnibus bills in general. So the point has been made, senators, and it has been made well.

Let's be clear, though. Our concerns about omnibus bills in general do not, in themselves, compel us to divide Bill C-44, which is indisputably a budget bill, although, again, I say, some here may have an interest in being punitive, politically partisan or both. I certainly don't.

There is only one valid reason for extending debate on this bill regardless of how that is accomplished, and that's to tackle valid policy concerns and, perhaps, to a lesser extent, questions about architecture or government.

[Translation]

Honourable colleagues, this is not a complex bill. The issues have already been studied in depth at several committees as part of the pre-study.

[ Senator Massicotte ]

[English]

Colleagues, this is not a complex bill. We're talking about six pages in each of our official languages. Nor is this the first infrastructure agency to be created in Canada or elsewhere.

First, there are concerns about the governance structure of the proposed bank. We have heard strong arguments on all sides, a helpful dialogue in the media and lots of expert commentators.

• (2030)

There is a little bit of a lightning rod, but a low-voltage lightning rod, and it's a very thin excuse for delay, and here's why: As you know, colleagues, governments create agencies of different sorts and for different purposes. They've done this historically in the context of the so-called new public management movement, popularized oddly enough by both Margaret Thatcher and Al Gore. Why? Because they realize government isn't good at doing everything and probably doesn't need to be doing those things anyway, so purpose-built organizations can be created to do this.

Since the 1980s, there has been a proliferation of agencies. Every time an agency is created, there are major design decisions, including the major question of governance and those dealing with implementation. These are not taken lightly in government, and a lot of thought is given to them.

The options on governance for agencies are relatively straightforward. On the one hand is keeping everything close to the hands of a minister. On the other is moving the agency with complete independence outside of government, and everything in between.

Governments make those decisions carefully and contextually. They look for the right balance between efficiency, effectiveness, due diligence, oversight and accountability. There are no bright lines and no right answers. Although what we do know is that citizens and interest groups will hold government accountable regardless of the choice made, even in the case of a fully independent governance structure.

Governments may think they can contract out of accountability by creating agencies, but they can't. They discovered over the last 40 years that accountability follows ministers regardless of the governance structure.

And let's be honest with one another. If this bill proposed a fully independent governance structure, there would be some in this place who would say, "Where's the ministerial oversight?" They would be coming at it from the other end of the telescope. I'm not making that up, senators. When we debated the Canada pension bill reforms back in the fall, some looked at the Canada Pension Plan Investment Board, which would, of course, be the investor of additional contributions, and said, "Where's the government oversight? Is that a fully independent agency that's going to take all of those additional contributions? What's the minister's role in this?" That's what the other end of the telescope looks like.

That is why governance decisions are the government's decision to make, and the government will be held accountable for the outcomes associated with them, be they positive or negative.

In fact, expertise on the part of the chair, on the part of the board, on behalf of investment experts, is probably critically a much more important factor.

In the case of the infrastructure bank, given the spotlight that's been placed on it, there will be considerable pressure on the government to appoint a top-flight, quite muscular, independent chair and board, and one that will likely be a magnet for talent and doing the right thing. These are implementation issues and should be left to the board.

Bear this in mind, honourable senators. The role of the Senate will not end with the passage of this bill. We can watch how the bank unfolds and monitor its implementation. I can guarantee that there will be studies, progress reports and debates as these implementation decisions are made. Scrutiny and due diligence will continue. It won't end with the passage of this bill. You know that.

A second concern about the proposed bank is whether the federal government, under the terms of the bill, will be enabled to override municipal or provincial decision making on infrastructure. I understand — in fact I know, and I'm not going to repeat the answer given by Senator Harder — that the government has given an undertaking that this is not the case. I've looked at the legislation, obviously, and it's clear that the infrastructure bank is not designated as a Crown agent for purposes of this act. I'm certainly satisfied that that undertaking is solid.

The third issue we've heard thrown around is indexation of taxes on alcohol products, which of course isn't part of the infrastructure bank section. If there are some concerns about that, let's address them.

So bottom line: I believe that we can and should reconcile our differences with a little less drama and our feet back on the ground. Let's be clear about this: Politics is as much an obstacle in this debate as is public policy, perhaps even more so.

Honourable senators, I believe that there's a way to meet the government's reasonable calendar objectives for a budget bill, and to give this section of the bill the due diligence that we all believe it deserves.

[Translation]

That is the right thing to do. There is nothing more Canadian than taking everyone's needs into account.

[English]

This is the Canadian way.

There has, of course, been a paradox in this now long discourse about splitting this bill, and that is that the long discussion about splitting the bill has diverted us away from the very thing that proponents wanted in the first place, which is to give as much due diligence to this bill as possible. I'd rather be debating the substance of the bill than whether to split it. We haven't been given that opportunity. I'm saying now is the time. I don't believe it's appropriate to push it off into the fall. I agree with Senator Fraser when she said last week that if we need another three

weeks or four weeks, as suggested by Senator Pratte, let's take the time to do that now. This is well within our reach. I think in our heart of hearts everybody in this place knows that. Let's just get the job done.

**Hon. Leo Housakos (Acting Deputy Leader of the Opposition):** Would Senator Dean take a question?

**The Hon. the Speaker *pro tempore*:** Would you take a question, Senator Dean?

**Senator Dean:** I would be happy to.

**Senator Housakos:** Senator Dean, thank you for your comments this evening. I do agree with you. I think the debate isn't about if we have the right to split the bill or not. I think clearly this chamber has taken that decision already. By overturning the Speaker's ruling, we've decided that it's well within our purview to review this bill and split the bill.

For days and weeks now we've heard a number of colleagues in this chamber come up with some serious questions in regard to how this whole infrastructure bank will be structured, including concerns that have been brought up by senators that have been named by this government. So I think there's nothing more legitimate than senators who have been appointed to this chamber by the current Prime Minister and the current government asking serious questions about an initiative of this government.

Furthermore, what vacuum or void is the infrastructure bank filling? Obviously we've had a department of infrastructure in this country for a very long time. In 2008 in the midst of a terrible international recession, probably one of the worst since the Great Depression, the government at the time put out tens of billions of dollars of infrastructure money in a very short period of time, in cooperation with provinces and territories from coast to coast to coast. Of course in a very short period of time we saw tremendous success with those infrastructure programs. We saw that it served as a pillar.

**The Hon. the Speaker *pro tempore*:** Senator Dean's time is running out. If you do have a question —

**Senator Housakos:** Essentially my question to Senator Dean: What void is the infrastructure bank filling? When it's all said and done, there's an infrastructure department in Canada. There are about 31 agencies in this government that deal with infrastructure money. Now it seems to me the infrastructure bank is becoming a thirty-second agency on behalf of the government.

**Senator Dean:** Let me first acknowledge that any member of this chamber, regardless of the method of their appointment, is able to legitimately raise questions about any bill. There's no argument about that, absolutely none.

Why an infrastructure bank? I think all of us have read the bill and the section; all of us have read the government's communications materials. There is an interest in partnering —

**The Hon. the Speaker *pro tempore*:** Are you requesting more time to answer your question, Senator Dean?

**Senator Dean:** Yes.

**The Hon. the Speaker *pro tempore*:** Is it agreed, honourable senators, to give Senator Dean five more minutes?

**Hon. Senators:** Agreed.

**Senator Dean:** There is interest in attracting private sector capital into infrastructure projects in this country. I think to do that you need the talent, expertise and know-how to get it done. We know from other jurisdictions in Canada and around the world that in order to do that and do it well, it's important to attract the right talent to make good deals in the interest of Canadians with private sector and other investors.

• (2040)

A primary example, and something that I would like to see — and I know that you and others would like to see — are our world-leading pension fund investment agencies in this country, including the Canada Pension Plan Investment Board, investing more money in Canadian infrastructure as opposed to infrastructure offshore. It is very likely, and I think highly probable, that this vehicle will accomplish that. You've seen Canadian pension plans, which are world leaders, stepping up, supporting and looking forward to making investments through this agency. I think that's something we should applaud, and we should support the infrastructure bank and move it ahead as quickly as we possibly can. I thank you for your question.

**Hon. David Tkachuk:** I have just a quick question. Why does the Canada Pension Plan need an infrastructure bank to make an investment that would make a return for the pensioners who will be coming up in the coming years?

**Senator Dean:** Let me talk about that in terms of critical mass. It's become clear, if one looks at large pension investment agencies, that they go to Hong Kong, London and other jurisdictions because there are opportunities for partnerships with other pension plans and private sector investors, together with governments, to achieve a critical mass. They're not necessarily interested in small projects. They're interested in the sort of partnerships that are envisaged under the Canada infrastructure bank. I think they're eagerly awaiting the opportunity to do that, and we should give them the opportunity.

**Hon. Sarabjit S. Marwah:** Honourable colleagues, I rose last week to speak about the importance of the infrastructure bank, and I rise today to speak against the motion to split the Canada infrastructure bank act from Bill C-44.

At the outset, I would like to say that over the past few weeks I've heard many arguments about splitting the bill, but interestingly, very few have argued against the bank *per se*. So what we have here is more a question of form over substance.

Let me tell you why I do not support the motion. The first argument I think many senators have articulated — Senator Dean just said this a minute ago — is the issue of an omnibus bill. As I said last week, every budget bill by its very nature is an omnibus bill because they touch on so many different aspects of legislation.



The key issue, as Senator Woo so eloquently noted in his comments last week, is whether there's an abusive provision in the bill.

Bill C-44 is certainly an omnibus bill. It's an omnibus budget bill. However, it does not include any abusive provision. It is one that has a consistent theme, and the different elements are all related to the government's fiscal and economic agenda.

I would be the first to support Senator Pratte if there were an abusive element to the bill, but that is not the case here. On the positive side, if we have accomplished nothing else, we have made the government more aware of a collective view on omnibus bills. How is the infrastructure bank related to the economic agenda and the budget? Let me give you four ways.

First, infrastructure plays a foundational role in the health of a country's economy. Its modernization is often the deciding factor in improving productivity and efficiency. These, in turn, are the key factors that drive the economy. Hence, infrastructure spending — and a mechanism to do so through the bank — are heavily tied to the government's economic agenda. It may be a small part, as Senator Smith says, but it's still a part of the economic agenda.

Second, we will recall that a large part of the 2015 federal election was fought on the crucial policy debate over whether Canada should undertake investments in productivity-enhancing infrastructure projects or not. Canadians decided then that the time for infrastructure reinvestment had come.

The government's long-term infrastructure plan amounts to \$180 billion over 12 years in various forms for sorely needed projects. Of this amount, \$15 billion or \$35 billion, depending on how you look at it, will be dedicated to the establishment and project funding of the bank. This follows through on a very clear election commitment by the government, as outlined on pages 11 to 15 of the election platform, so how can we say it's unrelated?

Third, Minister Morneau's Advisory Council on Economic Growth in October of last year recommended the establishment of the bank in order to maximize the reach of federal dollars when leveraged with private sector interests. Furthermore, the overall fiscal profile of the government's infrastructure commitments was established through the 2016 fall economic statement, and the allocations to the bank were made in 2017 from within this fiscal profile.

Finally, we cannot view the infrastructure bank in isolation. Just as with Division 20, the creation of a new invest-in-Canada hub, the bank forms a key part of the government's fiscal and economic agenda and is focused on attracting investment that creates jobs and economic growth.

Given all of the preceding interrelationships, how then can we say the infrastructure bank is unrelated to the budget? On the contrary, it is an integral part of the budget.

The second argument being made to split the bill is that there has not been enough time to study it. However, thanks to the Senate's thorough pre-study, there has been heightened review of

this part of the bill, in both the Senate banking and finance committees. Colleagues, the Senate Banking Committee held a total of six meetings and senators heard from almost 30 witnesses. I think that would qualify as solid review.

Furthermore, as background for all of those who don't know the background, the development of the bank is based on considerable stakeholder input, starting with the needs expressed by provincial, territorial and municipal stakeholders to address the serious infrastructure gaps in their communities. In developing this approach, the government consulted with academics, investors, infrastructure experts, and global institutions such as the World Bank and the IMF.

The third argument that has been made is that the bank's projects would encroach on provincial jurisdiction. Colleagues, it has been made very clear in a June 5 letter sent to all of us from the deputy ministers of Infrastructure and Finance Canada that:

Projects supported by the bank will respect all applicable laws in the relevant jurisdiction, including any applicable environmental or labour laws. In addition, as a practical matter, the bank intends to participate in such projects in full cooperation and consultation with public partners.

I don't see how we can be clearer than that.

The fourth argument is that operational details are not available on exactly which projects would be eligible for funding. My response to that is, in the establishment of major new initiatives such as this bank, I have seldom found the exact details of an institution's undertakings being laid out before legislation on the institution is enacted. Proposals will be as they should be, assessed on a case-by-case basis after careful review by the bank's experts on which projects make sense and which don't. Operational details are best left to experts and management and not to bureaucrats or, for that matter, to senators.

Last, concerns have been raised regarding the proposed governance model as outlined in this act. The CEO and the board of the bank serve at the pleasure of the Governor-in-Council. Nevertheless, the minister responsible must first consult with the board on any terminations or removals of either the CEO or the chair. This is a higher standard than governance of EDC and CMHC, institutions where we've been happy with the governance for many years.

Honourable senators, this bank will be a steward of taxpayer funds and, therefore, the government has full responsibility to ensure that they are appropriately managed and in the public interest. The proposed governance structure strikes the right balance between federal oversight in the interest of taxpayers and the institutional autonomy in the interest of optimal performance.

So I shall end with the same statement that I made at the outset, that there are no substantive arguments to splitting the bill. Most of them are a form of politics and newspaper headlines over substance and good policy. Splitting the bill serves only to delay the government's continued focus on building infrastructure, which is contrary to economic growth, job creation and the quality of life of Canadians.

• (2050)

**Hon. Pierrette Ringuette:** Honourable senators, when the issue of the infrastructure bank was brought to my attention I had many questions, but I have to admit that now my questions have been answered. I have no more major issue with the infrastructure bank act and it being part of the budget Bill C-44. I believe that what started as concern before even hearing from witnesses has resulted in a series of events in the Senate I have not witnessed before.

As I discussed the issue indicated in the senator's motion to isolate the infrastructure bank from the budget Bill C-44, you will hopefully realize that there are constructive ways to deal with this element without dividing the budget bill.

The motion would remove Division 18, Part 4, i.e., the Canada infrastructure bank act, from the budget bill. Why? Most of you tonight have also indicated the big "why": because we need more time.

On the issue of time, at the Banking Committee we had six meetings and about 80 per cent was with regard to the infrastructure bank. Of course, our committee reported some issues to pay attention to, but not even to the extent of attaching observations to our report. There was no view that this measure should be removed from the budget bill expressed in our report.

Now that Bill C-44 has been referred to the National Finance Committee, this committee has all the time it decides to take in order to study Bill C-44. The government attached no time frame or deadline for the committee to report to the Senate. In other words, the National Finance Committee can study Bill C-44 through July, if need be. There is a cost, absolutely. There will be a cost for the Senate and there will also be a cost for the House of Commons, because they will be sitting until we report. But, like other things, there's a cost to doing something right.

Senator Pratte has indicated that he would need an additional two weeks to question his issue on the infrastructure bank. So with regard to the time we have, option A would be to sit two to three more weeks into July.

Honourable senators, the Senate sat into July in 2010 and into July in 2005 to review budget bills, so nothing is prohibiting us from sitting into July.

There's an option B with regard to time. We could agree to adopt Bill C-44 now, as-is, and put forth a motion for the National Finance Committee to study the issue of the infrastructure bank when we return in September. Honourable senators, that would provide enough time, if need be, for the committee to report recommendations to the Senate and to the Minister of Finance, as he will be in the process of drafting regulations.

With regard to time frame to study the infrastructure bank, this option is the same as per Senator Pratte's motion to study the measure for two weeks in September. Again, with regard to time

to study the infrastructure bank, there are other, more practical options than splitting the budget bill. Because some want to go home early for the summer is not a good excuse to split a budget bill, and only wait until September to study what is supposed to be an urgent and important matter, the infrastructure bank. One needs to wonder how the media — Senator Smith — will interpret such a cavalier act in regard to our senatorial responsibility.

Another question raised last Thursday was the \$35 billion, of which \$15 billion will be accounted as capital expense and another \$20 billion, consisting of guarantee and equity, will be registered as assets. So the federal government expense for infrastructure via the infrastructure bank will be \$15 billion, out of a total infrastructure spending of \$180 billion over 12 years. We have to compare apples with apples. This \$15 billion represents 8 per cent of the total infrastructure spending. When you carefully look at the budget forecast for the next five years, at table A 1.13, page 308, annex 1, it clearly indicates a total expense for the infrastructure bank of \$2.8 billion for the next five years. For the next five years, we're talking about \$2.8 billion.

Honourable senators, it is important to understand the amount of \$2.5 billion in the next five years. The reasons are twofold.

First, every year the minister will table a report with regard to the infrastructure bank. Every year, our Standing Senate Committee on National Finance or Banking can question and study this report if they decide to do so.

Second, and most important, as per Article 27 of the infrastructure bank provisions, every five years, the designated minister "must" — it doesn't say "shall" — the article says the minister "must" review the provisions and operations of the bank. This is an in-depth review, produced within one year, and the report shall be tabled and reviewed by both the House of Commons and the Senate.

All of the above is, of course, notwithstanding that at any time a motion in the Senate to study the work of the infrastructure bank can be accepted. I believe that all the above reviews and studies over the next five years for \$2.8 billion should greatly reduce oversight concerns.

Another issue voiced is the one with regard to risk. I do not know any entity or financial product that has no risk. They might market it as no risk, but there is always a risk. I certainly understand that a total of \$180 billion in infrastructure investment, for which \$165 billion will go to the usual three major infrastructure projects, are not risk-free.

In the last decade other billions have been invested, as indicated earlier in this chamber. Did we hear of any outstanding bad investment? Not to my knowledge.

I believe that the infrastructure bank will have excellent staff and board members. They will become a centre of excellence with regard to design, build, operate, and with due time shall provide true expertise to provincial and municipal governments — expertise that will certainly be appreciated.

• (2100)

Do we expect they will produce miracles? No. There will be growing pains that will require legislative changes, but until it has been up and running for a few years, every element of concern is, from my perspective, purely speculative.

Some have given attention to the fact that the bank is not a Crown agent except in certain situations.

Honourable senators, during our Banking Committee study we received a witness who professed that subclause 5(4) would allow the bank's projected infrastructure immunity from abiding to provincial and municipal laws. Honourable senators, when I asked the witness if he could provide us with any example of such speculation, there was none that he could identify.

Following that Banking Committee meeting, I reflected as to which current or future provincial government would, as a partner in an infrastructure project or not a partner, accept the project not respecting its own legislation.

In my humble opinion, no province would sidetrack its own legislation. If one wants to speculate that a province may do so, citizens will certainly challenge that action in court.

[Translation]

Raise your hand, honourable senators, if you believe that a current or future provincial government — certainly not Quebec, of course, which has always had very strong governments — could not stand up to the federal government. If you truly believe that there is a provincial government whose rights could be trampled, when it comes to its legislation, raise your hand.

[English]

Stand up. Be counted. Stop speculating.

[Translation]

Honourable senators, the reason proposed in this motion for splitting the budget bill, Bill C-44, is rather extreme because we currently have other options for studying the Canada infrastructure bank. Bill C-44 provides for a complete review of the legislation after five years, not to mention that we can study the matter at any given time. The \$2.8 billion in spending over five years is just 18 per cent of the \$15 billion before the full review is conducted. It is a balanced approach that will make it possible to invest the rest of the money, \$165 billion, in a range of predominantly municipal projects that our small municipalities need so badly.

Speculation has no place in our Senate, our chamber of sober second thought. I encourage you to vote against this motion, even though I very much like Senator Pratte. Thank you.

**Some Hon. Senators:** Hear, hear!

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

**Senator Ringuette:** Certainly.

**Senator Pratte:** Since you like me so much.

It was the Government of Quebec that asked the senator to amend the bill and not based on speculation, but out of real

concern that the bill might create a situation where the Canada infrastructure bank would be designated as a Crown agent on a specific project.

Since the Government of Canada confirmed both orally and in writing, in letters, that its intention with this bill is not to intrude on provincial jurisdiction, we asked it a number of times to include that in the bill, but it refused.

[English]

**The Hon. the Speaker:** Excuse me, Senator Ringuette, your time has expired. You will need to ask for time to answer the question, if you wish.

**Senator Ringuette:** Can I have more time to answer Senator Pratte's question?

**Hon. Senators:** Agreed.

[Translation]

**Senator Ringuette:** I saw that, and the Government of Quebec moved that motion and adopted it in the National Assembly about six weeks ago. I am sure they benefited from the testimony before the Standing Senate Committee on Banking, Trade and Commerce.

As I said in my speech, Senator Pratte, the first thing we must all understand is that projects funded by the Canada infrastructure bank will be public projects. They would have to be federal projects or done in partnership with a provincial government.

It is also important to understand that municipalities are creatures of the provinces, so there can be no municipal projects without the consent of the province the municipality is in. For example, if Montreal wants funding from the Canada infrastructure bank — or any of the other three infrastructure programs — it has to go through the provincial government. We must recognize all three levels of government.

In that sense, the Canada infrastructure bank will be no different. It is not accurate to suggest that the bank would do a project in Rimouski without the consent and partnership of the provincial government. That has never happened in the 20 years we've had infrastructure programs.

Expert testimony at the Standing Senate Committee on Banking, Trade and Commerce, as well as testimony from the minister, and from Department of Finance and Infrastructure Canada deputy ministers, made it clear that there is no intention within the bill, the programs or the action plan to bypass the provinces.

My main concern when I heard about the Canada infrastructure bank for the first time was that our small communities would once again be abandoned in favour of large infrastructure projects in Canada's big cities, but that is not true.

The demand for infrastructure at the municipal, provincial, and national levels is currently estimated at over \$590 billion. I hope that both the big cities, along with their large infrastructure

megaprojects, and our small municipalities will be able to use this bank to realize their dreams of having better infrastructure.

Since Quebec has a strong government, as it always does, I am not at all worried that there will be any overlap with, infringement upon, or negligence with regard to the provincial legislation.

**Hon. Éric Forest:** May I ask Senator Ringuette a question?

• (2110)

[English]

**The Hon. the Speaker:** Senator Ringuette, to answer another question — you just used five minutes on that one — you will have to ask for more time.

Is more time granted?

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** Sorry, Senator Forest.

Senator Gold, on debate.

**Hon. Marc Gold:** Honourable senators, most of the people that have spoken in this chamber are fairly clear in their positions, and it has been elegant and persuasive. I may be speaking only for myself, but I'm really struggling with this issue. I don't find this an easy one at all. I'm going to reserve the right to wait until I hear Senator Woo to finally decide, but I lean towards splitting and I'll tell you why.

It's not primarily — rightly or wrongly — out of a concern for governance. I think the arguments made in that regard are persuasive. Nor is it about the bill generally. You won't be surprised to hear this, but it is about the potential impact on areas of provincial jurisdiction. With respect, I don't think it's just a matter of speculation, and I will turn to that in a moment. I think we have a responsibility faced with a bill to take a hard and, dare I say, cold-eyed look at the actual text of the law to make sure that whatever the intentions of a current or future government are, the law itself is solid and clear and respects the principles of Canadian federalism and all the other values that we're duty-bound to consider.

But allow me to speculate for one brief second. I may be entirely wrong, but I can imagine a particular municipality or province or government or private investor finding, rightly or wrongly, inconvenient some aspects of an environmental law or a health and safety law or other laws because, let's face it, that slows projects down, and we often suffer as a result.

So I can imagine the possibility that, for the best of intentions, an agreement might be reached — an agreement that might never see the light of day because of confidentiality rules embedded in the bill — and that we will modify or ignore certain laws. Now, that is pure speculation and I offer it only as an example of my skepticism about always taking governments at their word.

[ Senator Ringuette ]

Let me be more legalistic. As I read the bill, if the government chooses to make the bank an agent of the Crown for a particular project, as contemplated in proposed section 5(4)(d), and that project falls within an area that would otherwise be of exclusive provincial jurisdiction — expanding a university or building a highway — then I believe it would be correct to say that by virtue of section 17 of the Interpretation Act, the bank for that project would be immune by law from the operation of provincial laws, whether environmental, labour, health and safety, which would otherwise apply to it.

It would be politically foolish and costly to do so, to be sure, and that's why I frankly don't understand why, with the passage of these weeks, there has not been a willingness on the part of the government to simply amend or commit to amending the law to make it clear that in areas of pure provincial jurisdiction, provincial law would apply, as contemplated in the Interpretation Act.

So I lean towards dividing in the interests of — forgive me for saying this — putting some pressure on government to respond to this non-speculative and legitimate concern about the possible impact of this on provincial law.

But, honourable colleagues, I would also like to put this in the context — I share my struggles with you — of how I see our role in relation to the other place and in relation to this because it's all inextricably bound.

Our job is to identify problems in legislation, whether it is budget legislation or others, and suggest ways in which we could improve it, mindful of the conventions and practices that pertain to different kinds of bills. In this particular case, whether we divide the bill or insist in committee and come back — I'd be happy to substitute for anybody, if that's the will of the chamber, for the weeks to come — to propose amendments to improve the bill. But if the government, at the end of the day, decides to reject the division, or if the government decides to reject the amendments that we may or may not insist on in committee or in this chamber, I will defer when it comes back with the message.

I feel we will have done our job to have raised the issue. I believe we had the right to split the bill. I supported the Speaker's ruling notwithstanding my belief, and I believe we have the right to push hard back on the government to say, "Clarify your intentions," which I believe are in good faith, but you may not always be the government. If at the end of the day the other place decides otherwise, then I believe it would be our duty to defer to it. It is not our duty or responsibility or our job to hold up a bill of this importance to Canadians, but for the moment, I will conclude with where I began: I'm still struggling with this issue. Thank you for your indulgence.

**Hon. Yuen Pau Woo:** Honourable senators, at the end of a long night, I have the unenviable job of trying to pull the threads together. I had prepared a speech, which I will not deliver because many of the points have been raised by colleagues who argue against splitting the bill. They were very good arguments. I may summarize them briefly, but I will try to use my time to address Senator Gold's concerns, probably ineptly.

Let me start by summarizing the arguments that I have heard and why I think they very strongly support the case for not splitting the bill.

You will recall from my second reading speech last week that I set out two criteria for splitting a bill. The first criteria was that there was an abuse of an omnibus bill, which could stem from a thematic dissonance on the part of the said problematic division, or it could stem from the use of an omnibus bill and the Royal Recommendation to ram through a related provision that was nevertheless very contentious and perhaps odious to a large section of the population.

We do not have either of those conditions in this bill. Senator Pratte himself and others who argue in favour of splitting the bill have clearly stated that they support the bank in principle. There is no fundamental problem with the idea of the Canada infrastructure bank.

The second criteria I laid out, which has been picked up by many colleagues here, is the inadequacy of time to review the legislation and therefore the need to hive off this piece to spend more time on it.

Again, it has been very well argued that we have had sufficient time, and the best argument of all is the one put forward by the Chair of the Banking Committee, Senator David Tkachuk, who said unequivocally that the committee did a thorough review of the Canada infrastructure bank and that there was no consideration given whatsoever to splitting the CIB from Bill C-44.

We have covered off those key points, and the criteria have not been met on those grounds alone. I think we should reject Senator Pratte's motion to split the bill.

Even if I am unable to answer, Senator Gold, your concerns about jurisdictional issues, I would point out that even then there is not a case for splitting the bill because you have the option of proposing an amendment to the very issues that you have raised tonight rather than taking the more draconian measure, as Senator Ringuette said, of splitting the bill. It would seem to be a sledgehammer approach to dealing with a problem that could be dealt with using a fountain pen.

• (2120)

To get to the point of jurisdiction, first, I have to repeat what the deputy ministers have said to us in their letter. It cannot be more unequivocal, and I quote:

Even when acting as an agent of the Crown, all applicable provincial, territorial and municipal laws will continue to apply to local infrastructure projects supported by the bank.

Now, you have read the letter. Presumably you're not satisfied, so let's imagine a situation where the bank does act as a Crown agent on an infrastructure project in a Canadian province.

Let's think about where the project idea would have come from in the first place. It would have come from the locality, from the municipality; it would have come from the province. It is inconceivable that the originators of the project idea would not want to have their laws respected and implemented in the execution of the project.

Remember also that the whole idea of the Canada infrastructure bank is not that the federal government, as the saviour of the provinces, comes in and builds the project holus bolus and hands it over. It is that the federal government provides a relatively small amount of bridge funding to do what — to trigger private sector leverage. Can you imagine a controversial project between the federal and the provincial government and a municipality about which laws are going to be followed and who is in charge? Can you imagine a private sector investor wanting to be involved in that project?

From the sheer practicality of the Canada infrastructure bank becoming successful — and success is defined in part by the ability to attract private sector investment — with due respect, I think your scenario is very far-fetched. It's far-fetched from the point of view of the project originators. It is far-fetched also from the point of view of seeking private sector investment.

So, colleagues, I want to conclude with this brief summation. I hope it accurately reflects the views of those who argue against splitting the bill. We have not established criteria for splitting the bill. If we go ahead and split it, it will set a bad precedent because it will be seen I think as a capricious act of the Senate. We have not articulated what the actual grounds are and if we did go ahead with this capricious act, I fear it might lead to capricious measures and capricious proposals to make changes that are self-serving and do not improve the functioning or purpose of the Canada infrastructure bank. I hope you will join me in defeating this motion. Thank you.

**Some Hon. Senators:** Hear, hear!

[Translation]

**Senator Forest:** Would the senator accept a question?

**Senator Woo:** Yes.

**Senator Forest:** The primary objective of the infrastructure bank is to attract private investments in major infrastructure projects. However, Minister Morneau has said that major infrastructure projects that are profitable, that is, the ones that are likely to attract private investment, are rather rare in Canada. There are currently three projects out of 258 that are public-private partnerships. The minister said that without these investments from the bank, the projects would never get off the ground. Their profitability is therefore in question. In addition, according to the minister, major infrastructure projects will likely be submitted by provincial governments, for example.

As an aside, the infrastructure bank is a tool, and not an end in itself, to deliver on the massive investment needed to address the current infrastructure deficit of about \$570 billion. By focusing on the goal of attracting private investments, we must keep in mind that the cost of private financing is greater than that of public money on bond markets. Furthermore, private investors will want to get a return on their investment. Ultimately, I have to wonder whether the bank's profitability is more of a political question or an economic one. At the end of the day, the cost of a project will not be any higher, but politically, this bank will allow the government to avoid taking the fall for the user fees that will

inevitably be introduced on these major infrastructure projects. The Champlain Bridge toll comes to mind, although that had been refused in the past.

My question for you, senator, is the following. Considering all those factors, is the bank's profitability not more political in nature, for the government, rather than economic in nature for Canadians?

[English]

**Senator Woo:** I hope I understood your question. If I could rephrase it, you asked if the profitability of the bank should be measured by political profitability rather than financial or traditional economic measures of profitability. I may not phrase it quite in those ways, but I think you're on to something there.

The purpose of the Canada infrastructure bank is to enable transformative infrastructure that is in the public interest and that wouldn't otherwise be built.

The starting point in understanding the Canada infrastructure bank is that this government — whether you agree or not with their program — believes there is a massive deficit in infrastructure in this country that has to be filled. They have set aside \$186 billion over 12 years. They are thinking, "Wouldn't it be great if we didn't have to spend just our money to build all this stuff that we need to get built? Wouldn't it be great if we could set aside \$35 billion — in fact it is actually \$15 billion — and get more money leveraged from the private sector, reduce our risk in building those projects and, with the money we save, build stuff that has to be built using the traditional way?"

You're absolutely right. The measure of success of the Canada infrastructure bank isn't going to be that there is no share price but it will not be the dividends that are paid to the government. It will be in whether they can get projects built that weren't otherwise built and that wouldn't have otherwise been built and whether they can do this in a way that reduces the cost to taxpayers and increases the efficiency of the operation of those projects.

Thank you.

**Senator Gold:** Would the senator take another question?

**Senator Woo:** Of course.

**Senator Gold:** Senator Woo, as the sponsor of the bill, would you be supportive of an amendment in the committee that would clarify the application of otherwise valid provincial law on projects in the provincial area?

**Senator Woo:** Thank you, Senator Gold. I find the explanation provided by the two deputy ministers and the Minister of Finance to be quite satisfactory. I personally do not see any need for an amendment but I respect the right of senators to propose amendments that they believe are in the best interests of the country.

I would remind everyone — and I'm only reporting what we all heard from the Finance Minister when he came to the Finance Committee hearing a few days ago — that the government intends

to keep the bill intact. That is the intention of the government and my expectation — I have no control or inside knowledge — is that any amendment is likely to be returned to us and the bill returned in its original form.

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

**Hon. Senators:** Question.

**The Hon. the Speaker:** It is moved by the Honourable Senator Pratte, seconded by the Honourable Senator Gagné, that it be an instruction to the Standing Senate Committee on National Finance that it divide Bill C-44 — shall I dispense?

**Hon. Senators:** Dispense.

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

**Some Hon. Senators:** No.

**Some Hon. Senators:** Yes.

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

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** All those opposed to the motion 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 the bell?

**Senator Plett:** Thirty minutes.

**The Hon. the Speaker:** The vote will take place at 10 o'clock.

• (2200)

Motion negated on the following division:

#### YEAS THE HONOURABLE SENATORS

Andreychuk  
Ataullahjan  
Batters  
Beyak  
Boisvenu  
Dagenais  
Doyle

McCoy  
McInnis  
McIntyre  
Mercer  
Mockler  
Ngo  
Oh

[ Senator Forest ]

Duffy  
Eaton  
Enverga  
Forest  
Frum  
Griffin  
Housakos  
Joyal  
Lang  
MacDonald  
Manning  
Marshall

Plett  
Poirier  
Pratte  
Runciman  
Seidman  
Smith  
Stewart Olsen  
Tannas  
Tkachuk  
Unger  
Wells  
White—38

Galvez  
Greene  
Harder

Watt  
Wetston  
Woo—38

ABSTENTIONS  
THE HONOURABLE SENATORS

Gold—1

• (2210)

SENATE MODERNIZATION

SPECIAL COMMITTEE AUTHORIZED TO EXTEND  
DATE OF FINAL REPORT

**Hon. Thomas J. McInnis**, pursuant to notice of June 8, 2017,  
moved:

That, notwithstanding the order of the Senate adopted on Monday, December 12, 2016, the date for the final report of the Special Senate Committee on Senate Modernization in relation to its study of methods to make the Senate more effective within the current constitutional framework be extended from June 30, 2017 to December 15, 2017.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

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

NAYS  
THE HONOURABLE SENATORS

Bellemare  
Black  
Boniface  
Bovey  
Campbell  
Christmas  
Cools  
Cordy  
Cormier  
Day  
Dean  
Dupuis  
Dyck  
Eggleton  
Fraser  
Gagné

Hartling  
Hubley  
Lankin  
Marwah  
Massicotte  
McPhedran  
Mégie  
Mitchell  
Moncion  
Munson  
Omidvar  
Pate  
Petitclerc  
Ringuette  
Saint-Germain  
Tardif

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