



# DEBATES OF THE SENATE

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1st SESSION



42nd PARLIAMENT



VOLUME 150



NUMBER 168

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OFFICIAL REPORT  
(HANSARD)

Thursday, December 7, 2017

The Honourable GEORGE J. FUREY,  
Speaker

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## THE SENATE

Thursday, December 7, 2017

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

Prayers.

### SENATORS' STATEMENTS

#### PAUL HINDO

CONGRATULATIONS ON APPOINTMENT AS HONORARY  
COLONEL OF THE CANADIAN ARMY

**Hon. Peter Harder (Government Representative in the Senate):** Honourable Senators, I rise to speak as a proud Ottawa senator from Manotick to bring the attention of the chamber to the appointment of Mr. Paul Hindo as the next Honorary Colonel of the Canadian Army.

Honorary Colonel Hindo is a neighbour and friend, but one only has to see his record as a generous and energetic philanthropist to know that he acts as a neighbour and friend to all who call Ottawa home, and so many beyond.

Paul knows how to give and how to inspire — two sterling qualities that will serve him well in his new role as Honorary Colonel of the Army.

Honorary Colonel Hindo will help foster esprit de corps within the military community and build strategic alliances with stakeholder groups — responsibilities that I know he will carry out with his trademark gusto and charm.

[Translation]

This is just one of the many honours bestowed on Paul Hindo in the course of his life.

Born in Iraq, he moved to Montreal with his family in 1972, before later settling in Ottawa.

In Ottawa, Paul became an extremely successful businessman and a leader in several public and community organizations. He is well known for his boundless energy and extraordinary generosity.

[English]

He was awarded the Queen's Diamond Jubilee Medal in 2012 and was awarded the Canadian Forces Decoration for his service as a primary reservist with the Black Watch.

Since 2009, he has served as Honorary Colonel of the Cameron Highlanders.

In his new role, Paul Hindo takes the place of the outgoing Honorary Colonel of the Army, Blake Goldring, who, during his tenure, distinguished himself by strengthening relationships between the Canadian Army and stakeholder groups and developing esprit de corps.

Paul Hindo has big boots to fill, but I am confident that he will not only fill them but also march them in new directions as he enhances the public profile of the army and continues to develop community support.

While acting as the guardian of army traditions and history, he will also support commanders and promote regimental identity and culture.

He will act as an ambassador for the army, raising awareness of the important work that this major institution and its soldiers do so that more Canadians know the vital work of the army in our communities and for our country.

Honourable senators, please join me in thanking outgoing Honorary Colonel Blake Goldring and congratulating the new Honorary Colonel of the Canadian Army, Paul Hindo.

### NATIONAL DAY OF REMEMBRANCE AND ACTION ON VIOLENCE AGAINST WOMEN

**Hon. Nancy Hartling:** Honourable senators, yesterday was December 6, the National Day of Remembrance and Action on Violence Against Women in Canada. It was on that very day 28 years ago that 14 young women were murdered at l'École Polytechnique de Montréal — murdered because they were women. I remember this day so vividly!

It is of the utmost importance that we continue to remember this tragic event in recent Canadian history, and it is equally significant to take time to commemorate these young women. We should also remember all the other women who have died of gender-based violence or who are still living in abusive situations.

Since 1989, the year of the Montreal Massacre, over 40 New Brunswick women have died by intimate partner violence. Sadly, Cindy McCormick, from Saint John, New Brunswick, was added to the number on October 22, 2017. Cindy was a dentist and owned the Bayside Dental Clinic. I did not know her personally, but she was described by her friends and family as outgoing, well-spoken, funny and fearless. She had a great smile and a kind soul. She was a woman who loved music, played hockey, and even participated in "Wipeout Canada." She was the mother of two teenagers.

Cindy was a daughter, a mother, a sister, a niece and a friend. She was a person who died much too young, and as no one should, at the hands of an intimate partner.

Unfortunately, this type of gender-based violence is not a random occurrence. Approximately every six days, a woman is killed by an intimate partner in Canada. The Canadian Women's Foundation reports that 67 per cent of Canadians have known a woman who has experienced physical or sexual abuse. The CWF also reports that on any given night in Canada, close to 3,500 women and over 2,700 children are sleeping in a shelter because it isn't safe for them to be at home.

Let us never forget our indigenous sisters, who experience violence at a rate of 2.7 times higher than that reported by non-indigenous women.

Between 1980 and 2012, the RCMP have confirmed that there were 1,181 cases of missing and murdered indigenous women. Some say that number is closer to 4,000.

Gender-based violence has devastating effects on individuals, families and communities. That is why the National Day of Remembrance, along with the 16 Days of Activism Against Gender-Based Violence, which is held between November 25 and December 10, are needed and occur every year. These provide an important opportunity to reflect on the causes of gender-based violence and their significant costs. It is also a time to take action.

Once again, esteemed colleagues, I call on you to speak out against gender-based violence, to speak up if you see or suspect something is wrong, and to engage your families, friends and Canadians in a dialogue to end sexism and misogyny. Thank you.

• (1340)

#### VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Jonathan McPhedran-Waitzer. He is the guest of the Honourable Senator McPhedran.

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

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

[*Translation*]

#### NUCLEAR NON-PROLIFERATION

**Hon. Marilou McPhedran:** Honourable senators, I rise today to congratulate Judge Kimberly Prost, a Manitoban judge who was elected to sit on the International Criminal Court the day before yesterday.

[*English*]

Brava to Judge Prost. Our nominee for the International Criminal Court, Judge Kimberly Prost, was elected two days ago in New York City and will now be on the largest international judicial body that investigates and tries individuals charged with crimes such as genocide, war crimes and crimes against humanity.

I want to take a moment to acknowledge and thank our own Senator Harder for some early and quiet diplomacy that I believe was of great assistance in our reaching this success.

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

[ Senator Hartling ]

**Senator McPhedran:** On that note, this morning I had the opportunity to speak on the nuclear ban treaty petition which has been signed by over 1,000 members of the Order of Canada. I wish to reiterate in this chamber the importance of Canadian leadership in the fight for nuclear non-proliferation and the abolition of nuclear weapons.

[*Translation*]

Over 1,000 members of the Order of Canada, individuals who have received one of the highest honours for their contributions as Canadians, support the petition for a treaty banning nuclear weapons.

[*English*]

To close, I invite colleagues to tune in to Facebook Live where my team and I, with other young Manitoban parliamentarians and deputies from our House of Commons and community members, will be celebrating the power of young people with a youth dance for peace. This dance will be to celebrate the second anniversary of the UN Security Council Resolution on Youth, Peace and Security adopted by the Security Council on December 9, 2015.

Please feel free to contact my office should you wish to learn more and have direct access to Facebook Live.

I wish to also note that this is in cooperation with indigenous youth leaders and indigenous organizations in Winnipeg and will be a round dance. This is the only one in the global movement that will be an indigenous round dance.

Thank you. *Meegwetch.*

#### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of a group of University of Ottawa Law Faculty students and Algonquin College interns who have worked in Senator Pate's office this term. They are the guests of the Honourable Senator Pate.

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

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

#### EDUCATION—SENATE SUPPORT STAFF

**Hon. Kim Pate:** Honourable senators, I rise to speak about the importance of education and to remind all of us how we may contribute to the experiences of students.

Many of us in this chamber of sober second thought have benefited from and can attest to the formative nature and value of education, whether it be university, college, apprenticeship programs or other types of initiatives. How they open doors, provide us with opportunities and offer pathways to futures that enrich our careers and our lives.

Since early September of this year, I have had the privilege and pleasure to work with a number of students, including the interns who were just introduced to you, University of Ottawa law students who have been earning credits while gaining hands-on experience in our parliamentary processes. These interns have attended committees, compiled briefing notes, reviewed witness testimony, researched areas of the law in support of drafting legislation and developed a deeper understanding and an earnest commitment to the work that contributes to the development of laws that help shape this nation.

Their efforts have helped to inform our work on behalf of Canadians and I trust that they may also assist them and guide them as they complete their education, and indeed, throughout their careers.

I acknowledge and thank all of the students with whom we have worked since I joined this place. I am most appreciative of their contributions and wish them well on their continuing journey.

At this time, I also want to acknowledge and express my gratitude to all of you, and on behalf of all of us, our particular thanks to the many individuals who work together behind the scenes so that we may fulfill our duties and responsibilities.

[Translation]

Thank you to Éric, who ensures the office water cooler never goes empty. Thank you to Sylvie, so busy and yet so efficient, who delivers our mail twice a day.

[English]

From those who clean our offices to the translators, technicians, clerks, pages, protective staff, resource and office staff who keep us organized and efficient.

[Translation]

I especially want to thank those who take the trouble to help me with my French.

[English]

Few outside of our offices are aware of the fabulous and diverse teams who make up — and here I repeat the words last night of the Black Rod and His Honour the Speaker — the Senate family. The Senate family who support us so that we, dear colleagues, can continue to serve all Canadians, particularly those whose voices are not always heard.

For all of this and so much more, I say thank you. *Meegwetch.*

[Translation]

## ROUTINE PROCEEDINGS

### GOVERNOR GENERAL

COMMISSION APPOINTING EMMANUELLE SAJOUS  
AS DEPUTY—DOCUMENT TABLED

**Hon. Peter Harder (Government Representative in the Senate):** Honourable senators, I have the honour to table, in both official languages, a copy of the commission appointing Emmanuelle Sajous Deputy Governor General.

[English]

### BANKING, TRADE AND COMMERCE

BUDGET AND AUTHORIZATION TO TRAVEL—STUDY ON ISSUES  
AND CONCERNS PERTAINING TO CYBER SECURITY AND CYBER  
FRAUD—EIGHTEENTH REPORT OF COMMITTEE PRESENTED

**Hon. Douglas Black,** Chair of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

Thursday, December 7, 2017

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

### EIGHTEENTH REPORT

Your committee, which was authorized by the Senate on Tuesday, October 17, 2017, to study and report on issues and concerns pertaining to cyber security and cyber fraud, respectfully requests funds for the fiscal year ending March 31, 2018.

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,

DOUGLAS BLACK  
*Chair*

(For text of budget, see today's Journals of the Senate, Appendix, p. 2799.)

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

**Senator Black:** Honourable senators, with leave of the Senate, I move the adoption of the report.

I have nothing more to add except to indicate it needs to be done today, if possible, for two reasons. First, this report is required to be adopted in order to attend a Wall Street Journal conference on cybersecurity in New York City next week. We initiated this in committee about a month and a half ago, but then because of the transition period of time that was taken to restructure committees and redo chairs it simply was unable to be brought forward. There is an administrative reason and a reason for urgency because the meeting is literally next week.

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

**Hon. Senators:** Agreed.

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

**Hon. Senators:** Question.

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

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

• (1350)

[Translation]

## THE SENATE

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

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

That, pursuant to section 3 of the *Statutes Repeal Act*, S.C. 2008, c. 20, the Senate resolve that the Act and the provisions of the other Acts listed below, which have not come into force in the period since their adoption, not be repealed:

1. *Parliamentary Employment and Staff Relations Act*, R.S., c. 33(2<sup>nd</sup> Supp):

-Parts II and III;

2. *Contraventions Act*, S.C. 1992, c. 47:

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

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

-sections 17 and 18;

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

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

-section 37;

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

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

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

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

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

-section 45;

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

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

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

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

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

-sections 12 and 45 to 58;

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

-sections 10 to 17 and 25 to 27;

13. *Budget Implementation Act, 2005*, S.C. 2005, c. 30:

-Part 18 other than section 125;

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

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

15. *An Act to amend the law governing financial institutions and to provide for related and consequential matters*, S.C. 2007, c. 6:

-section 28, subsection 30(1), subsection 30(3) in respect of paragraph 439(3)(a) of the *Bank Act*, subsection 88(1), subsection 88(3) in respect of paragraph 558(3)(a) of the *Bank Act*, subsection 164(1), subsection 164(3) in respect of paragraph 385.04(3)(a) of the *Cooperative Credit Associations Act*, section 362 in respect of subsections 425(1) and (2), paragraphs 425(3)(a) and (c) and subsection 425(4) of the *Trust and Loan Companies Act*.

[English]

**Hon. Terry M. Mercer (Acting Leader of the Senate Liberals):** Your Honour, before we move on, perhaps we might ask Senator Bellemare, when the time is appropriate, to give some explanation. I understand what is going on, but we have a whole bunch of new senators who didn't work here when Senator Banks moved this.

**Senator Bellemare:** I am moving the motion.

**The Hon. the Speaker:** Senator Mercer, this is just notice of a motion. When the motion is moved there will be debate on it.

[Translation]

#### ACCESS TO INFORMATION ACT PRIVACY ACT

##### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-58, An Act to amend the Access to Information Act and the Privacy Act and to make consequential amendments to other Acts.

(Bill read first time.)

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

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

#### ANISHINABEK NATION EDUCATION AGREEMENT BILL

##### BILL TO AMEND—FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-61, An Act to give effect to the Anishinabek Nation Education Agreement and to make consequential amendments to other Acts.

(Bill read first time.)

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

**Hon. Peter Harder (Government Representative in the Senate):** Honourable senators, with leave of the Senate, I move that the bill be read the second time later this day.

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

**Hon. Senators:** Agreed.

(Bill placed on the Orders of the Day for second reading later this day.)

• (1400)

[English]

#### ABORIGINAL PEOPLES

##### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF THE FEDERAL GOVERNMENT'S RESPONSIBILITIES TO FIRST NATIONS, INUIT AND METIS PEOPLES

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

That, notwithstanding the order of the Senate adopted on Tuesday, February 2, 2016, the date for the final report of the Standing Senate Committee on Aboriginal Peoples in relation to its study of the federal government's constitutional, treaty, political and legal responsibilities to First Nations, Inuit and Métis peoples and on other matters generally relating to the Aboriginal peoples of Canada be extended from December 31, 2017 to December 31, 2018.

#### BANKING, TRADE AND COMMERCE

##### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF THE PRESENT STATE OF THE DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM

**Hon. Douglas Black:** 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 January 27, 2016, the date for the final report of the Standing Senate Committee on Banking, Trade and Commerce in relation to its study on the present state of the domestic and international financial system be extended from December 31, 2017 to December 31, 2018.

## FISHERIES AND OCEANS

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

**Hon. Fabian Manning:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Fisheries and Oceans have the power to meet on Tuesday, December 12, 2017, at 5 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

[Translation]

## ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

**Hon. Rosa Galvez:** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to meet at 5 p.m. on Tuesday, December 12, 2017, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

[English]

## GOVERNMENT'S LEGAL OBLIGATION TO PROTECT AND MAINTAIN A VOLUNTARY BLOOD SYSTEM

### NOTICE OF INQUIRY

**Hon. Pamela Wallin:** Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to the federal government's legal obligation to protect and maintain our voluntary blood system and to examine the issues surrounding commercial, cash- for- blood operations.

## QUESTION PERIOD

### FINANCE

#### SMALL BUSINESS TAX REGIME

**Hon. Larry W. Smith (Leader of the Opposition):** Honourable senators, my question is for the government leader in the Senate. In about three and a half weeks, the federal government will impose tax changes on small businesses and farmers regarding income splitting with family members while failing to provide any information on these changes to Canadians.

Canadian Federation of Independent Business President Dan Kelly told the *Globe and Mail* on Monday:

To expect them to make changes to all of that for a Jan. 1 implementation, with no detail whatsoever being shared, I find it appalling.

Will the Minister of Finance hear the pleas of small business across Canada and provide them with details of tax changes?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for his question. I, of course, will ensure the Minister of Finance's attention is brought to the question, but let me also remind senators that the minister, in July's statement, indicated the nature of the direction in which he was proposing to move.

He also provided an update in July that narrowed the scope of expectations, so it is not without a broader context in which we are awaiting the final determination of the minister. I will, as I said earlier, bring the request of the honourable senator to his attention.

**Senator Smith:** Senator Harder, I certainly appreciate the response. I look at this as a national issue that crosses all party lines because we're dealing with hard-working Canadians. We know that since Minister Morneau introduced these proposed tax changes in July, the issue has always been the lack of consultation with various public organizations and the people associated with them. We had our National Finance Committee conduct two weeks of cross-country hearings with various witnesses, boards, chambers of commerce and practitioners. Basically the same thing has been said: It's great that the government wants to put these policies into place, but we have not really had a chance to understand what they are all about.

Why has the minister failed to provide small business owners and farmers with basic information on details of his tax changes which will come into effect — I believe it's retroactive for 2017 — in less than 30 days?

**Senator Harder:** To be on the record, the Minister of Finance has had extensive consultations with respect to the documents and proposals he has tabled, both in round tables and with small businesses across the country. We had the minister responsible for small business report to this chamber just last week on the nature of the consultations that she undertook with the Minister of Finance.

I'm pleased that the honourable leader raised the good work done by the Finance Committee of this chamber, which gave another opportunity for Canadians to be heard.

The Minister of Finance has gone out of his way to hear from Canadians. That was the purpose of the proposals that he spoke to when they were tabled in July, and the purpose of providing an update of the government's intentions, which I would also point out included a reduction in the small business tax rate.

Again, the Minister of Finance will be making the decisions of the government known in the very near future, and I will ensure that the honourable senator's representations are before the minister.



**Hon. Betty Unger:** Honourable senators, my question is for the Leader of the Government in the Senate. In Budget 2016, the Prime Minister cancelled the small business tax cut legislated by the previous Harper Conservative government. Last month, the Prime Minister announced that he would reverse course and keep his election promise to cut the small business rate. This reversal was entirely due to the backlash from local businesses and farmers over the tax proposals brought forward by Minister Morneau.

Next year, small business will see payroll taxes increased through a hike in EI premiums. As well, next year, small business will see increased energy costs through the Prime Minister's carbon tax. And if that's not enough, in 2019, CPP premium hikes will begin.

Senator Harder, how can small business trust this government to cut their taxes when your and their abysmal tax record proves otherwise?

**Senator Harder:** Let me remind the honourable senator that this government's record on fiscal management is one that has led the Canadian economy to grow faster than it has in a decade, with average growth of over 3.7 per cent over the last four quarters. Canada is therefore the fastest growing economy in the G7. The economy has created almost 600,000 jobs in the last two years, most of them full-time. The unemployment rate has dropped to 5.9 per cent, the lowest in a decade. The debt-to-GDP ratio is currently on a downward track. The government, at the same time, had significant tax reductions in Bill C-2, introduced the Canada Child Benefit, had reductions to the small business tax, and other measures, which I could enumerate, to ensure that the Canadian economy returns to its performance levels that all Canadians expect.

**Senator Unger:** That's all well and good. It sounds good coming from you right now, but this government is increasing taxes on small business owners and farmers, without providing any details on how they intend to do so, less than a month from now. Retail and restaurant workers had their employee discounts targeted by CRA until public outrage caused the government to back down.

Type 1 diabetics and people with autism have been denied access to the disability tax credit that they had previously received.

Senator Harder, which group of Canadians will be targeted for the next tax hike?

• (1410)

**Senator Harder:** The direct answer to the question is, of course, "none." But let me simply suggest that the Canadian disability tax credit had the highest level of output in the last year, which suggests that Canadians, appropriately, are taking advantage of the tax credit provided for disability.

The minister has restored the advisory committee for providing the government advice on how best to ensure that the disability tax credit meets the evolving needs of both technology and the stakeholder communities. That advisory group was terminated in the previous government's decision making. This government

remains vigilant to ensuring the small business sector is vibrant and continues to contribute its outperformance in the Canadian economy.

Finally, I would simply again state that the minister's announcement in July and his update in October provided small businesses additional information on how the government intends to deal with the issue of sprinkling. I anticipate, as I said earlier, that more precision will be made in the coming days.

## CANADIAN HERITAGE

### PARLIAMENT HILL HOCKEY RINK

**Hon. Michael L. MacDonald:** Senator Harder, for the past couple of months, underneath the window of my office in the East Block, I've watched the construction of a \$5.6 million rink that finally opened today. The minister has informed us that after its short shelf life, this rink will be dismantled and gifted to a vulnerable community in the Ottawa-Gatineau area.

I'm just wondering if you can share with the Senate what the definition of a "vulnerable community" is, what criteria will be established to determine a "vulnerable community," and who will be applying the criteria and making this decision?

**Hon. Peter Harder (Government Representative in the Senate):** I thank the honourable senator for his question. I will inquire as to how the decision will be made. I simply want to though take the occasion to invite all senators to benefit from the rink. I know there is a significant program to bring young Canadians to the national capital to participate in this Canada 150 celebration. I hope we continue to, in the remaining days of Canada's sesquicentennial, celebrate this country.

**Senator MacDonald:** I'm sure we all celebrate the country, and I'm sure Canadians don't have to come to Ottawa to skate in the winter.

There are many vulnerable communities in this country. Certainly in Nova Scotia and Cape Breton there are a lot of poor communities. Ottawa and Gatineau don't strike me as a part of this country that suffer for infrastructure. I'm curious why the gifting of this rink has been limited only to Ottawa and Gatineau, and why this hasn't been opened to all the communities. After all, the taxpayers of Canada are paying for this rink.

**Senator Harder:** As I indicated, I will seek to provide clarification as to the process of selection and the reasons behind the announcement, but let me simply remind all senators — and those senators who live in the National Capital Region in the broad sense of the National Capital Region will know — that there are disadvantaged communities within this region. We shouldn't assume that the area where the Parliament precinct is located, where we live and work during the week, is the only part of this community.

[Translation]

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate):** Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that as we proceed with Government Business, the Senate will address the items in the following order: consideration of the twenty-second report of the National Finance Committee, followed by second reading of Bill C-67, followed by all remaining items in the order that they appear on the Order Paper.

[English]

### THE ESTIMATES, 2017-18

#### SUPPLEMENTARY ESTIMATES (B)—TWENTY-SECOND REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the twenty-second report of the Standing Senate Committee on National Finance, entitled *Final Report on the Supplementary Estimates (B), 2017-18*, tabled in the Senate on December 6, 2017.

**Hon. Percy Mockler** moved the adoption of the report.

He said: Honourable senators, every time I stand in this house, I am reminded of the great opportunity and honour I have being the son of a single mother, born on welfare, to debate what Canadians have at heart, which is their quality of life.

The Standing Senate Committee on National Finance considered and examined the Supplementary Estimates (B), 2017-18, which were tabled in the Senate on October 31, 2017, and referred to the committee for study on the November 23, 2017.

On behalf of the committee, I report our findings back to the chamber in order for senators to review the justification for the requested funds from the Government of Canada. There is an annex appended to the Supplementary Estimates (B), 2017-18. This annex lists all funds requested in the schedule of votes found in the proposed appropriation act, No. 4, Bill C-67.

Honourable senators, Supplementary Estimates (B), 2017-18, provides information in support of \$4.5 billion in voted budgetary expenditures, which represents an increase of 4.4 per cent over the Main Estimates 2017-18, as well as \$395.3 million in statutory expenses, for a total of \$4.9 billion.

[Translation]

Honourable senators, it's true. Of the \$4.5 billion in voted budgetary expenditures, approximately \$1 billion, or 23 per cent, is for measures announced in Budget 2017. The balance, \$3.5 billion, is mainly for measures announced in previous budgets, changes to the estimated cost of legislated programs,

other operating needs, and monies not used during the previous fiscal year, which the government wants permission to spend this year.

The Main Estimates 2017-18, tabled on February 23, 2017, sought Parliament's authorization to obtain annual credits to spend \$102.1 billion on voted budgetary expenditures and \$26.7 million on voted non-budgetary expenditures

The Main Estimates 2017-18 also presented information on statutory amounts of \$155.8 billion in budgetary expenditures and \$246.2 million in net non-budgetary outlays.

[English]

There is no doubt in my mind that, as parliamentarians and as senators, we have a common denominator. It's all about accountability, it's all about transparency and it's all about predictability.

• (1420)

The Supplementary Estimates (A), 2017-18 were tabled on May 11, 2017, and presented information in support of an additional \$3.7 billion in voted budgetary expenditures and \$30.4 million in voted non-budgetary expenditures.

To summarize where we are in terms of spending to date, the total for the Main Estimates and Supplementary Estimates (A) and (B) brings the government to \$267 billion for 2017-18.

Honourable senators, our committee had three meetings on Supplementary Estimates (B), 2017-18, and we heard testimony from 6 of the 71 government organizations that have identified, for the senators on the Finance Committee, additional spending requirements. A total of 122 organizations are represented in the 2017-18 estimates.

I will now provide you with a few details from some of the major voted requests.

Honourable senators, we'll touch on Shared Services Canada. Shared Services Canada is requesting \$23.5 million, the largest item of which is \$8.7 million for the renewal of high-performance computing for the Environment and Climate Change Canada project.

Officials from Shared Services Canada said this project signifies the department's effort to renew and consolidate aging IT infrastructure. Our committee expressed concerns about the fact that the \$430-million, eight-year contract for the supercomputer for Environment and Climate Change Canada was awarded to IBM. Honourable senators, that is the same company that was responsible for the Phoenix payroll system fiasco that we are living with today.

**An Hon. Senator:** Brought to you by the conservative government.

**Senator Mockler:** Stop the blame game. We are here as a chamber of sober second thought.

**Senator Mercer:** And you're not.

**Senator Mockler:** The officials could not explain why they used IBM given the problems with Phoenix.

Shared Services is also seeking \$3.8 million to improve the security of government information technology and cybersystems.

Our committee also asked for an update on the Email Transformation Initiative, only to hear from the officials that the project has been effectively stalled since November 2015.

Our committee was troubled that Shared Services Canada has spent \$57 million — and that's not peanuts — on a project that is now stalled, as well as \$53 million to maintain the legacy systems.

Your Honour, our committee is of the opinion that Shared Services Canada needs to ensure that the system is fully functional before migrating more departments and creating further problems for the quality of life of Canadians.

Honourable senators, I want to bring to your attention the tens of thousands of federal government employees in every province across this great country who have suffered undue hardship, stress in the workplace and mental health issues as a result of not being paid properly under Phoenix. That is unacceptable.

Let's remind ourselves it could have happened to any one of us sitting in this chamber. I'm sure many parliamentarians also have relatives who are affected by this system. This is a problem that desperately needs a solution.

Honourable senators, we will now go to the Department of Foreign Affairs, Trade and Development, which is seeking \$450.2 million. Of this request, we're told \$264 million is to go towards the Crisis Pool Quick Release Mechanism.

This fund provides emergency services for food assistance, health care, water and sanitation services. The officials spoke to the fact that a large portion of their budget has already gone towards these types of crises, and this money would allow them to top up the fund and continue to respond to emergency situations.

The increase in funding will enable the department to respond to crises in Nigeria, Somalia, South Sudan, Yemen and neighbouring countries and ensure that the government respects its obligations of \$660 million over six years starting in 2017-2018 and \$127 million annually thereafter, as forecasted in Budget 2017. That is remarkable.

Our committee is concerned about the adequacy of the funding to respond to emergency situations around the world and that funds may be diverted for development assistance when new crises arise.

Honourable senators, now I want to talk about Indigenous and Northern Affairs Canada, known as INAC, which has requested \$452.7 million, including \$200 million for the third and final

payment under the terms of the Agreement Concerning a New Relationship Between the Government of Canada and the Cree of Eeyou Istchee of 2008.

Also, honourable senators, they have requested \$91.8 million for the negotiation and implementation of comprehensive land claims, as well as treaty and self-government agreements.

Their request also includes \$52.2 million for specific claims settlements, \$23.7 million for Urban Programming for Indigenous Peoples and \$21.6 million to support Métis rights and Métis relations with the federal government.

Honourable senators, the Prime Minister announced on August 28, 2017, that INAC will be transformed into two departments called the Department of Crown-Indigenous Relations and Northern Affairs and the Department of Indigenous Services.

Our committee expressed concerns regarding the lack of an assessment of the cost of separating INAC into two departments, the lack of a plan to undertake the separation as well as concerns about the department's ability to implement the separation without adversely affecting program delivery.

*[Translation]*

The Department of National Defence, which our committee scrutinized, is asking for \$1 billion, which includes \$668 million in capital expenditures. This is a \$333.1 million increase in the Armed Forces payroll resulting from the new compensation agreement, which is retroactive to 2014. I know full well that all honourable senators are sensitive to the needs of our Armed Forces. The total 5.34 per cent increase is spread over the four years of the agreement.

Our committee also specifically asked the government about its decision not to build a second interim supply ship. This decision will probably result in layoffs at the Lévis shipyard in Quebec. Honourable senators, the committee is worried by this decision because it will result in the loss of 500 jobs at the Lévis shipyard. Consider this, senators. Officials from National Defence told us they did not know whether there was an official government document explaining the reasons for this decision. They noted that there had been multiple discussions, due to the large sums involved.

Honourable senators, our committee will be keeping a very close eye on this file.

• (1430)

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

**Senator Mockler:** Yes, please.

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

**Hon. Senators:** Agreed.

[English]

**Senator Mockler:** Let us talk next about the Canada Revenue Agency. They are requesting \$43.9 million in voted appropriations for the implementation and administration of various measures to respond to tax evasion and tax avoidance. In accordance with Budget 2017, this funding request would be the first of five annual requests for funding to fight tax evasion and aggressive tax planning. Honourable senators, our committee will continue to monitor closely the use of this funding and the CRA's performance in addressing tax evasion and tax avoidance in order to ensure that the CRA is achieving sufficient benefit to justify the increased costs.

Honourable senators, in light of a recent report by the Office of the Auditor General on the performance of Canada Revenue Agency call centres, our committee is concerned with several findings of the Auditor General, in particular: The CRA has blocked more than half of the calls received, or about 29 million calls out of 53.5 million. Canadians from coast to coast deserve better than that. According to tests conducted by the Auditor General, call centre agents gave erroneous information to Canadians coast to coast to coast 30 per cent of the time.

Honourable senators, given the significant role that the CRA will play in implementing the government's proposed small business tax changes and in light of the recent report by the Auditor General, we are concerned with the ability of the CRA to deliver on their mandate in an effective and efficient manner from coast to coast to coast.

Treasury Board Secretariat is requesting \$938.4 million mainly for two items: \$654.6 million for collective agreements signed from April to July 31; and \$10.8 million to contribute towards a back office transformative initiative, first, to improve the functionality of the human resources system and stabilize the 44 departments already using it and, second, to link Phoenix with HR systems.

[Translation]

Honourable senators, five government organizations, namely the Canada Border Services Agency, the Department of Health, the Department of Public Safety and Emergency Preparedness, and the Royal Canadian Mounted Police, are asking for \$53.8 million to create a fund to support the implementation and enforcement of a federal framework for the legalization and regulation of cannabis. We intend to follow up with these organizations so that we can monitor the resulting tax revenues, which, incidentally, will come from Canadian taxpayers.

Lastly, I would like to thank all the members of the Standing Senate Committee on National Finance, by which I mean all current and former members, of course, and the support team, as well. I want to acknowledge our clerk, Gaétane Lemay, our analysts, Sylvain Fleury and Alex Smith, and their team for their tireless work in ensuring that the Standing Senate Committee on National Finance carries out its duties.

[English]

Honourable senators, as I conclude, I would like to thank the entire team of the Standing Senate Committee on National Finance, the senators, of course, and their team, but also committee support staff. I want to acknowledge the work of our clerk, Gaétane Lemay. We will continue to provide honourable senators transparency, accountability and predictability.

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

**Senator Plett:** Question.

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

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

[Translation]

## APPROPRIATION BILL NO. 4, 2017-18

### SECOND READING

**Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate)** moved second reading of Bill C-67, An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2018.

She said: Honourable senators, I move that the bill be read the second time.

I want to thank the entire team of the Standing Senate Committee on National Finance for their very diligent work this fall, especially with regard to the tax reform, and also on the study of Supplementary Estimates (B), which led to the appropriation bill that I am asking you to pass at second reading today, and is an extension of the study of Bill C-63, which is huge.

[English]

Honourable senators, the bill before you today, which is appropriation act, No. 4, 2017-18, provides for the release of supply for Supplementary Estimates (B), 2017-18, and seeks Parliament's approval to spend \$4.5 billion in voted expenditures. These expenditures were provided for within the planned spending set out by the Minister of Finance in Budget 2017 and also are the result of measures adopted in the previous budget.

[Translation]

The Supplementary Estimates (B) are the second in a series of three estimates. After Supplementary Estimates (A) and (B), Supplementary Estimates (C) will follow. Those third supplementary estimates are most important, as they better reflect

the impact of the previous budget. These estimates were tabled on October 31, 2017, and referred to the Standing Senate Committee on National Finance.

[English]

Supplementary Estimates (B) reflect an increase of \$4.9 billion in budgetary spending, which consists of an increase of \$4.5 billion in voted appropriation and \$0.4 billion in statutory spending.

As you may recall, statutory spending was previously authorized by Parliament in the detailed forecast and provided for information purposes only.

[Translation]

In other words, in the budgetary process, we are always asked to approve both appropriations for expenditures incurred on a piecemeal basis, and budgetary expenditures. Statutory expenditures are those that result from existing programs over which we have no immediate control, such as employment insurance, pension plans, old age pensions, and so on.

The \$4.5 billion in voted expenditures includes the following major budgetary items: \$654.6 million will be transferred to various departments and agencies for negotiated salary adjustments; \$335.6 million for a certain number of capital projects previously approved and financed by the Department of National Defence; \$333.1 million in pay increases for members of the Canadian Armed Forces; and \$264.9 million for the crisis pool quick release mechanism.

• (1440)

[English]

\$252.9 million to address anticipated shortfalls and contingency requirements for Public Service Insurance; \$200 million for the final settlement payment to the Crees of Eeyou Istchee; \$161.6 million for the Fixed-Wing Search and Rescue Aircraft Replacement Project; and \$100.7 million for the new Champlain Bridge Corridor Project.

[Translation]

Honourable senators, if you need additional information I can try to answer your questions now or send you the information later.

On that note, I thank you and move that Bill C-67 be read the second time right now.

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

**Some Hon. Senators:** Agreed.

**Senator Martin:** On division.

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

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

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

[English]

## STATISTICS ACT

BILL TO AMEND—TWENTY-FIRST REPORT OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE PRESENTED

Leave having been given to revert to Presenting or Tabling Reports from Committees:

**Hon. Art Eggleton,** Chair of the Standing Senate Committee on Social Affairs, Science and Technology, presented the following report:

Thursday, December 7, 2017

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

## TWENTY-FIRST REPORT

Your committee, to which was referred Bill C-36, An Act to amend the Statistics Act, has, in obedience to the order of reference of November 9, 2017, examined the said bill and now reports the same without amendment.

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

Respectfully submitted,

ART EGGLETON  
Chair

(For text of observations, see today's Journals of the Senate, Appendix, p. 2788.)

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

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

## PRECLEARANCE BILL, 2016

### THIRD READING

**Hon. Douglas Black** moved third reading of Bill C-23, An Act respecting the preclearance of persons and goods in Canada and the United States.

He said: Honourable senators, first, may I thank all of my colleagues in this chamber on both sides, and may I thank the members of the Standing Senate Committee on National Security and Defence for their input and support through the work that has brought us to third reading today. I am very appreciative of all the input that has been received.

I am pleased to rise to begin our third reading debate of Bill C-23, the "Preclearance Act, 2016." This legislation will implement the Agreement on Land, Rail, Marine, and Air Transport Preclearance reached between Canada and the United States in 2015, thereby allowing for the expansion of pre-clearance operations in both the cargo and the person mode.

Pre-clearance, as I'm sure we all know in this chamber, is the process under which, for the last 60 years, travellers at certain Canadian airports have been able to undergo American border procedures in Canada before arriving in the United States. It makes travel faster and easier. It allows Canadians to undergo U.S. customs and immigration processing while on Canadian soil and be protected by Canadian law; and it permits direct flights from Canadian cities to U.S. locations that otherwise only accept domestic travel.

I begin my remarks by briefly reminding honourable senators of the advantages of expanding pre-clearance, before addressing some of the important issues that have been raised during committee study and in other forums over the last number of days.

There is a great deal to be gained from pre-clearance expansion. For one thing, several of the airports that currently have pre-clearance facilities, including my home city of Calgary, have reached the limit of the number of travellers those facilities and staffing levels can accommodate. They would like to be able to process more travellers and offer more flights to the U.S. with all of the economic spinoff that that entails. As we heard at committee, for example, Vancouver International Airport estimates that the flights it serves that exist only because of pre-clearance are responsible for over \$300 million in total economic input and nearly 2,000 jobs.

Naturally, other Canadian airports and other Canadian cities beyond the eight locations where pre-clearance currently exist find pre-clearance an attractive prospect. Pursuant to an agreement in principle between Canada and the U.S., the first two new airports identified for expansion are Jean Lesage International Airport in Quebec City and Billy Bishop Airport in Toronto. And there could certainly be additional airports in the future.

Importantly, Bill C-23 and the agreement it implements allow for some important innovations in the realm of pre-clearance. It allows for expansion to new modes of transportation, beginning with marine and rail routes in British Columbia and the train from Montreal to New York City.

They also provide a framework for pre-clearance of cargo, something Canada and the U.S. committed to establish this past February and which does not exist today. As the Canadian Ambassador to the U.S., David MacNaughton, explained at committee, there are now new technologies that allow trucks to have their contents inspected miles from the border and then can be processed much quicker at the border itself, again saving businesses time and money.

Finally, Bill C-23 will allow for the establishment of Canadian pre-clearance operations in the U.S. At committee, the minister spoke about the possibility of going through Canadian customs in

New York, or Boston, or Chicago, or for snowbirds in Florida or Arizona. That means landing in Canada and not having to wait in long customs lineups when you get home.

As you can see, the expansion of pre-clearance has a whole host of benefits, from the sheer convenience for travellers to the advantages for tourism and cross-border trade, to the additional legal and constitutional protections that Canadian travellers can enjoy when they undergo American border procedures while still on Canadian soil.

It was to bring these advantages about that our two countries struck an agreement two years ago. And now we have the opportunity to pass Bill C-23 and start making this a reality.

Now, of course, I have heard of the concerns raised by a number of my colleagues about the process by which this agreement was reached and then brought to us in the form of legislation. I would respectfully remind senators that there is nothing unusual about a bilateral agreement being struck at the executive level and then being presented to Parliament for ratification. In fact, that's generally how these things work, I'm told. We, as parliamentarians, are at liberty to choose to implement the agreement or not. We are free to make that choice.

But we should make an informed choice. We should be aware that if we reject Bill C-23, there will be no expansion of pre-clearance and none of the benefits that I have outlined. And if we amend the bill in a way that makes it inconsistent with the bilateral agreement it exists to implement, the effect will be the same. Doing so would mean sending negotiators back to the drawing board with Washington, with no guarantee that the U.S. is even interested in reopening negotiations.

• (1450)

That is why my strong recommendation to my colleagues is that we adopt this bill without amendment.

I know an amendment is being suggested by my colleague and friend Senator McPhedran that deals with the Preclearance Consultative Group. This is the binational body established by the agreement. Its mandate is to review the functioning of pre-clearance and resolve systematic issues that may arise, including problems related to technology, wait times, service levels, personnel and issues related to the searching of travellers.

Bill C-23 already allows travellers to alert the Canadian members of this body if ever they are subject to any search more invasive than frisking or if ever they are questioned by an officer before withdrawing from the pre-clearance process. That information can help those Canadian officials to know whether there are systematic issues that need to be addressed.

The difficulty with what would become section 26.1(b) in the proposed amendment is that it seeks to create a legally binding commitment on the part of the American members of the Preclearance Consultative Group without the consent of the U.S. government. In other words, it goes beyond the scope of what was agreed to with the United States. This is not something that we can impose unilaterally, and it would require renegotiation.

There is a similar difficulty with the proposed section 26.1(c), what I understand to be senator McPhedran's pending amendment. It seeks to impose disciplinary action on U.S. officers as a result of a Canadian ministerial inquiry. Again, perhaps unfortunately, this is not something that Canada can unilaterally impose.

I do understand what these amendments are seeking to achieve. They are born of a genuine concern that Bill C-23 may not offer travellers sufficient protection and opportunities for redress. However, protections and redress mechanisms do exist.

To start with, both the agreement with the U.S. and Bill C-23 subject the conduct of American pre-clearance officers to Canadian law and the Canadian Constitution, and clause 11(2) of the bill requires Canada to ensure that every pre-clearance officer is trained in Canadian legal standards.

I would say, colleagues, that there is no doubt that the process by which civil liability would be available to any aggrieved traveller is not perfect. It is not ideal. But I would remind my colleagues that those terms have been negotiated and that we are not, at this point in time, without reneging on our agreement, to make those changes that are being suggested. I would welcome, at any time, any questions with respect to the civil or criminal liability context of the agreement.

Any time a Canadian traveller is detained for a search, they have the right to be taken before a senior officer, and they have a right to legal counsel. If a traveller feels they have been mistreated, they can, as already mentioned, alert the Preclearance Consultative Group. They can also bring a civil action in Canada against the U.S. government, subject to the State Immunity Act, and they can avail themselves of the redress and complaints mechanisms offered by U.S. Customs and Border Protection. However, I would also indicate, as the ambassador indicated very strongly in his testimony before the committee: Would you rather have issues dealt with in Toronto or in New Orleans? That is the choice that we have if we choose not to allow pre-clearance to happen on Canadian soil, under Canadian law.

Most of these options do not exist for travellers who don't have access to pre-clearance, such as the people now flying out of Quebec City or Billy Bishop. Those travellers land in the U.S. and undergo border procedures without any of these protections. I think we can all agree that, from a rights perspective, it is far preferable to have pre-clearance than not to have it, and I would argue it is better to have it at home than not at home.

I am aware, though, that there are concerns about how Bill C-23 will change pre-clearance at locations where it already exists, particularly, although minorly, with respect to strip searches and the right to withdraw from the pre-clearance area. But the fact is that it will change very little.

At this moment, if a U.S. officer believes that a strip search is necessary, they must request that a Canadian counterpart come and conduct the search. That remains the case under Bill C-23. The distinction is simply that Bill C-23 provides for the exception — and I would argue hypothetical exception — that when a Canadian officer might be unwilling or unable to perform the search, the American officer can proceed.

Ambassador McNaughton indicated that he has been advised that, in the 60 years of pre-clearance, there has never been an incident when American officials have asked a Canadian official to conduct a strip search, and they did not agree or did not proceed. In that extremely unlikely scenario, as I indicated, the American officers may proceed. The reason I say it is extremely unlikely is for the point that I just made.

The incidence, as we have also heard as well, of actual strip searches, over the last two or three years, is apparently two. We are not dealing with a significant issue here, I respectfully submit.

As concerns the right to withdraw from a pre-clearance area, Bill C-23 maintains that right. There is a difference, though, and that is that the withdrawing traveller may be asked to identify themselves and give the reason for leaving.

The purpose of this change is to guard against people of ill intent probing border procedures and infrastructure to identify vulnerabilities. I have questioned that point, and I am told by the security officials that that is a real challenge, where individuals are endeavouring to identify weaknesses in the system for nefarious reasons.

Importantly, the law requires that withdrawing travellers not be unreasonably delayed. As we heard at committee, the notion of reasonableness in this context is well established in Canadian law.

We also heard at committee from the International Longshore and Warehouse Union. They are concerned that their members working at marine ports on the West Coast may be denied access to pre-clearance areas and, therefore, be unable to do their jobs. This concern stems from a provision in the Agreement on Land, Rail, Marine, and Air Transport Preclearance that allows the U.S. to feed into the Canadian process for certifying personnel who are authorized to work within a pre-clearance area.

The bottom line, though, is that the final decision about who has access to pre-clearance areas in Canada is made by Canada. The U.S. can provide information, but the decision remains Canada's alone.

Finally, I recall that, at second reading, there was discussion about searches of laptops and cellphones. So let's be absolutely clear: Nothing in this bill provides U.S. officers with authorities to examine electronic devices beyond those authorities that they already have. There is nothing new on this point in the legislation.

Similarly, Bill C-23 doesn't change anything about the application of American admissibility rules, including the U.S. executive order regarding admissibility from particular countries.

The fact is that these U.S. policies are being applied in pre-clearance areas today. We can certainly take issue with them, but they are not affected by Bill C-23.

To sum up, the differences between the current legislative framework governing pre-clearance and the one that will apply under Bill C-23 are minor, and they certainly do not justify denying Canadians the considerable benefits of pre-clearance

expansion. This legislation will make cross-border travel faster and easier. It will bring considerable benefits for the tourism industry and for the many other sectors of the Canadian economy that rely on trade with the United States, and it will allow more Canadians, in more parts of this great country and in more modes of transportation, to undergo U.S. customs and immigration procedures while protected by Canadian law in Canada.

I invite honourable senators to support this legislation.

• (1500)

**Hon. Leo Housakos:** Honourable senators, it is my pleasure to speak to Bill C-23, An Act respecting the preclearance of persons and goods in Canada and the United States. When I spoke to this legislation a few weeks ago here in this chamber, I noted that the agreement that this legislation implements was signed by the previous government in the spring of 2015, after several years of negotiation.

The fact that the agreement was signed under one government and is now being implemented under the current government is a testimony to its perceived economic importance for Canada.

[Translation]

When they were before the Standing Senate Committee on National Security and Defence, the Minister of Public Safety and Canada's Ambassador to the United States both talked about the benefits of pre-clearance. I agree that pre-clearance is vital to Canada. It will help facilitate cross-border travel because it will minimize delays for travellers and Canadian business people travelling to the United States.

Pre-clearance at airports will help increase the number of national airports in the United States to which Canadian airlines and travellers will have access. Pre-clearance is currently in effect in eight Canadian airports only, but now it will be possible to expand that to other airports, as well as railways and seaways. In my province, Quebec, this is a vitally important issue because pre-clearance is coming to the Jean-Lesage international airport in Quebec City and will apply to rail traffic going from Montreal to the United States.

[English]

The economic benefits of pre-clearance are clear. Pre-clearance is an essential component of the broader interest that Canada has in thinning the Canada-U.S. border. By thinning the border, we expand economic opportunity. That benefits both individual Canadians and our economy as a whole.

This makes it puzzling that the government sat on this legislation for as long as it did. Bill C-23 was first introduced in June of 2016 but remained at first reading and was not debated for nine months.

Implementation legislation in the United States was passed during that period of time. Our ambassador to the United States, Mr. MacNaughton, told us that the Canadian embassy had to lobby vigorously for its passage. However, at the same time, in our Parliament the legislation sat without being debated, and with no sense of urgency.

The government's rhetoric on the importance of "thinning" the Canada-U.S. border has been strong. However, concrete action has been weak.

This gives rise to serious concerns about how energetically the government plans to follow up and take advantage of this agreement. Does it plan to energetically capitalize on this agreement? Beyond the immediate plan to expand pre-clearance at some airports, what is the government's long-term vision?

When the minister appeared before the Senate National Security and Defence Committee, he asked senators for their ideas on how to expand pre-clearance. Colleagues, it is a good thing that he is reaching out, but we need to remember that this agreement was signed more than two and a half years ago.

Surely by now the government has had ample opportunity to consult and consider where it should focus its efforts in order to take advantage of this very important agreement.

My colleague Senator McIntyre asked the minister at committee if his government had an action plan for the longer-term implementation of the agreement. The minister claimed that he did.

If that is the case, I think it would be tremendously beneficial to the agreement if the government were to table that plan in the Senate so that senators can see what the government has in mind, and then provide meaningful suggestions to ensure the plan is as forward-looking and robust as possible.

Senator Harder, I would appreciate it if you would facilitate that, as you have other elements of this legislation.

Colleagues, I think the economic arguments for the agreement and for Bill C-23 are strong. However, concerns were also expressed at committee by many groups and organizations about the new authorities granted to the American border officers working in pre-clearance facilities.

We know that the management of the Canada-U.S. border is increasingly integrated. Canadian and American officers are already working closely together in many areas. Pre-clearance is one of those areas. I believe that the closer we work together, the greater will be the understanding in each country of the other's legal framework and policy approaches.

I also recognize that we are speaking about the voluntary travel of Canadians to the United States. As Ambassador MacNaughton told the committee, Canadians can either clear customs through facilities in Canada or they can do so on American soil, without any of the benefits that clearing customs in Canada affords travellers.

Nevertheless, the civil liberty concerns that have been raised by witnesses are genuine. For that reason, how this agreement is being implemented will need to be closely monitored by this chamber and by Parliament. Therefore, I believe it would be appropriate for a committee of the Senate, in the future, to review how the implementation of the agreement is progressing — both in terms of its economic objectives and in relation to the civil liberty concerns that have been legitimately raised by many witnesses.



I am pleased to have been a part of the review of this legislation, which is important to Canada. I urge all senators to support Bill C-23, while also pledging to monitor the implementation of the pre-clearance legislation and agreement going forward.

**Hon. Serge Joyal:** Honourable senators, let me say at the outset that I support the objective of this bill. As both Senator Black and Senator Housakos explained to us, nobody would question the merit of the bill in terms of the celerity of admission to the U.S. or the movement of goods through borders.

Honourable senators, I would like to remind you of one thing: When Parliament adopted the Charter of Rights and Freedoms in 1982, our system of government was transformed — and here I reference Supreme Court Justice Dickson from 1986 — from a system of parliamentary supremacy to one of constitutional democracy.

What does that mean? Essentially, it means that neither the government nor Parliament is supreme. Both of them are bound by the Charter of Rights and Freedoms and by the respect of those rights that are entrenched in the Constitution of Canada.

When we approach a bill such as this — which, as Senators Housakos and Black mentioned, has been the object of extensive negotiations between the two governments — we must consider the result of the negotiation in terms of the measure of its impact on the rights and freedoms of Canadians.

Let me provide one example. When the Canadian government signs an agreement with the U.S. to exchange information about Canadians who might be suspected of terrorism, nevertheless, the Canadian government remains responsible for the information they provide to the foreign country — i.e., the United States — as well as for the use that the United States might make of that information, and for the treatment given to Canadians who happen to be on American or foreign soil on the basis of the information that has been transferred.

I don't need to remind you of the Maher Arar case — the lengthy investigation, the fallout from the conclusion of that inquiry, and the compensation that was paid to this Canadian, essentially on the basis of the use of information that was transferred by the Canadian government to a foreign country.

It seems to me that when we look into an agreement like this one — which, as I say, nobody would deny the benefit of in terms of the celerity of the treatment of Canadians crossing the border or the movement of goods to the United States — every one of us would agree with this, and I would be the first to support it, in principle. I cross the border many times during the course of a year. However, this should not prevent us from testing this bill in terms of the measure of the rights and freedoms that Canadians enjoy. The Canadian government does not have the capacity to negotiate or barter the rights and freedoms of Canadians for the benefit of celerity, nor to agree to all kinds of conditions that we find in this bill which, in my opinion, are problematic.

I will mention, honourable senators, three sections where I feel this bill is still problematic. These concerns were outlined last Monday. I read through the minutes of the committee, and I

raised these concerns at second reading. They were amply explained by the Canadian Bar Association, the Quebec bar, the Privacy Commissioner, the Muslim Association of Canada, the International Civil Liberties Monitoring Group, and the BC Civil Liberties Association, all of whom testified before the committee.

I'm looking at Senator McIntyre. He attended the committee, and I read the question he posed to the witnesses. I was enlightened by the questions that were asked by our colleagues and by the answers we received.

I still feel that there are three sections of the Charter that make this bill problematic.

• (1510)

The first section of the Charter is section 8, and I'll read it:

Everyone has the right to be secure against unreasonable search or seizure.

Bill C-23 contains a section, section 22, that allows a strip search even though a Canadian officer has refused to perform it. I repeat: You are on Canadian territory, and a Canadian officer refused to perform the strip search. Nevertheless, the American officer is entitled to perform it, or he is entitled to perform it in the absence of a Canadian officer. To me, that is a gross violation of section 8 and is challengeable in any court of law, because a strip search has been deemed by the Supreme Court as the most intrusive and the greatest violation of a Canadian's dignity. There is ample jurisprudence on that, the last one being a decision in *Ward v. British Columbia* in the province of British Columbia in 2010.

That clause of the bill, in my opinion, is challengeable immediately for anyone who would be the object of such a search.

Senator Black tells us it has never happened. If it has never happened, why did we put it in the bill? There is no need to give that power to an American officer if that risk has never happened in the past.

The second section of the Charter that is problematic is section 9:

Everyone has the right not to be arbitrarily detained or imprisoned.

Section 10, "Everyone has the right on arrest or detention . . ." to be informed and to have a lawyer. We all know the Criminal Code protection in relation to somebody who is arrested or detained.

In the bill, unfortunately, a Canadian passenger who decides to withdraw from pre-clearance could be detained at the will of the officer without the criteria of reasonableness that Senator Black has mentioned and with absolutely no reasonable grounds to believe that that person is in the process of committing a crime or is part of a network of terrorists or is trying to move goods illegally into the States. The American officer can immediately detain a person who decides to withdraw.

Honourable senators, we don't yet have Bill C-45 in this chamber, but think for two seconds about a Canadian citizen who is allowed to have cannabis in his pocket or in his knapsack, who goes to pre-clearance and suddenly realizes that he has two joints that he is not allowed to take into the United States, so he decides to withdraw. He could immediately be detained and have to go through all of the processes that are provided in clause 29.

In other words, we have to be very mindful that this bill contains a clause that will be very problematic if Bill C-45 is adopted and becomes law.

The third clause of the bill, which is still problematic, is clause 24. Clause 24 of this bill allows any Canadian whose right has been violated, and I will read it, "... may apply to a court of competent jurisdiction to obtain such remedy ..."

The Canadian government has been very wise in negotiating that agreement and adding something that the Americans did not request, which is to absolve Canadian officers and the Canadian government of any responsibility.

The Americans, they don't ask the Canadian government to absolve themselves of responsibility, but the government put that clause in the bill.

#### MOTION IN AMENDMENT

**Hon. Serge Joyal:** Therefore, honourable senators, in amendment, I move:

That Bill C-23 be not now read a third time, but that it be amended

- (a) on page 10, in clause 22, by deleting lines 8 to 19;
- (b) on page 12, in clause 26.1, by replacing line 37 with the following:  

"in sections 22, 23, 24 and 32";
- (c) on page 14,
  - (i) in clause 29, by replacing lines 1 to 3 with the following:  

"29 Subject to sections 13 to 15 and 32, every traveller bound for the United States may withdraw from preclearance and leave a pre-", and
  - (ii) by deleting clause 30;
- (d) on pages 14 and 15, by deleting clause 31;
- (e) on page 16,
  - (i) in clause 32, by replacing lines 5 to 7 with the following:  

"(5) and sections 25 and 26.", and
  - (ii) in clause 33, by replacing line 22 with the following:

"paragraph 32(1)(b) to produce biometric"; and

(f) on page 19, in clause 39, by deleting lines 18 to 20.

I apologize, honourable senators, for all those calculations. Of course, when you change one clause, you have to renumber and replace the paragraphs and whatnot.

If the amendments can be circulated, I would appreciate that, so that honourable senators will understand the point.

I think this is a very important bill because it trades the rights of Canadians for a benefit that we all agree is desirable. Celerity of passengers and the moving of goods is something that has to happen and be maintained between the borders, but it cannot be at the expense of Canadians to enjoy the protection of those rights of the Charter that have been outlined and their capacity to seek redress if they are the object of violation in the context of the protection that they enjoy as Canadians.

Don't forget, they are still on Canadian territory. We are still dealing with pre-clearance on Canadian territory. We are not dealing here with pre-clearance on American soil. This bill applies on Canadian territory. How can the government negotiate with a foreign country lesser rights than Canadians enjoy in the Constitution?

Honourable senators, read the testimony of the Canadian Bar, of the international civil liberty groups, of the BC Civil Liberties Association, and you will realize that there are very important issues that are included in this bill that need to be addressed.

As Senator Black was saying, it's a deal; take it or leave it. If you don't accept the way that this bill is packaged and negotiated, forget it.

I don't think it works that way, honourable senators. There is a provision in this bill that allows the Canadian government to raise issues and to transfer, express and negotiate with the American government the obligation and responsibility that binds the Canadian government. I'm quite sure that the amendments that I am requesting are not amendments that endanger the substance of the bill, that will make it more complex for the Americans to perform the responsibility.

As you have said yourself, those concerns are "minor," to quote your own terms. If they are minor, why don't we fix them to avoid those provisions in the bill from becoming the cause of challenges in court, of lengthy and costly procedures, and, finally, compensation in the amount of money that we have had in past years following the experience we have had with other agreements that we have signed with foreign countries whereby the use of the information was made not in the context of the respect of the rights and freedoms that Canadians enjoyed?

I feel very strongly about this matter, honourable senators, because my conviction on the basis of the testimony that the committee heard opened this bill, unfortunately, to a serious and lengthy challenge, and it is our responsibility in this chamber to put those issues on the table and to see how we can improve the bill in the context of respecting rights and freedoms. I'm not

asking anything more than we make sure that we are not, for the overall objective of the good, creating some problems that will come to haunt us one day.

Again, I don't want to threaten you about this. But I want to alert you about the extreme vetting at the border that, when Bill C-45 is adopted, the present American government wants to perform, especially if you're a youngster with long hair.

• (1520)

You know the look that I'm thinking about; it will immediately be suspected that you might be carrying a substance that in the eyes of the American government is illegal and that you are not allowed to take to the United States.

This is a very immediate and serious issue, and I'm not dreaming about that. I read the report that former Minister of Justice McLellan tabled on cannabis legalization and nobody was able to answer in the other place when that question was put to them.

Honourable senators, let's make sure that this bill is Charter-proof so that we do not find ourselves in a nightmare on July 1 or July 2 when youngsters flock through customs.

**The Hon. the Speaker:** In amendment, it was moved by the Honourable Senator Joyal, seconded by the Honourable Senator Munson, that Bill C-23 be not now read a third time, but that it be amended — may I dispense?

**Hon. Senators:** Dispense.

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

**Senator Martin:** Question.

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

**Hon. Pierrette Ringuette:** I have a question.

**The Hon. the Speaker:** Senator Joyal's time has expired, so in order to answer a question, he'll have to ask for more time.

**Senator Joyal:** I ask honourable senators for five more minutes.

**The Hon. the Speaker:** Is five minutes granted?

**Hon. Senators:** Agreed.

[Translation]

**Senator Ringuette:** Thank you, Senator Joyal, for agreeing to take my questions. I listened to your speech with great interest. You are the Chair of the Standing Senate Committee on Legal and Constitutional Affairs and thus were present when this bill was studied. Did Department of Justice officials appear before your committee? Were they asked questions about your proposed amendment?

**Senator Joyal:** Honourable senators, Bill C-23 was not studied by the Standing Senate Committee on Legal and Constitutional Affairs, but rather by the Standing Senate

Committee on National Security and Defence. We heard from the departments involved. I am thinking in particular of the testimony of Ralph Goodale, Minister of Public Safety, who is responsible for the bill.

I read the transcripts of the committee's debates, in particular the comments and the amendments presented by the groups in attendance last Monday, including the Canadian Bar Association, the Barreau du Québec, the Privacy Commissioner of Canada, the Canadian Muslim Lawyers Association, and the British Columbia Civil Liberties Association. The comments made during these hearings did not address the objections raised by these different expert organizations, which we hear from regularly at the Standing Senate Committee on Legal and Constitutional Affairs and at other committees when considering amendments to legislation related to the Canadian Charter of Rights and Freedoms.

Having read the debates and the responses given by the various government witnesses, I do not believe that they responded to the concerns expressed by these organizations that specialize in studying and reporting on rights and freedoms.

**Senator Ringuette:** However, we always hear that thorough consultations occur before government bills are tabled in order to assess their constitutionality and Charter compliance. Are you telling us that this procedure was not followed or that there was some deviation?

**Senator Joyal:** Basically, what I'm saying is that under section 4.1 of the Department of Justice Act, a bill tabled in either the House of Commons or the Senate normally has to be examined by the Minister of Justice. However, that examination is not made public. If any doubts are raised during the department's study, they will not be presented at the same time as the bill. That is the first of Parliament's limitations when debating legislation. Even if the Department of Justice issues a recommendation indicating that a bill has some problems, the government can decide to table it anyway for political reasons and see that it is passed. That doesn't make the bill—

[English]

I was looking at my friend Senator Wetston. You might absolve me of that comment senator. It doesn't make the bill kosher because the government has decided to move forward with a bill whereby there might be weaknesses in relation to the Charter.

The Supreme Court gives decisions month after month on government bills. And I don't want to revive some debates we have had here on minimum sentences, whereby the Supreme Court and the Court of Appeal of Ontario, and B.C., on many occasions have concluded that minimum sentences are not acceptable within the confines of the Charter in relation to a specific offence. It's not because the bill is tabled that it is, at first sight, immune of any violation of the Charter.

**Hon. Marilou McPhedran:** Honourable senators, I move that further debate be adjourned to the next sitting of the Senate.

**The Hon. the Speaker:** It is moved by Senator McPhedran, seconded by Honourable Senator Mercer, that further debate be adjourned until the next sitting of the Senate.

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

**Some Hon. Senators:** No.

**Some Hon. Senators:** 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, please say “nay.”

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the “nays” have it.

Are senators ready for the question on the amendment?

**Hon. Senators:** Question.

**The Hon. the Speaker:** In amendment, it was moved by the Honourable Senator Joyal, seconded by the Honourable Senator Munson, that Bill C-23 be not now read a third time but that it be amended — may I dispense?

**Hon. Senators:** Dispense.

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

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

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

**Some Hon. Senators:** Yea.

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

**Hon. Donald Neil Plett:** Thirty minutes.

**The Hon. the Speaker:** The vote will take place at 3:58 p.m.

Call in the senators.

• (1600)

Motion in amendment of the Honourable Senator Joyal negatived on the following division:

Bernard  
Cools  
Downe  
Dyck  
Fraser  
Galvez  
Griffin  
Joyal

Andreychuk  
Ataullahjan  
Batters  
Bellemare  
Beyak  
Black  
Boisvenu  
Bovey  
Campbell  
Carignan  
Christmas  
Cordy  
Cormier  
Dagenais  
Dawson  
Doyle  
Duffy  
Eaton  
Eggleton  
Frum  
Gagné  
Greene  
Harder  
Housakos  
MacDonald  
Maltais  
Manning  
Marshall  
Martin  
Marwah

Forest  
Gold

# YEAS THE HONOURABLE SENATORS

Lovelace Nicholas  
McCoy  
McPhedran  
Mercer  
Munson  
Omidvar  
Pate  
Tardif—16

# NAYS THE HONOURABLE SENATORS

Massicotte  
McInnis  
McIntyre  
Mégie  
Mitchell  
Mockler  
Ngo  
Oh  
Patterson  
Petitclerc  
Plett  
Poirier  
Pratte  
Raine  
Richards  
Ringuette  
Saint-Germain  
Seidman  
Smith  
Stewart Olsen  
Tannas  
Tkachuk  
Unger  
Verner  
Wallin  
Wells  
Wetston  
White  
Woo—59

# ABSTENTIONS THE HONOURABLE SENATORS

Moncion—3

**The Hon. the Speaker:** Resuming debate on the third reading motion for Bill C-23.

**Hon. Marilou McPhedran:** Honourable senators, I would like to speak in particular to what I think is an option for us, with the chamber indicating that it is not in the mood for addressing the full range of rights protections, risks and violations today.

I would like, instead, to ask for your attention to consider the value of improving on an amendment that the house has already made to this bill in spite of the fact that we are being told that it is very important not to make any changes. In fact, our colleagues down the hall, in the other place, have made an amendment. That amendment now reads as 26.1.

It is very important. I will endeavour to indicate why I believe that it is very much worthy of your consideration. That is because 26.1 is an attempt that has failed to create an actual mechanism for a remedy or recourse when something goes wrong — when rights, in fact, are violated; when racial profiling occurs; when a strip search done on a Canadian, on Canadian soil, by an American pre-clearance officer is a violation of that Canadian's rights.

There is now no actual recourse or mechanism to try and claim what in the preamble to this bill is promised. The preamble promises that we can rely on Canadian rights law, including the Canadian Charter of Rights and Freedoms. But a right without a remedy is not a right at all. So 26.1 is in the direction of trying to create the remedy. Many of the amendments proposed by Senator Joyal go to specific infractions, specific violations.

My request to you today is to consider making one amendment to this bill to improve upon an amendment already made in the house.

Let me invite you, as one step towards providing actual accountability for the misconduct of pre-clearance and border officers, to the realization of recourse, and to put in place an actual mechanism that's clearly and simply described.

As part of that, let me invite you to turn your lens somewhat. A lot of what has been presented to us on this bill is from the lens of what is happening to those of us who are quite privileged in our society, who are well-dressed, well-educated, who find ways to use NEXUS and other pre-clearance tools to smooth our lives. Honourable senators, that is a lens of privilege; that is not a lens of rights.

Please let me invite you to analyze this now using a lens of the protection of rights. Because the lens of privilege is about economic privilege, diplomatic privilege, and, frankly, it is about the privilege of being able to go to vacation homes or vacations in Florida or other warm places.

The lens of rights is very different. This amendment looks to address a fundamental issue of the bill, despite the government's and Senator Black's assurances. There is no indication that, despite clause 9 stating that Canadian law applies in pre-clearance areas and pre-clearance perimeters, later sections in the bill chip away at the scope of the application of Canadian law and the Canadian constitutional rights protections until there is essentially nothing left.

• (1610)

An aggrieved traveller cannot sue an officer who has violated their rights because the existing subclause 39(2) provides them with immunity from civil litigation. An aggrieved traveller cannot sue the Canadian government because, again, the next subclause specifies that officers are not servants of the Crown for the purpose of the Crown Liability and Proceedings Act. So you really have no recourse.

Is suing the President of the United States a genuine recourse or a genuine remedy? An aggrieved traveller may as well, due to the State Immunity Act, forget it. The United States is immune from any action that does not involve death, bodily harm or damage to property.

As Maher Arar discovered, suing the United States within their own system is a futile gesture, as his case against the United States government — for subjecting him to extraordinary rendition when he was sent to Syria to be tortured for almost a year — demonstrated.

Where, then, can aggrieved travellers turn to when their rights are violated? There is a desperate need here as Canadians, as a rights-based society and as a constitutional democracy, for a robust mechanism within the act to provide accountability and redress.

Currently, clause 26.1, as well-intentioned as it is, does not provide that. As mentioned by a witness before committee, it currently amounts to a glorified comment card. This comment was made by the representative of the Canadian Muslim Lawyers Association.

This amendment that I am proposing provides a system for real recourse for aggrieved travellers who otherwise will not have any options in realizing their rights.

And if you think, for example, with the confusion between a change in law in this country and the situation in the United States, that there are not going to be violations against young people suspected of using marijuana; and if you think that someone who has a darker skin colour or who isn't dressed as well as most of us is not going to be racially profiled, there are not going to be violations, then think again, please.

This system is not new. Systems similar to what I am proposing — a robust accountability mechanism — have been introduced in contexts where rights are threatened. This includes the current Canada Border Services Agency, which, at the least, receives complaints from travellers who feel they have been mistreated and they respond directly to those concerns.

Another example is that in the Immigration and Refugee Protection Act, there is a right to appeal immigration decisions to the Immigration Appeal Division. And if that doesn't satisfy the applicant, there is a right to judicial review directly after that in the act.

What is currently in this bill is administrative. There is no genuine remedy, and without a remedy there are no rights, and the preamble is empty without there being a mechanism.

Let us also think about the fact that Canadians cannot live their rights unless laws provide recourse when there are violations. Let us also think about the fact that there are economic consequences for a country that does not respect rights and that uses a law like this to trade off rights for an economic agreement that was reached at an executive level in negotiation in 2015.

So what I would like to ask you to consider, please, is the following amendment to clause 26.1. This is to create a genuine remedy for the rights that we say we are promising in the preamble of this bill.

Subclause 26.1(1) would read:

... regardless of any applicable recourse, a traveller . . . .

And then we would add, after line 38:

... the Canadian senior officials of the Preclearance Consultative Group . . . .

That is this new administrative body that is being created and has no mechanism to actually follow through with complaints. It would have to report its findings in writing to the traveller within 90 days from the day on which the information is received.

This doesn't currently exist in this bill. This is standard procedure in most of the systems that we operate in this country wherein if people are going to make a complaint, it is going to be treated respectfully, it is going to be investigated and there is going continue to be a report back on it.

And if the traveller is dissatisfied with the findings of the Canadian senior officials of the pre-clearance consultative group, the traveller may request, in writing, that the minister conduct an inquiry into any situation on which information was provided by the traveller.

The minister must conduct the inquiry and report his or her findings to the traveller within 90 days after the day on which the request was made.

The minister must, within 30 days after the day on which the report is provided to the traveller, cause the report to be posted on the Canada Border Services Agency's websites. On the request of the traveller, the report is to be posted in redacted form to protect their identity if they so request.

**The Hon. the Speaker:** Excuse me, senator, but you are running out of time. You have not moved the amendment yet and you are speaking to the amendment. If you want to have the amendment moved, you will have to read the whole amendment, as you wish to have the bill amended, into the record. It has to be done in your time or you will require leave to do it.

**Senator McPhedran:** May I request leave?

**The Hon. the Speaker:** Are you moving the amendment?

MOTION IN AMENDMENT

**Hon. Marilou McPhedran:** Therefore, honourable senators, in amendment, I move:

That Bill C-23, be not now read a third time, but that it be amended in clause 26.1, on page 12,

(a) by replacing line 33 with the following:

“**26.1 (1)** Regardless of any applicable recourse, a traveller”; and

(b) by adding the following after line 38:

“(2) The Canadian senior officials of the Preclearance Consultative Group must consider the information received under subsection (1) and report their findings, in writing, to the traveller within 90 days after the day on which the information is received.

(3) If the traveller is dissatisfied with the findings of the Canadian senior officials of the Preclearance Consultative Group, the traveller may request, in writing, that the Minister conduct an inquiry into any situation on which information was provided under subsection (1).

(4) The Minister must conduct the inquiry and report his or her findings to the traveller within 90 days after the day on which the request made under subsection (3) is received.

(5) The Minister must, within 30 days after the day on which the report is provided to the traveller, cause the report to be posted on the Canada Border Services Agency's website. On the request of the traveller, the report is to be posted in redacted form to protect their identity.

(6) If the Minister is of the opinion that a preclearance officer or a border services officer did not comply with Canadian law, including the *Canadian Charter of Rights and Freedoms*, the *Canadian Bill of Rights* and the *Canadian Human Rights Act*, or otherwise committed misconduct, the Minister must so inform the authority to whom the officer reports and make a recommendation to the authority on the sanction or remedial measure that, in the opinion of the Minister, is appropriate in the circumstances.”.

Honourable senators, I simply want to say that this is not new in Canadian systems. This actually puts substance into what came to us from the House of Commons. This allows those who have experienced alleged violations somewhere to go with it. Without there being some mechanism, we have an articulation or a promise of the respected rights, but we have no remedy and we have no recourse.

So if I may, in closing, say: a right without a remedy is not a right.

**The Hon. the Speaker:** It was moved by the Honourable Senator McPhedran, seconded by the Honourable Senator Joyal

**An Hon. Senator:** Question.

**The Hon. the Speaker:** I have to move the amendment first, please.

In amendment, it was moved by the Honourable Senator McPhedran, seconded by the Honourable Senator Joyal —

• (1620)

**Senator Cordy:** Dispense!

**The Hon. the Speaker:** May I dispense?

**Some Hon. Senators:** Dispense.

**The Hon. the Speaker:** Senator Gold, do you have a question, or do you want to enter the debate?

**Hon. Marc Gold:** I have a question.

**The Hon. the Speaker:** Senator McPhedran, your time has expired. Are you asking for five more minutes to answer a question?

**Senator McPhedran:** Yes, Your Honour.

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

**Hon. Senators:** Agreed.

**Senator Gold:** Senator McPhedran, do you have reason to believe, and if so, on what basis, that this amendment would not require a renegotiation of the treaty?

**Senator McPhedran:** I cannot answer that, because I am not involved in the consultations. In this constitutional democracy of ours, and given our responsibility as senators, I would like to suggest that creating a recourse and a remedy for a promise that is already in the preamble, improving on what our colleagues in the House of Commons have done, is necessary and reasonable. I have every confidence in our diplomats to be able to sort that out with our colleagues.

First and foremost, Senator Gold, I would like to recommend that we focus on Canadian rights and that what happens on Canadian soil remains respectful of our rights.

**Hon. Ratna Omidvar:** Could the senator take another short question?

**Senator McPhedran:** Yes.

**Senator Omidvar:** In subsection 6 of your amendment, you talk about pre-clearance officers and CBSA officers. I am assuming — and please clarify — that you are talking about Canadian pre-clearance officers. Or are you also talking about U.S. pre-clearance officers?

**Senator McPhedran:** A “pre-clearance officer” in the definition of this bill is an American, and a “border services officer” in the definition of this bill is a Canadian.

The violations will occur by both. Could we remember, please, that in this current bill, if a Canadian officer trained in Canadian law and the respect for Canadian rights makes a decision that a strip search is not appropriate, the American pre-clearance officer can override the Canadian and conduct the strip search?

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

**Hon. Senators:** Question.

**The Hon. the Speaker:** In amendment, it was moved by the Honourable Senator McPhedran, seconded by the Honourable Senator Joyal, that Bill C-23 be not now read a third time but that it be amended —

May I dispense?

**Some Hon. Senators:** Dispense.

**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. The motion is defeated.

(Motion in amendment of the Honourable Senator McPhedran negated, on division.)

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

**Senator Plett:** Question!

**The Hon. the Speaker:** It was moved by the Honourable Senator Black, seconded by the Honourable Senator Mitchell, that the bill be read the third time.

**Hon. André Pratte:** I move the adjournment of the debate.

**Senator Plett:** No.

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

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

**Some Hon. Senators:** No.

**An Hon. Senator:** Yes.

**The Hon. the Speaker:** In my opinion, the “nays” have it. The motion is defeated.

Are senators ready for the question?

**Some Hon. Senators:** Question.

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

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

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

## ANISHINABEK NATION EDUCATION AGREEMENT BILL

### BILL TO AMEND—SECOND READING

**Hon. Daniel Christmas** moved second reading of Bill C-61, An Act to give effect to the Anishinabek Nation Education Agreement and to make consequential amendments to other Acts.

He said: Honourable Senators, I rise today in this place to speak in support of Bill C-61, the Anishinabek Nation Education Agreement act.

As I begin, I wish to acknowledge that as we celebrate this landmark agreement in First Nations education, we do so today standing on the unceded traditional territory of the Algonquin Nation.

Colleagues, the great industrialist Henry Ford said, “Coming together is a beginning; keeping together is progress; working together is success.”

In this spirit, Bill C-61 is indeed a new beginning, a real manifestation of progress, and upon its passage, with your concurrence, a tangible demonstration of success. It’s an endeavour over 20 years in the making — one that delivers an educational self-government agreement — the largest one in Canada to date — that establishes an Anishinabek education system under First Nations jurisdiction, rendering the framework for the Anishinabek Nation Education Agreement of 23 Ontario First Nations communities.

Make no mistake, honourable senators, this is another important milestone on the long journey of nation-to-nation relationships between Canada and First Nations. It’s a victory for the Anishinabek Nation and the 23 First Nations that ratified the agreement, enabling them to strip away the provisions of the Indian Act relating to education. It creates an education system with a community-based, bottom-up style of teaching designed by and for the communities’ schools governed under it. It meets the needs of Anishinabek teachers, learners and the communities they serve.

This educational self-government agreement, the second of its kind in Canada, is an idea whose time has not just come but is, in fact, long overdue.

As it stands today, under the terms of the Indian Act, the federal government has the legislative authority for the education of First Nations students residing on reserve. The Indian Act, however, makes no provision for supporting culturally and linguistically relevant education, nor does it provide adequate or predictable funding. In fact, many of the program responsibilities of the current federal system are actually delivered by First

Nations without a legislative basis. This means that there’s no legal requirement for the federal government or First Nations to follow and/or establish programs comparable to the provincial systems.

All provincial education legislation, such as the Ontario Education Act, R.S.O. 1990, establishes standards, such as teacher certification, number of instructional hours and minimum attendance. First Nation schools lack this form of structure.

Honourable senators, let me return, if I may, to the matter of the Indian Act making no provisions for supporting culturally and linguistically relevant education. Not only is there no administrative parity with provincial legislation and standards under the Indian Act, there’s absolutely no requirement or accommodation for designing curricula that reflects the culture, history, heritage, tradition and linguistics of those who will be taught under its auspices.

Simply put, and in the face of this, it’s clear the current system is antiquated, ineffective, inefficient and a continued imposition of colonization that clearly has no place in the 21st century.

This legislation is a decisive step forward. It is a clear exodus from the colonial yoke of the Indian Act. It is a purposeful embodiment of self-determination and the pursuit of self-government for education on a nation-to-nation basis, once again, developed by and for First Nations. The legislation affirms and acknowledges the participating Anishinabek First Nations’ law-making power and authority to govern and administer education for their members. It will give life to the Anishinabek education system and a board of education.

I’m pleased to say that I’ve spoken with the educational authority’s new executive director, Ms. Kelly Crawford. She’s full of energy, determination and drive, and she’s eager to get moving on the execution of her new duties.

The 23 participating First Nations view the legislation as a key opportunity to advance the expressed vision for their respective communities. The First Nations involved will join together to develop a system, pass education laws and set standards that meet or exceed provincial standards. They will be fully empowered to control decisions about how best to spend education funding and determine priorities that best support their students, and their needs and aspirations.

• (1630)

Honourable senators, it cannot be overstated that access to good quality education is one of the keys and levers to success in later life. As Abraham Lincoln once said:

The philosophy of the school room in one generation will be the philosophy of government in the next.

This is so important to recognize in the indigenous communities, the fastest-growing demographic in Canada. The First Nations students of today really are going to be the leaders of tomorrow, both on- and off-reserve, in indigenous communities and in mainstream Canada.



Equally important, access to culturally appropriate education is essential to a secure personal identity. I'm sure you agree that when children and youth have self-confidence, when they have a strong sense of who they are as indigenous persons, they will be able to reach their full potential both academically and as well-rounded and capable individuals in society.

And this is the prime goal of the Anishinabek Education System, to educate, connect and invest in First Nation youth so they can believe in themselves and their potential and can thus achieve their highest potential.

The Anishinabek Nation Education Agreement is also a prime example of the importance of partnerships in achieving real, tangible results for the Anishinabek students.

The Anishinabek Nation has chosen to work in collaboration with the Ontario Ministry of Education to establish systems that identify goals and strategies to support Anishinabek students.

Ultimately, it's a means to facilitate the transferability of students between the provincial and the Anishinabek systems without academic penalty.

To this end, the Anishinabek Nation and Ontario have signed the Master Education Agreement, a complementary arrangement to this bill, to ensure that the First Nations have the practical tools to exercise their jurisdiction over education, such as student information systems and access to professional development resources.

The Anishinabek Education System would directly affect the lives of roughly 25,000 Anishinabek in Ontario, including 2,000 students on reserve, and it will set the system up for success.

Honourable colleagues, moments ago I mentioned that this was the second such agreement of its kind. Let me tell you a thing or two about the first one.

Mi'kmaw Kina'matnewey, or "MK" in Nova Scotia, is an education authority created by the Mi'kmaq and the federal and provincial governments in 1999. It operates under its own education act, and until now it was the only one in Canada that did so.

Mi'kmaw Kina'matnewey provides similar services to 12 of the 13 Mi'kmaq communities in Nova Scotia.

A comprehensive Master Education Agreement between MK and the Province of Nova Scotia was signed in 2008 and replaced all existing tuition agreements between school boards and the 10 First Nation communities that comprised MK at the time. The agreement secured a common tuition cost for all on-reserve students attending provincial schools and provided a reporting structure that tracks performance measures such as achievement and attendance. This system has brought extraordinary improvements in student outcomes.

Today, the Mi'kmaq education system in Nova Scotia has a high school graduation rate of nearly 88 per cent, considerably higher than the national average of 35 per cent. Numeracy and

literacy rates in elementary and secondary schools have increased, and more than 500 First Nation students were enrolled in post-secondary institutions over the past year.

First Nation students are graduating from post-secondary institutions and going out into the world, confidently expanding their personal horizons and ready to make a change in their communities. Special needs students are getting the focused attention they need to grow and thrive.

Honourable senators, I was the signatory of that agreement on behalf of my home community of Membertou, and I was proud of the progress we made all those years ago. I'm equally pleased to urge your support of this agreement that goes even further than what the Nova Scotia Mi'kmaq did. This is a remarkable achievement.

I have every confidence that the Anishinabek Education System will bring about similar results for the benefit of their future graduating students, their communities and Canada.

It's important to recognize that the agreement at the core of Bill C-61 is the product of a comprehensive process of collaboration, negotiation and ratification directly involving the affected communities for over 20 years.

There was an extensive community ratification campaign about a year ago. Throughout the fall of 2016 and summer of 2017, the Anishinabek First Nations voted on the agreement. It was approved by an overwhelming majority of those who voted. As a result, these 23 Anishinabek First Nations are now part of the Anishinabek Education System.

It is also important to note that the agreement sets out a process for other First Nations in Ontario seeking to join the system in the future. Bill C-61 represents the next step in the ratification process. The legislation now before us has already earned the endorsement of the people whose lives it will directly affect.

Honourable colleagues, it is now our turn to consider the merits of the Anishinabek Nation Education Agreement and offer it the support I believe it's so worthy of. The signatories to the agreement have begun the necessary work to ensure that the system is fully operational on the effective date of April 1, 2018.

My fundamental pursuit and my key goal in this chamber is to promote reconciliation, the work of the Truth and Reconciliation Commission and the adoption of its calls to action that flow from its final report. I'm pleased that Bill C-61 clearly serves as an example of measures of reconciliation with indigenous peoples.

These measures are indicative of the Government of Canada's commitment to achieving reconciliation through a renewed relationship based on the recognition of rights, respect, cooperation and partnership.

We see that Bill C-61 aligns closely with this commitment, and with the 10 principles respecting the Government of Canada's relationship with indigenous peoples. Specifically, in respect of the TRC's calls to action, First Nations education is the focus of calls to action 6 through 10. Primarily, these calls to action call upon the Government of Canada to develop a strategy to

eliminate the educational and employment gaps between indigenous and non-indigenous Canadians; eliminate the discrepancy of federal education funding for First Nation children being educated on reserves; draft education legislation that will promote and protect an indigenous education; provide sufficient funding for the provision of education delivery; improve education attainment levels and success rates; and, lastly, publish annual reports to this effect.

What's more, Bill C-61 also reflects the tenets of Article 14 of the United Nations Declaration on the Rights of Indigenous Peoples, which states:

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Bill C-61 is based on these very same goals. It will enable a complete restructuring of the educational system on reserves to one based on the principles of self-determination, a governing central education body, a culturally relevant curriculum, and secure and predictable funding.

Honourable colleagues, the path toward reconciliation with indigenous peoples necessarily leads to benefits for all Canadians. Reconciliation promotes and enables indigenous communities to participate more equally in, and contribute more fully to, the prosperity enjoyed by most Canadians. Adoption of Bill C-61 takes this country a significant step closer to that goal.

• (1640)

The participating First Nations have clearly articulated what self-determination looks like to them. This view is embodied in Bill C-61.

What's also clear is that it serves as an intentional message that the yolk of the Indian Act with respect to education for the Anishinabek Nation has been cast off.

So, then, as I close, let us remind ourselves of what this bill is all about: It's about the choice of an indigenous nation to move forward in a spirit of self-determination and independence to forge an education regime specifically tailored by First Nations. It's about doing so in a manner that purposefully reflects their history, culture and language. It's about a process and a plan flowing from it which has been democratically endorsed by First Nations citizens.

Honourable senators, this is about an historic piece of legislation that is worthy of our support. I heartily endorse its passage and referral to committee without delay.

[ Senator Christmas ]

**Hon. Dennis Glen Patterson:** Honourable senators, I'm happy to speak today as the critic for Bill C-61, an Act to give effect to the Anishinabek Nation Education Agreement and to make consequential amendments to other Acts. As Senator Christmas has so well explained, this bill seeks to provide Anishinabek First Nations with self-determination over education, enabling participating First Nations to tailor curricula in a way that supports culture and language and to have sole discretion over how funds are spent on education programs, based on the priorities of individual communities.

After 22 years of negotiations between Anishinabek and Canada, 23 of the 39 First Nations that make up the Anishinabek Nation have ratified this agreement. Provisions within the bill would allow for the remaining nations to become scheduled to the act should they wish to in the future. I hope and expect they will.

It is hoped this new system will help to improve education outcomes and close socio-economic gaps between indigenous and non-indigenous Canadians. The standards that have been put in place mirror those of Ontario's education system in an effort to allow for the seamless transition of children between Anishinabek and non-indigenous schools in the province.

During the study of First Nation education conducted by your Standing Senate Committee on Aboriginal Peoples, which I was privileged to be a part of, we found that First Nation control of education is vital to the preservation of language and culture for indigenous peoples. In our report, entitled *Reforming First Nations Education: From Crisis to Hope*, tabled in the Senate in December 2011, we discussed the potential for legislated reforms to help to improve education outcomes for First Nations students. We included a quote from then Minister of Indian Affairs and Northern Development, the late Honourable Jim Prentice, who said:

There is, in fact, no education system for the First Nations. . . . All other children in this country benefit from legal protection in the field of education. The only children deprived of this security are First Nations children living on reserves.

Our previous Conservative government strongly believed that First Nations control of education was the key to the success of students. Creating specialized curricula and putting existing curricula through an indigenous lens is, I believe, critical to helping students connect with what has been traditionally Eurocentric history and culture. That is why the Harper government proposed Bill C-33, An Act to establish a framework to enable First Nations control of elementary and secondary education and to provide for related funding and to make related amendments to the Indian Act and consequential amendments to other Acts. The government of the day believed that by creating what would essentially have been school boards and providing long-term, stable and predictable funding, First Nations would be able to develop strong curricula that was culturally relevant to their particular nation.

A significant recommendation of the Senate Standing Committee on Aboriginal Peoples, which lines up with this legislation before us today, was that:

That the Government of Canada, in consultation with First Nations and First Nations educational authorities, develop a First Nations Education Act; that this Act explicitly recognize the authority of First Nations for on-reserve elementary and secondary education; and that it enable the establishment of First Nations controlled second-and-third level education structures; and that the application of this Act to individual First Nations communities be optional, and provide for the repeal of the education sections of the Indian Act for those First Nations that opt into the new Act.

I would like to acknowledge today the former chair of that committee, Senator Gerry St. Germain, and current senators Lillian Dyck, Salma Ataullahjan, Patrick Brazeau, Larry Campbell, Sandra Lovelace Nicholas, Jim Munson and Nancy Greene Raine, who were members of that committee when this report was adopted by the Senate.

In essence, as I understand it, this recommendation reflects the basis for the bill before us today. Frankly, honourable senators, in the course of our committee study, we found that in the present system, competing priorities sometimes force chiefs and councils to reallocate monies originally earmarked for education. Sometimes we found that this meant that precious monies for education went to other non-education purposes, such as housing or servicing debt. This bill will ensure that monies allocated for education are used for that purpose alone.

I just want to say, as a former education minister in the Northwest Territories — and I was privileged to have held that position for over 10 years — I understand the importance of turning over control of education to local authorities. That's why I introduced legislation in the N.W.T. assembly that established school boards. We called them divisional boards of education throughout the territory.

In 1981, the Northwest Territories legislature established a special committee on education because of widespread concerns about problems in our N.W.T. community schools, which resonate today in some First Nations communities. Significant attendance problems, poor graduation rates, lack of Native-language curriculum materials and shortage of Native teachers were among the challenges.

At extensive community hearings throughout the N.W.T., the special committee, of which I was a member, found that parents did not have a sense of ownership of their community schools. So a main recommendation amongst many of that special committee, in their landmark report *Learning: Tradition and Change in the Northwest Territories*, was that parents be given a strong voice in the operation of their schools through the establishment of what were called divisional or regional boards of education. In making that particular recommendation, committee members were inspired by the success of the Frontier School Division in Manitoba, where a similar board gave a strong voice to Aboriginal parents in that region.

Colleagues, giving parents a strong voice in the operation of their schools is especially important in regions like the traditional lands of the Anishinabek, where culture and language should be reflected in the operations of community schools. That was the case in the N.W.T., with seven Aboriginal languages and an Aboriginal majority in the population.

When I became Minister of Education, my mandate was to implement the recommendations of the special committee. The results were significant. School attendance improved. Curriculum materials were developed at so-called teaching and learning centres that were reflective of the language and history of the regions. More Aboriginal teachers were trained, and graduation rates improved. Sadly, the new Nunavut government, in 1999, in its wisdom, decided that divisional education and health boards were a threat to the authority of elected M.L.A.s and cabinet ministers and dissolved both education and health boards, citing the decision as a cost-saving measure. I have no doubt that this is a primary reason why these two very culturally sensitive departments of the Government of Nunavut have been struggling with serious problems, including poor attendance and graduation rates in Nunavut schools, a failure to develop curriculum materials in the Inuktitut language and falling far short of stated goals of implementing a bilingual education system.

The idea of giving control of First Nation education to First Nations has long been discussed as an important step to help students succeed. In 1973, the National Indian Brotherhood, the precursor to the Assembly of First Nations, published a policy paper entitled *Indian Control of Indian Education*. In it, they describe what they called the Indian philosophy of education.

• (1650)

In Indian tradition, each adult is personally responsible for each child, to see that he learns all he needs to know in order to live a good life. As our fathers had a clear idea of what made a good man and a good life in their society, so we modern Indians, want our children to learn that happiness and satisfaction come from:

- pride in one's self,
- understanding one's fellowmen, and,
- living in harmony with nature.

Maybe that phrase should be gender sensitive. It occurs to me in reading it today, in 2017, honourable senators.

They go on to say, "School programs which are influenced by these values respect cultural priority and are an extension of the education which parents give children from their first years."

These ideals are also encompassed in the road map laid out in "Nurturing the Learning Spirit of First Nation Students," a 2011 report by the National Panel on First Nation Elementary and Secondary Education for Students On-Reserve. The panel describes in detail their proposed path forward on better education for First Nation students and said:

A strong First Nation education system would be built upon a solid foundation that encompasses the following:

The co-creation of legislation in the form of a First Nation Education Act that outlines responsibilities for each partner in the system and recognizes and protects the First Nation child's right to their culture, language and identity, a quality education, funding of the system, and First Nation control of First Nation education;

Statutory funding that is needs-based, predictable, sustainable and used specifically for education purposes;

The establishment of regional educational support organizations that are designed and delivered by First Nations; and

Development of strong partnerships and reciprocal accountability between First Nation schools and educational organizations and provincial education institutions.

I also heard this first-hand when Harry Lafond, Executive Director in the Office of the Treaty Commissioner of Saskatchewan, told the Aboriginal People's Committee:

What we need is legislation to allow recognition of existing institutions in our communities and for the First Nations communities to come alive and to be honoured for the work that they are responsible for in organizing education for our children.

Finally, on the issue of the importance of First Nation control of education, it should be noted that the United Nations Declaration on the Rights of Indigenous Peoples, and in particular Article 14, states:

Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

Colleagues, this bill will also authorize the transfer of transitional funding and new, stable, long-term funding to the Kinoomaadziwin Education Body, a provincially incorporated organization that will act as a school board and coordinating body for the disbursement of federal funding to participating communities.

With these new funds comes what is promised to be a rigorous reporting structure that will keep this self-governing organization transparent and accountable to the participating First Nations. Kinoomaadziwin will also be added to the schedule as an organization subject to the Access to Information Act. Funding will be reviewed every five years and the goals for educational outcomes will be reviewed every three years.

I am happy to that see that stable, predictable and long-term funding will be provided that will also mirror any general funding increases provided by the Government of Canada to First Nations not party to this agreement. It is, in fact, in line with another one of our committee's recommendations.

However, I must say I am concerned that this bill does not address the lack of adequate capital infrastructure on reserve. Over the course of our study — and we were in northern Ontario — we also saw first-hand the need for better schools. High educational attainment cannot be achieved, regardless of how good the program is, if there is nowhere to deliver these classes.

In the previous Bill C-33, there were three tranches of funding proposed. One stream was to be core statutory funding, including funding for language and culture; the second stream was

transition funding to support implementation of the new legislative framework; and the third stream was funding for long-term investment in on-reserve school infrastructure. I will be looking to examine this gap in the funding agreement more closely at committee.

In closing, honourable senators, I would like to leave you with a powerful quote from Chief Dan George. When asked about his thoughts on moving forward on First Nation education, Chief George said:

There is a longing among the youth of my nation to secure for themselves and their people the skills that will provide them with a sense of purpose and worth. They will be our new warriors; their training will be much longer and more demanding than it was in the olden days . . . but they will emerge with their hand held forward not to receive welfare, but to grasp a place in society that is rightly ours.

**Hon. Lillian Eva Dyck:** Honourable senators, I rise today to speak at second reading of Bill C-61, the proposed "Anishinabek Nation Education Agreement Act." I would like to thank my colleagues Senator Christmas and Senator Patterson and fellow members of the Standing Senate Committee on Aboriginal Peoples for their work in this area.

As many senators here know, we have talked about Aboriginal education in this chamber for at least the last 10 to 12 years. There have been many questions, and Senator Patterson talked about Bill C-33 that was presented by the previous government.

I rise today to indicate my support for Bill C-61, and I am in support of referring it to committee for study. It is clearly a big step forward, and I congratulate the participating First Nations in having come to this point in time. As the Honourable Senator Christmas has indicated, this is only the second such agreement that has resulted in federal legislation.

As we all know, education is an important aspect of every individual's ability to realize their potential, whether they are a First Nation person or any other person in Canada. In Saskatchewan, for example, our elders there, about 15 or so years ago, had said that education is our buffalo — *paskwa moostoswa kakikinawa magehk* — because in the past, the traditional Plains Cree relied upon the buffalo for everything, but now that we're in modern society we replace our reliance on the buffalo with our reliance on education. It is seen as a critically important area for full development.

Bill C-61 gives effect to the Anishinabek Nation Education Agreement. This agreement, as has been stated, is the first of its kind in Ontario. The Anishinabek Nation Education Agreement is a self-government agreement between Canada and 23 Anishinabek First Nations in Ontario that recognizes First Nation control over junior kindergarten to Grade 12 education on and off reserve.

As Senator Patterson indicated, since the 1970s, in Indian country, Indian control over Indian education has been a rallying cry. So it is wonderful to see, at much later date of course, to see that this is occurring.

Senator Christmas, in his remarks, also quoted from Henry Ford. I recall that when we were debating the report from our committee on education, our friend and colleague the Honourable Gerry St. Germain also talked about the horse and buggy era, and moving to gas-powered vehicles. I took that even further and said I think it's time we enter the space age.

As indicated previously, in 2011 the Standing Senate Committee on Aboriginal Peoples released its report entitled *Reforming First Nations Education: From Crisis to Hope*. After a year and a half of studying the issue of K-12 First Nation education systems on reserve, the committee made four very strong recommendations. I would like to highlight two of them today and how they relate to the bill before us. Some of these were covered moments ago by my colleague Senator Patterson.

• (1700)

The first recommendation from our 2011 report was that the Government of Canada, in consultation with First Nations and First Nations educational authorities, develop a First Nations education act; that this act explicitly recognize the authority of First Nations for on-reserve elementary and secondary education; that it enable the establishment of First-Nations-controlled second- and third-level education structures; and that the application of this act to individual First Nations communities be optional and provide for the repeal of the education sections of the Indian Act for those First Nations that opt into the new act.

Colleagues, it is good to note that the Anishinabek Nation Education Agreement clearly recognizes the Anishinabek jurisdiction and lawmaking powers and authority over K to 12 education on reserve for participating First Nations. The education system will be designed by the Anishinabek First Nations to serve Anishinabek students. The establishment of the Kinooaadziwin education body will serve as a school-board-type entity, and it will also create the necessary First-Nations-controlled education structures. This agreement also allows other First Nations to be added to the agreement, so we may find that the other remaining First Nations may sign on to it in the future.

I believe this legislation achieves the intent of the recommendation that we made in our 2011 education report. I congratulate, once again, the communities that have brought this forward.

The second recommendation from our 2011 Senate report is regarding funding. Of course, you can't do anything unless you have the funding and the resources that will support what you are planning to do.

Our recommendation reads:

That the proposed First Nations Education Act provide statutory authority to the Minister of Aboriginal Affairs and Northern Development Canada to make payments from the Consolidated Revenue Fund to First Nations educational authorities, with the objective of providing educational services on reserves; that the methodology for establishing the amount of these payments be enshrined in regulations authorized under the Act, and developed in consultation with First Nations; that these regulations would consider key cost drivers such as demographics and remoteness; and that the

formula for establishing payments include, among other things, First Nations language preservation and revitalization programs.

That fits in well with what Senator Christmas was describing with truth and reconciliation and the revitalization of languages.

I recall, as I am sure the other members of the committee also vividly recall, visiting Membertou First Nation and Eskasoni First Nation and going to the schools there and listening to the students sing in their own language. That was wonderful to witness and to hear.

Also one of the outstanding memories for me was visiting the school at Onion Lake Cree Nation in Saskatchewan. On the walls in their gymnasium were posters of the universe and other science things that were in English, French and Cree. I thought that was quite astounding.

We also found out from Onion Lake Cree Nation that though they have these wonderful curriculum resources, that funding was through what is called "proposal funding," so it wasn't long term. It was only as long as there were proposals given by the government so that you could apply and then get money to develop your curriculum.

I would think that within this agreement, the funding would be such that those types of culture and language components that celebrate your own culture would not have to rely upon this short-term funding, which you may or may not get, depending on how well your application was received.

This agreement covers First Nations in northern Ontario, and we must be mindful of the key cost drivers in northern and remote communities. During our study, this was a key point for witnesses who appeared from northern First Nations, because we heard all across the country that the costs for education in the North are significantly higher than they are for southern communities. That was one of the reasons why the graduation rates in those schools were not as good as they could be, because simply, you have to have the resources there in order to put on a good program and for your students to be successful and to graduate.

Honourable senators, outlined in the Anishinabek Nation Education Fiscal Transfer Agreement, the funding transfers from the Government of Canada will be for five-year terms. The funding for infrastructure in the construction and maintenance of schools will continue to be funded through the department as it currently operates. Senator Patterson spoke to that.

I look forward to hearing from witnesses at committee to learn more about how the funding agreement will relate to this very important recommendation and how it achieves a stable, predictable and flexible fiscal agreement that really will allow the Anishinabek education system to achieve the best possible outcomes for their students. From our study on First Nations education and the well-known gaps in funding for on-reserve education, the issue of equitable funding is an extremely important area for the committee to study when this bill goes before it.

Honourable senators, the process to get to an agreement started back in 1995. I would like to end my remarks by congratulating the Anishinabek First Nations that have stayed the course and endured for this very long journey. Their steadfast dedication over these years to achieve the best possible education system for their students is an inspiration to us all, and I look forward to hearing from the witnesses when it is referred to committee.

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

**Hon. Senators:** Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Christmas, bill referred to the Standing Senate Committee on Aboriginal Peoples.)

#### FRAMEWORK ON PALLIATIVE CARE IN CANADA BILL

THIRD READING

On the Order:

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

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

**Hon. Senators:** Agreed.

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

#### CRIMINAL CODE

BILL TO AMEND—SECOND READING—  
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Joyal, P.C., for the second reading of Bill S-206, An Act to amend the Criminal Code (protection of children against standard child-rearing violence).

**Hon. Raynell A. Andreychuk:** Honourable senators, I do intend to speak to this, but we have been otherwise occupied recently with some financial committees. I would like to ask for the adjournment of this item.

• (1710)

(On motion of Senator Andreychuk, debate adjourned.)

#### CRIMINAL CODE IMMIGRATION AND REFUGEE PROTECTION ACT

BILL TO AMEND—SECOND READING—  
DEBATE ADJOURNED

**Hon. Salma Ataullahjan** moved second reading of Bill S-240, An Act to amend the Criminal Code and the Immigration and Refugee Protection Act (trafficking in human organs).

She said: The story told by Mohammad Salim Khan is something befitting a horror film:

Waking up in a weary haze in an unfamiliar house on the outskirts of Delhi, India, Khan was greeted by a stranger in a surgical mask and gloves. As he began to ask where he was and what had happened, he was told very curtly, “Your kidney has been removed.”

Mr. Khan’s traumatic tale is unfortunately not a rarity, as poor labourers like him, often lured by a false promise of work, are preyed upon by illegal organ traffickers. In some instances, the victim-donors are offered a minor sum for their organs, but, in other cases, they are simply mutilated against their will.

As reported by Ranker, Khan’s surgeon gave him a warning that did not mince words: “If you tell anyone that your kidney has been removed at this very place or if you tell anyone that your kidney has been removed at all, there is a man who is following you that will shoot you.”

Honourable Senators, before the year 2000, trafficking in human organs was primarily limited to the Indian subcontinent and Southeast Asia, and the recipients of organs were typically from the Gulf States, Japan and other Asian countries, with the European Union and the United States issuing sporadic reports of patients travelling abroad to obtain organs, primarily kidneys. However, since then, organ trafficking has spread throughout the globe, with organ recipients exploring opportunities for transplantation in Eastern European countries, as well as Russia.

Today, partly as a result of tougher law enforcement against trafficking in Eastern Europe, the Philippines and on the Indian subcontinent, trafficking in human organs is shifting to Latin America, North Africa and other regions, where the economic crisis, along with social and political instability, create opportunities for traffickers.

Fieldwork and other research by journalists and medical anthropologists has provided detailed portraits of organ recipients, victim-donors and those engaged in directing or otherwise furthering organ removal networks. Patients in wealthy countries, who have been languishing on organ donor waiting lists, travel abroad to obtain organs from victim-donors, who

most often are suffering from acute poverty, have been deceived or coerced by trafficking networks into giving up an organ for a mere fraction of the money the organ-recipient has paid to the traffickers. Moreover, victim-donors are kidnapped and held captive for the purpose of organ harvesting.

Organ trafficking has become a global problem. Sadly, my entire allotted speaking time could be spent recounting story after story of victim organ donors, such as the missing six-year-old boy who was found alone in a field crying, with both of his eyes removed, presumably for the corneas; the young girl who was kidnapped and taken to another country for the sole purpose of harvesting her organs; and, the terrified group of women and men who were found locked inside an apartment, being held through deception and threats, waiting to be taken to a clinic to unwillingly have a kidney removed.

Honourable Senators, Bill S-240 amends the Criminal Code to create new offences in relation to trafficking in human organs and tissue. It also amends the Immigration and Refugee Protection Act to provide that a permanent resident or foreign national is inadmissible to Canada if the Minister of Citizenship and Immigration is of the opinion that they have engaged in any activities relating to trafficking in human organs or tissue.

The procedure of human organ transplantation, as a viable treatment for patients with terminal organ failure has created a significant increase in the demand for organs globally. However, this greater demand for organ transplantation has also resulted in increasingly longer wait-times for donor organs in many parts of the world, as the demand continues to far exceed the supply.

It is estimated that the current number of legal transplants performed covers only the needs of 15 per cent of all patients on waiting lists worldwide. This shortage of available organs has prompted countries to develop procedures and systems to increase supply, mainly through the promotion of deceased donation programs. This alone, however, has not been enough to fill the gap between the demand and supply of organs.

Trafficking in persons for the removal of their organs is prohibited by international law as part of a general prohibition on human trafficking, defined to include exploitation for the removal of organs. Notwithstanding, in 2007 the World Health Organization reported that trafficked organs accounted for an estimated 10 per cent of organ transplants performed around the world and that 5 to 10 per cent of all kidney and liver transplants globally were conducted with illicitly obtained organs and/or commercial victim-donors. Since 2007, these percentages have continued to increase.

Together with drugs, humans, arms, diamonds, gold and oil, organs have become the subject of an illegal multi-billion dollar industry, estimated to generate profits between \$600 million and \$1.2 billion per year. To exploit the gap between the supply and demand of organs even more, criminal organizations that traffic in human beings have expanded their practices to include organ trafficking. Consequently, over 100 countries have passed legislation banning the trade of organs. Additionally, a number of countries believed to have had significant problems with organ trafficking have responded with legislation strengthening existing laws which ban organ trafficking and organ sales.

Further, there are a number of governmental and professional bodies with initiatives that regulate domestic and international organ transplantation and tackle organ trafficking, including, for example, the Council of Europe Convention against Trafficking in Human Organs. The crime of trafficking in human beings was first defined in the UN Palermo Protocol and has since become universally accepted as the international legal framework against human trafficking. The Declaration of Istanbul, widely recognized as an important guide for professional and governmental bodies in the field of organ transplantation, defines organ trafficking as:

... the recruitment, transport, transfer, harboring or receipt of living or deceased persons or their organs by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving to, or the receiving by, a third party of payments or benefits to achieve the transfer of control over the potential donor, for the purpose of exploitation by the removal of organs for transplantation.

Further, the declaration states that all commodification of organs is ethically wrong and must be criminalized.

Honourable senators, human organs have become a valuable and profitable black market commodity, involving transnational crime syndicates operating through vast international networks.

• (1720)

Cases of organ trafficking continue to be reported from around the globe despite the fact that almost all countries in the world prohibit compensated organ donation, a practice widely viewed as targeting impoverished and otherwise vulnerable donors, as a violation of the principles of equity, justice and respect for human dignity.

According to the UN Office on Drugs and Crime, trafficking for the removal of organs was detected in at least 10 countries between 2012 and 2014, mainly in central and southeastern Europe, eastern Europe, central Asia, northern Africa and the Middle East.

In terms of demand, the practice of travelling abroad to receive an organ transplant for consideration, almost exclusively monetary consideration, has been reported by nationals of the United Kingdom, Saudi Arabia, Taiwan, Australia, the United States and Canada, among others.

Pursuant to statistics released by Havocscope, a website that tracks global black market information, the average price paid by a recipient for a kidney transplant is \$150,000 U.S., while the average price paid, if any, to a kidney victim donor is \$5,000 U.S.

In contrast, the cost of a sanctioned kidney transplant operation in the United States, for instance, including the average amount billed for the procurement of a kidney, is \$67,000 and \$260,000 U.S. total for the transplant operation, including pre- and post-operative care.

In Canada, the initial one-year cost of a kidney transplant is approximately \$120,000 and transplantation follow-up costs, including medication, drop to under \$22,000 per year in subsequent years.

Last year, the issue of forced removal of organs in northeastern Africa gained international attention when Italian authorities arrested 38 people suspected of being members of a transnational organized criminal group involved in organ trafficking.

The investigation revealed that Eritrean migrants who had been kidnapped along the route to northern Africa and who were unable to pay ransoms were killed to remove their organs, which were then sold on the black market.

The Organization for Security and Co-operation in Europe's office of the special representative for combating trafficking in human beings published an analysis and findings report on the issue of trafficking in human beings for the purpose of organ removal, referred to as THB/OR, which states that, as of 2013, several international organizations had addressed in basic terms the *modus operandi* of the THB/OR networks in special reports.

In general, these reports have relied on media reports, as well as on academic research, which essentially outlines a well-organized and extremely mobile operation run by a network of brokers, middlemen, doctors and nursing staff that operate as follows. As previously noted, the network exploits persons suffering from extreme poverty or other vulnerabilities. Marginalized in society and often without sufficient education to assess the risks of organ removal, these donors are susceptible to deception, fraud and coercion.

At the other end of the transaction are the organ recipients who may be desperate due to insufficient organ donation in their home countries, leaving them on transplant waiting lists, surviving on dialysis. The network's activities are facilitated by corruption.

THB/OR networks typically operate under the overall or strategic direction of international brokers who tend to move freely among the countries in which their network is active. These brokers make the strategic decisions for their networks, including the selection of target populations for victim donors and the selection of local brokers to work with.

The international broker can also identify the location for the transplant surgeries, as well as the transplant surgeons. The location is often a hospital or a private clinic.

The international broker works through local brokers to recruit the victim donors. Local brokers then target persons who are vulnerable to recruitment due to acute poverty.

The victim donors are generally also poorly educated, unemployed or underemployed and often have limited experience with travel abroad. They lack medical knowledge, particularly relating to transplant surgery and its potential consequences.

In some cases, the victim-donor is initially trafficked or smuggled to another country under the fraudulent pretense of a job. When that job fails to materialize and after the recruit finds himself or herself in a foreign country without resources to return home, the recruiter will offer the donor, as the only alternative to

relay the imposition of a false debt, the sale of an organ. In the recruitment process, the victim is generally provided with misleading and inaccurate information about the risks of organ removal, including the potential consequences of living without the organ. In most cases, the process involves various forms of fraud and deception, including fraud relating to payment and misinformation, or absence of information, about the health risks for both the victim-donor and the recipient.

With regard to the transplant surgery, fraudulent written consents and declarations are prepared with the intent to comply with local legal requirement, such as disavowals of financial consideration for the organ, assertions of family relations or assertions of informed and voluntary consent. Victim-donors signing these documents are generally not informed of the content of the documents and may well be functionally illiterate.

If the victim-donor was trafficked to another country for donation, he or she is then typically placed on a flight back to his or her point of origin within days of the surgery.

The health and social consequences for the victim-donor are generally negative. Victim-donors often go on to suffer from poor health, depression, shame, social stigma, a relapse into poverty and further degraded employment opportunities. Their deteriorating health prevents them from performing even the poorly paid physical labour they might have engaged in prior to the transplant surgery.

As the OSC report demonstrates, trafficking in persons for organ removal is a unique and distinct form of trafficking. Therefore a comprehensive approach to tackling this form of trafficking must become a greater priority for all countries affected, including ensuring that all forms of THB/OR are criminalized in a national legislation.

The European Union has also recognized that the commercial trade in human organs, including trafficking in persons for human removal has developed into a global problem. In this regard, the European Parliament conducted an in-depth study on the trafficking of human organs in 2015. The report stresses that where donors in organ trafficking areas are generally considered victims and given due assistance and protection, the recipients of the organs must be held morally responsible for aiding and abetting trafficking in organs and stronger measures must be taken to discourage and deter this practice, including organ recipients criminally liable.

In 2013, seven people in Kosovo suspected of running an international organ trafficking ring taking kidneys from poor donors lured by financial promises stood trial. At least 24 kidney transplants involving 48 victim donors and recipients were carried out between 2008 and 2009.

After the trial, the Canadian prosecutor working for the European Union's Rule of Law Mission in Kosovo said that the Canadian government must pass legislation barring Canadians from buying human organs in foreign countries.



• (1730)

A Canadian man who admitted to purchasing a black-market kidney but never faced criminal charges was among the more than 100 witnesses who testified at the trial. Most of the names of the victim donors and recipients were traced through documents seized during a police raid into a medical facility in Kosovo in 2008.

The court heard that the victim donors were promised between \$10,000 and \$12,000 in return for their kidneys, but many said they were never paid. "At least two were cheated out of the entire amount and went home with no money and only one kidney," said the court.

It was reported that kidney recipients, who were mostly wealthy patients from countries such as Canada, Israel, Poland, the U.S. and Germany, paid up to \$170,000 for the procedure, and the defendants are believed to have profited \$1 million from the illegal transplants.

The Middle East is also becoming a hot spot in international organ trade, where the influx of refugees desperate to earn money is providing a new market for organ traffickers.

This year, the BBC reported that organ trafficking is a booming business in Lebanon, as desperate Syrian refugees sell kidneys and other body parts to support themselves and their families. One of the organ traffickers interviewed said:

I exploit people, that's what I do. . . .

What can they do? They are desperate, and they have no other means to survive but to sell their organs.

He said he drives blindfolded victim donors to a hidden location for the operation, sometimes in a rented house transformed into a temporary clinic. He then looks after the victim donor for almost a week until the stitches are removed. The moment the stitches are removed, he does not care what happens to the donor any longer.

I don't really care if the client dies as long as I got what I wanted. It's not my problem what happens next. . . .

In 2011 a CNN documentary, as reported by Ranker, called *Death in the Desert*, revealed a grim human trafficking practice taking place in North Africa.

As displaced refugees from Sudan, Ethiopia and Eritrea were attempting to cross the Sinai Desert into Israel, the perils of the arid, unforgiving terrain proved secondary to the awful fate that met some of these weary travellers as they found themselves sold into the black market organ trade.

Kidnapped by some Bedouin tribes of the region, these refugees — frequently tortured and raped while in captivity — were often used for extortion of overseas relatives. In the event of a failure to secure funds from desperate family members, the kidnapped men and women were frequently sold off to organ harvesters.

Surgeons from Cairo willing to do this off-the-books work would travel to the desert, paying anywhere from \$1,000 to \$20,000 for kidneys, livers, and eyeballs from living donors. With the help of mobile refrigeration units, these organs would then be brought back to Egypt's capital to be resold.

Human rights workers uncovered high number of discarded bodies in the area bearing surgical scars. Medical experts, when shown pictures of the corpses, verified that these surgeries took place while the victims were still alive.

Paying for an organ from someone who could use the money more than an intact anatomy may sound reasonable, but the real picture is grim, said Brian Resnick in his 2012 article entitled "Living Cadavers: How the Poor are Tricked into Selling Their Organs." The article focused on a research paper by Michigan State anthropologist Monir Moniruzzaman, published in the *Medical Anthropology Quarterly*, which recounted the nearly 15 months he spent doing fieldwork in Bangladesh, where he infiltrated an illegal organ trafficking network. What he saw there, he described as nothing less than exploitation.

During his fieldwork, Monir Moniruzzaman interviewed 33 poor Bangladeshis who decided to sell their kidneys, many of whom initially didn't even know what a kidney was. Burdened by debt and with mouths to feed, these donor victims were lured in by newspaper classified ads which implied a bounty to those willing to donate.

In his research, Monir Moniruzzaman collected a thousand classified ads in popular newspapers asking for organs and making impossible offers such as citizenship in a foreign country. To entrap the potential sellers, organ traffickers told the victim donors that they had two kidneys and that one of them was sleeping in the body.

During the operation, doctors would awaken the dormant kidney and take the old one out for donation. In this view, the second kidney was just baggage, a cash reserve buried in the lower back.

Furthermore, victim donors were told that their second kidney was of no use to them if their first one failed, which quieted thoughts of, "What if I need that second kidney in the future?" They were also told that the surgery was 100 per cent safe.

Once a tissue match was found, an organ broker offered the victim donor around a thousand dollars. In most cases, however, the victim donors did not receive anywhere near that amount. Most of the operations took place in India, and upon their arrival, the victim donors would have their passports confiscated so that they could not leave.

When they returned to their daily lives, the victim donors reported their economic and physical conditions had deteriorated. Many felt shame and disgrace. Some were handicapped by the experience and found themselves unable to perform the manual labour that they used to do.

In the end, as always, it was the organ traffickers who won, earning \$5,000 per transaction for themselves.

Unfortunately, honourable senators, there is a widespread view internationally that the trafficking of human organs is not a pressing concern for wealthier demand countries, including Canada.

Unless this issue is addressed by demand countries, the burden of combatting these crimes will remain entirely on the countries from which victim donors tend to originate, as well as countries where illegal organ transplants are conducted, both typically less wealthy countries.

For this reason, it is imperative that demand countries such as Canada participate in the detection, investigation and prosecution of those who obtain an organ or tissue to be transplanted into their body or into the body of another person knowing that that person from whom it was removed did not give informed consent to the removal; those who carry out, participate in or facilitate the removal of an organ or a tissue from the body of another person knowing that the person from whom it was removed did not give informed consent for the removal; those who act on behalf of, at the direction of or in association with a person who removes an organ or tissue from the body of another person knowing that the person from whom it was removed did not give informed consent to the removal; and those who obtain or participate in or facilitate the obtaining of an organ or tissue from the body of another person for the purpose of having that organ or tissue transplanted into their body or the body of another person, knowing it was obtained for consideration. Furthermore, a permanent resident or foreign national must be inadmissible to Canada on the grounds of violating human or international rights or having engaged in conduct that would, in the opinion of the minister, constitute an offence under section 240.1 of the Criminal Code.

As the prosecutor in the Kosovo case said, organ trafficking is the exploitation of the poor, the indigent, the vulnerable and the marginalized in our society. The recipients are wealthy, influential citizens from foreign countries, largely Western countries, who should be held criminally responsible.

Honourable senators, trafficking in human organs is truly a cruel harvest of the poor. I therefore ask that you support the passage of this important bill.

(On motion of Senator Omidvar, debate adjourned.)

• (1740)

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

### FOURTH REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Fraser, seconded by the Honourable Senator Hubley, for the adoption of the fourth report (interim) of the Standing Committee on Rules, Procedures and the Rights of Parliament, entitled *Sessional Order*, presented in the Senate on March 7, 2017.

(On motion of Senator Smith, debate adjourned.)

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

### TWENTY-FIRST REPORT OF COMMITTEE— DEBATE ADJOURNED

The Senate proceeded to consideration of the twenty-first report (interim) of the Standing Committee on Internal Economy, Budgets and Administration, entitled *Audit and Oversight*, presented in the Senate on November 28, 2017.

(On motion of Senator Moncion, for Senator Massicotte, debate adjourned.)

## COMMITTEE OF SELECTION

### SIXTH REPORT OF COMMITTEE ADOPTED AS AMENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Omidvar, seconded by the Honourable Senator Gagné, for the adoption of the sixth report, as amended, of the Committee of Selection, entitled *Nomination of senators to serve on committees*, presented in the Senate on December 5, 2017.

**Hon. Donald Neil Plett:** Honourable senators, I do wish to make one correction.

### MOTION IN AMENDMENT

**Hon. Donald Neil Plett:** Therefore, honourable senators, in amendment, I move:

That the report be not now adopted, but that it be amended by removing the Honourable Senator Dyck from the list of members of the Special Senate Committee on the Arctic.

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

**Hon. Senators:** Agreed.

(Motion in amendment of the Honourable Senator Plett agreed to.)

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

**Hon. Senators:** Agreed.

(Motion agreed to and report adopted.)

**AGRICULTURE AND FORESTRY**

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT  
ON STUDY OF THE ACQUISITION OF FARMLAND IN CANADA  
AND ITS POTENTIAL IMPACT ON THE FARMING SECTOR

**Hon. Diane F. Griffin**, pursuant to notice of December 5, 2017, moved:

That, notwithstanding the order of the Senate adopted on Thursday, June 15, 2017, the date for the final report of the Standing Senate Committee on Agriculture and Forestry in relation to its study on the acquisition of farmland in Canada and its potential impact on the farming sector be extended from December 21, 2017 to March 29, 2018.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

**ENERGY, THE ENVIRONMENT AND  
NATURAL RESOURCES**

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT  
ON STUDY OF ISSUES RELATED TO ITS MANDATE

**Hon. Diane F. Griffin**, for Senator Galvez, pursuant to notice of December 6, 2017, moved:

That, notwithstanding the order of the Senate adopted on Thursday, January 28, 2016, the date for the final report of the Standing Senate Committee on Energy, the Environment and Natural Resources in relation to its study on emerging issues related to its mandate be extended from December 31, 2017 to December 31, 2018.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

**ETHICS AND CONFLICT OF INTEREST  
FOR SENATORS**

COMMITTEE AUTHORIZED TO RESTORE MEMBERSHIP  
AS AT OCTOBER 31, 2017

**Hon. Larry W. Smith (Leader of the Opposition)**, pursuant to notice of December 6, 2017, moved:

That the provisions of the order of December 7, 2016, respecting the membership of committees, be extended to the end of the current session insofar as they relate to the membership of the Standing Committee on Ethics and Conflict of Interest for Senators; and

That the membership of the committee be composed of the members of the committee as of October 31, 2017.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

*(At 5:46 p.m., the Senate was continued until tomorrow at 9 a.m.)*

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