SENATE SÉNAT

CANADA

DEBATES OF THE SENATE

1st SESSION • 42nd PARLIAMENT • VOLUME 150 • NUMBER 179

OFFICIAL REPORT
(HANSARD)

Thursday, February 8, 2018

The Honourable GEORGE J. FUREY,
Speaker

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Debates Services: D'Arcy McPherson, National Press Building, Room 906, Tel. 613-995-5756
Publications Centre: Kim Laughren, National Press Building, Room 926, Tel. 613-947-0609

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

THE SENATE

Thursday, February 8, 2018

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

Prayers.

SENATORS' STATEMENTS

THE LATE GRAND CHIEF BEN SYLLIBOY

Hon. Dan Christmas: Honourable senators, I rise today to speak to the memory of a great leader, a humble and compassionate and understanding man, a person dedicated to true servant leadership of his community in the best interests of his fellow man, woman and child.

It is with a heavy heart and yet one filled with thankfulness and gratitude for his life and service that I share the sad tidings of the loss of Mi'kmaq Grand Chief Ben Sylliboy, who passed away on November 30, 2017.

Honourable colleagues, the ancient Book of Ecclesiastes states that:

> To every thing there is a season, and a time to every purpose under the heaven: A time to be born, and a time to die; a time to plant, and a time to pluck up that which is planted; A time to kill, and a time to heal; a time to break down, and a time to build up; A time to weep, and a time to laugh; a time to mourn, and a time to dance . . . .

This passage perfectly reflects the life and times of Grand Chief Ben Sylliboy, whose time with us knew many seasons, both fertile and fallow, and who lived a life of selfless and humble service to his community, to his church and to the pursuit of unity across the Mi'kmaw nation and its goal of self-determination.

When one considers the role of the Grand Chief of the Mi'kmaw nation, it is important to note the size of the nation, stretching from Quebec through New Brunswick, to Nova Scotia and PEI, across to Newfoundland and into parts of Maine.

The Grand Chief is the figurehead of our nation, its spiritual leader or head of state, and Grand Chief Sylliboy led by example, by character and thus by earning respect and making things happen by the power of persuasion.

Grand Chief Ben Sylliboy was born in the Mi'kmaq community of We'koqma'q in Nova Scotia on March 2, 1941. He grew up in a modest household, as did many Mi'kmaq at the time, which lived with meagre means of supporting themselves.

At the age of six, the Grand Chief was sent to the Indian residential school in Shubenacadie. As it was for so many Mi'kmaq who attended residential schools, Ben's time was filled with hardships, but he was thankful that he was only there for four years.

While there he was punished for speaking his mother tongue, though he later relearned the Mi'kmaw language. After his time in residential school, Ben moved back to his home community and within months was infected with tuberculosis. This sickness would plague him for eighteen months, causing him to endure being in and out of hospital.

One would think that such experiences would quite understandably have left him bitter and wounded, but not Ben Sylliboy. He once said he forgave but did not forget his time at residential school, which captures his generosity of spirit and the grace-filled understanding of suffering that so clearly marked his life.

Grand Chief Sylliboy was first selected in 1968 as *Keptin* by his community, a lifelong position of great honour often referred to as hereditary or life chief in other parts of Canada.

In 1992, then Grand Chief Donald Marshall, who was very ill, asked that Ben replace him and take on the role of interim Grand Chief, a post in which he served until his passing at the end of November at the age of 76.

To the end of his days, Grand Chief Sylliboy held the strong vision that the Mi'kmaq should one day determine for themselves, rather than the Canadian government, who is a Mi'kmaq and a community member.

Robert Kennedy once said:

> Few will have the greatness to bend history itself; but each of us can work to change a small portion of events, and in the total of all those acts will be written the history of this generation.

Honourable senators, when the definitive history of the Mi'kmaw nation will be written, the legacy of Grand Chief Sylliboy will be celebrated, embraced and cherished by the generations, recognizing the myriad contributions of a servant leader who always encouraged us to listen to each other and take one another's advice. His efforts, his works, his dedication and his tireless service were of no small portion, and our communities will never forget him.

Rest well, Grand Chief, with respect and sympathy to your wife and all your relations.

Wela'lioq. Thank you.

COMMERCIAL FISHING SAFETY

Hon. Norman E. Doyle: Honourable senators, commercial fishing is considered to be one of the world's most dangerous occupations. Newfoundlanders and Labradorians are all too familiar with the hazards, hardships and tragedies that have been part of the industry since the first fishing fleet worked off our coastline centuries ago.

In 2013, the Newfoundland and Labrador Fish Harvesting Safety Association was formed to fully address the issue of safety at sea. Last month, Gail Hickey was appointed executive director of the association with the specific mandate to bring forth programs, training and regulations that will play a major role in creating a safe environment for the men and women working in our fishing industry.

Gail Hickey is proposing that this new initiative will promote an industry-driven focus as well as being critical to fish harvesters' well-being and protection from harm, and fundamental to having a motivated, engaged and productive workforce.

The training proposed by the Newfoundland and Labrador Fish Harvesting Safety Association will fill a void in industry-specific training that currently exists in the fish harvesting sector. It will be a significant undertaking, with consideration given to the type and size of fishing vessels, equipment and the educational level of fish harvesters.

The training, which will include federal and provincial legislation, regulation and best practices, is necessary and will work effectively to lower injury and fatality rates, reduce the financial costs of work-related injuries and make it easier for fish harvesters to work safely and compete in global markets, thereby enhancing profitability.

• (1340)

Fish harvesters need training that will have a genuine impact on their safety and well-being and save lives at sea. The Newfoundland and Labrador-Fish Harvesting Safety Association has the credibility and the support of the industry to lead that initiative.

I congratulate the Newfoundland and Labrador-Fish Harvesting Safety Association for this major initiative, and I wish the organization's recently appointed executive director, Gail Hickey from Avondale, Newfoundland, calm seas and a safe voyage as she navigates these uncharted waters.

Hon. Senators: Hear, hear!

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Michael Campbell. He is the guest of the Honourable Senator Campbell.

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

Hon. Senators: Hear, hear!

RUSS MURPHY
BOB POWER

CONGRATULATIONS ON RETIREMENT

Hon. Fabian Manning: Today I am pleased to present Chapter 28 of "Telling our Story."

In the era of social media today and the arrival of instant news stories from around the globe, it is easy to forget our media pioneers, those who kept us informed and up to date on the world around us. They were there long before Facebook, Twitter, and all the other forms of instant messaging, became part of our daily lives. In Newfoundland and Labrador, we know these pioneers as Russ Murphy and Bob Power of CHCM Radio, Marystown.

I grew up in the small fishing community of St. Bride's on the south coast of Newfoundland and Labrador where electricity did not arrive until 1968 — four years after I was born.

We had a black-and-white television with only one channel — CBC — and we managed to watch "The Tommy Hunter Show" on Friday night and Ben Cartwright and his boys on "Bonanza" every Saturday morning if the antenna did not blow off the roof of the house the night before.

But through it all, one thing we could always depend on was our radio, and through that medium, we were introduced to CHCM 740 AM Marystown, an affiliate of the mother station, VOCM, where two of our province's best media personalities were to become an integral part of our daily lives.

Russ Murphy joined VOCM on March 20, 1964, and while Russ may not appreciate it, that was just two months before I was born. He was joined at the radio station a short time later, on February 28, 1966, by Bob Power.

Through the years Russ and Bob lived in the area, became part of the community life and earned the trust and respect of listeners throughout our region.

Newfoundland and Labrador has changed so much since these two men joined VOCM. From our fishery to the oil and gas industry to stories of triumph to stories of tragedy, from record-breaking sports events to record-breaking weather events — and, friends, in Newfoundland and Labrador, there is always a weather event — from a great political victory to great political turmoil, Russ and Bob have delivered decades of relevant and, most important, trustworthy news stories.

As a young politician in Newfoundland and Labrador, I depended upon Russ and Bob many times as they helped me stay in touch with my constituents. Whether it was at the Placentia Regatta with Russ or during the upheaval of the 2005 raw-material-sharing episode with Bob, I was treated fairly 100 per cent of the time and always felt comfortable in my discussions with them.

With a combined service of 102 years and a long list of journalism awards and honours, Russ and Bob are taking off their headphones, turning off their microphones, and calling it a career.

Their voices from the CHCM radio station, located on the hill in Marystown, will fall silent, but their contribution to telling the stories of Newfoundland and Labrador will be remembered for a long time. They were recently honoured by VOCM at The Capital hotel in St. John's just a few days ago.

They are two of our great media pioneers and top-notch journalists. Honourable senators, I ask you to join with me in congratulating and wishing Russ Murphy and Bob Power a well-earned retirement as they sign off for their final broadcast.

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

TWENTY-FOURTH REPORT OF COMMITTEE TABLED

Hon. Larry W. Campbell: Honourable senators, I have the honour to table, in both official languages, the twenty-fourth report of the Standing Committee on Internal Economy, Budgets and Administration, which deals with the International Travel Report of Senator Pate.

TWENTY-FIFTH REPORT OF COMMITTEE PRESENTED

Hon. Larry W. Campbell, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, February 8, 2018

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

TWENTY-FIFTH REPORT

Your committee, which is authorized by the *Rules of the Senate* to consider financial and administrative matters, has approved the Senate Main Estimates for the fiscal year 2018-19 and recommends their adoption (Appendix A and B).

Your committee notes that the proposed total budget is $109,080,103.

Respectfully submitted,

LARRY W. CAMPBELL

Chair

(*For text of report, see today's* Journals of the Senate*, Appendix, p. 2979.*)

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

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

[*Translation*]

STUDY ON THE REGULATORY AND TECHNICAL ISSUES RELATED TO THE DEPLOYMENT OF CONNECTED AND AUTOMATED VEHICLES

NINTH REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE DEPOSITED WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Dennis Dawson: Honourable senators, I have the honour to inform the Senate that pursuant to the orders adopted by the Senate on March 9, 2016, and December 14, 2017, the Standing Senate Committee on Transport and Communications deposited with the Clerk of the Senate on January 29, 2018, its ninth report entitled *Driving Change: Technology and the Future of the Automated Vehicle*.

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

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

[*English*]

THE SENATE

NOTICE OF MOTION TO URGE THE GOVERNMENT TO FULFILL AND CONVEY ITS COMMITMENT TO THE TRANS MOUNTAIN PIPELINE EXPANSION

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

That the Senate, whose members represent the various regions, provinces and territories of Canada, note with concern that people and businesses in British Columbia and Alberta are already beginning to suffer from the fall-out of an escalating inter-provincial trade dispute;

That the Senate urge the Prime Minister to bring the full weight and power of his office and that of the Government of Canada to ensure that the Trans Mountain Pipeline Expansion is completed on schedule; and

That the Senate also urge that the commitment of the Prime Minister and the Government to the goal of ensuring that the expansion is completed on time be officially conveyed to the governments of British Columbia and Alberta in a manner that leaves no doubt as to the federal government's determination to see the project become fully operational within the present timeline.

• (1350)

QUESTION PERIOD

NATURAL RESOURCES

TRANS MOUNTAIN PIPELINE

Hon. Larry W. Smith: My question is for the Leader of the Government in the Senate, and it concerns the future of the Trans Mountain pipeline project.

Earlier in the week, senators in this chamber from all sides took part in the emergency debate on this issue brought forward by our colleague Senator David Tkachuk. Since the emergency debate on Tuesday night, we've only heard more vague comments and no concrete leadership plan on how the Government of Canada will guarantee that the construction of this project moves forward and is not subject to further delay.

The last thing the Canadian energy sector needs right now is more uncertainty, but that is what the Prime Minister is giving them by maintaining his laissez-faire approach to Trans Mountain. This dispute has only escalated in recent days, as we all know.

What is the Prime Minister doing? Does he have the resolve to fix this situation and give Canadians in the private sector confidence in the future of Trans Mountain or any other major energy projects in our country?

Hon. Peter Harder (Government Representative in the Senate): Let me take the occasion of this question to reiterate that the Prime Minister, his government and the ministers responsible have been vigilant in underscoring the support of the Government of Canada for this project. They and their officials are working diligently with counterparts at the provincial level to ensure a path forward that achieves the objective we all share, which is that the Trans Mountain pipeline proceed.

Senator Smith: As we all know, the government announced the overhaul of the pipeline review process. It was very interesting that the officials said it could become law by mid-2019. An article notes that the legislation will have no impact on projects currently being assessed, which will continue to be handled under rules in force now.

I go back to my question: Will the Prime Minister demonstrate leadership, coordination and bring people together so that the Trans Mountain project will be built and built on time? The president of Trans Mountain said he'd like to have shovels in the earth in the fall of 2018, with construction completed in 2020. Our time is running out, sir, and we need to have some help.

Senator Harder: Let me reiterate that the Prime Minister and his government will continue to be diligent in achieving the objective of the Government of Canada — and all senators certainly participated in the debate the other night — that this project go forward on the schedule that is before us. That would be the ongoing hope and commitment of the government.

[*Translation*]

PRIVY COUNCIL OFFICE

LOBBYING

Hon. Claude Carignan: My question is for the Leader of the Government in the Senate. Senator Harder, yesterday, I asked you a question about the $16.8 million that the Liberal government gave to Facebook and Google last year. I would like to talk about how a certain relationship exists between the current government and Google.

Google lobbyists met with government representatives dozens of times in 2017. For example, they met with Prime Minister Trudeau twice — on April 6 and again on November 2 — with Katie Telford once, with Gerald Butts twice, and with Kate Purchase twice. I am sure you will agree that these people are Prime Minster Trudeau's backroom advisers.

Senator, Google may be an excellent search engine, but how does the company manage to get such quick and privileged access to the government?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. Let me assure all senators that the facts he describes demonstrate the effectiveness of the Lobbying Act, which ensures that registerable lobbying activity is both permitted and must also be registered. It is not surprising to me that a company of the size and import of Google would take advantage of the occasion to ensure that the issues important to them are brought to the attention of Government of Canada. I wouldn't be surprised if they also ensured that their interests were advanced outside of government, with legislators on all sides of the chamber.

[*Translation*]

Senator Carignan: Mr. Leader, the Google lobbyists also met with Minister Joly three times in 2017, and with her chief of staff, Leslie Church, four times. We know that Ms. Church worked at Google before she joined Minister Joly's team.

Did the government seek the advice of the Commissioner of Lobbying regarding what ties Ms. Church should maintain with her former employer?

[*English*]

Senator Harder: Let me repeat that the evidence or statistics the honourable senator cites are a reflection of the fact that the Lobbying Act is working.

With respect to the particular question, I will have to make inquiries, but I want to assure the senators that compliance with the Lobbying Act and all matters of ethical compliance by ministers and their staff are vigilantly monitored.

TRANSPORT

CONFEDERATION BRIDGE—BRIDGE TOLLS

Hon. Percy E. Downe: My question is for the Government Representative in the Senate. A year ago, Prime Minister Trudeau at a town hall meeting acknowledged that the Confederation Bridge was "an expensive bridge to cross," and he made a commitment to "look at what can be done to make sure people are able to travel freely, travel efficiently and openly across this country at modest costs."

Since the Prime Minister made that commitment, there has been a change in the toll on Confederation Bridge. It has gone up.

When will the Prime Minister announce his review and follow through on his commitment that Canadians can travel at modest cost across their country? No one would consider $47 per trip to cross Confederation Bridge to be modest.

Hon. Peter Harder (Government Representative in the Senate): I thank the senator for his question. I enjoyed it more a year ago than this year. Let me make inquiries and determine when and if the government —

Senator Downe: It's a privately operated bridge and one with a long-term commitment — a contract — but as we all know, contracts can be amended many times. I was curious to see if there was any discussion between the Government of Canada and the operator of the bridge to amend that contract. As we know, the Government of Canada provides the yearly subsidy, and the tolls go to the private company — the subsidy and the tolls combined — to pay for 35 years for a bridge that is constructed to last at least 100 years.

If you extend the contract, the tolls go down dramatically. If you extend the contract for a reasonable time, the tolls would actually disappear because the subsidy would carry it.

I was interested if there was any discussion to that end, so on June 1 of last year I submitted an access-to-information request, wondering if there was any correspondence between Transport Canada and Strait Crossing, the company running Confederation Bridge. On June 27, I received a letter from Transport Canada, asking for an extension that would take us to September 29. That date came and went. We made inquiries. They requested an additional extension, until December 28. As of today, we have no information.

The government, as you well know, made an election commitment to "raise the bar in transparency." Could you make inquiries of Transport Canada as to when we could get an answer to what is a very simple question: Has there been any discussion between the private company and the government about changing the toll rate or extending the contract? I would appreciate that they have to consult the private company, but it should not take this long, in my experience.

Senator Harder: Senator, first of all, I want to thank you for bringing the specifics to my attention. I will be happy to make inquiries.

SOYBEAN EXCLUSION IN GRAIN TRANSPORTATION

Hon. Diane F. Griffin: Senator Harder, my question is about the exclusion of soybeans from Schedule II of the Canada Transportation Act, which outlines which crops are subject to the maximum revenue entitlement provisions. The program limits the revenue earned by CN and CP for shipping Western grain and other crops grown in Western Canada.

• (1400)

I'm seeking clarification in the context of Bill C-49. In the Bill C-49 briefing binder that we received, the rationale for soybean exclusion is brief. It says the government considered various options during its review of the maximum revenue entitlement and decided against that approach at this time.

Statistics Canada crop yield data show a significant increase of soybean harvests in the last decades, and crops that have larger or smaller yields are included in Schedule 2 of the act, but soybeans appear to be the exception.

The Crop Logistics Working Group, mandated by the Honourable Senator Gerry Ritz, then Minister of Agriculture and Agri-food, recommended in its submission to the Canada Transportation Act review that soybeans and chickpeas be added to the list of crops in Schedule 2 to ensure that it captures all crops grown extensively in Western Canada.

As Statistics Canada evidence and the working group policy recommendations validate farmers' concerns, could you explain why the government would oppose the Senate making a technical amendment to Bill C-49 to correct this deficiency? That is, it would add soybeans to Schedule 2 of Bill C-49.

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for raising this matter. As the question implies, this is a point of discussion, as I understand it, in the committee review of Bill C-49. I don't want to comment on what the committee may or may not recommend for the consideration by this whole chamber with respect to possible amendments. Let me simply say that she is correct in outlining that the Government of Canada considered the addition of soybeans to the maximum revenue entitlement and decided against it at this time.

Having said that, I want to assure the senator and other interested senators that the soybean farmers and shippers benefit from important measures that are also included in Bill C-49, such as the reciprocal financial penalties and the new competitive access tool — long-haul interswitching — amongst others. I would also note that the Grain Growers of Canada has eagerly urged the Parliament of Canada to deal with this important piece of legislation that is now before the Senate.

I will have further comments to make when and should the committee make other amendments to the bill.

NATURAL RESOURCES

TRANS MOUNTAIN PIPELINE

Hon. Richard Neufeld: Honourable senators, my question concerns the Trans Mountain pipeline expansion project.

The Prime Minister once famously said that the budget will balance itself. It is worrying that the Prime Minister seems to be applying that same logic to the subject of pipeline construction.

The Trans Mountain expansion project was approved following a thorough, independent, scientific and evidence-based process. This project is clearly in the national interest. Leadership is now required, and it's time for the Prime Minister to act before this dispute gets any worse.

When the Government of Canada approved Trans Mountain in November 2016, why did the Prime Minister believe that that would end his involvement in this project?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for the question. His conclusion is not at all correct. The Prime Minister has, on numerous occasions since then, committed his government and instructed his ministers to work with the private sector and the other responsible authorities in advancing this project.

As he well knows, the decision made by NEB in November 2016 had a number of actions that the company is in the process of undertaking. The Prime Minister has, on several occasions over the last number of days, reiterated his support for and the commitment of his government to see this project fulfilled.

I think it is in the interests of all of us who are supporting the project to speak with some degree of moderation in encouraging all the sides of the dispute to find a way forward that makes the project proceed.

Senator Neufeld: In an interview a week ago today, the Prime Minister stated:

> I'm not going to opine on the disagreements between the provinces in this case.

Honourable senators, this is not a dispute just between British Columbia and Alberta. This is a dispute between the B.C. NDP government and Canada, and the Prime Minister should recognize that and act accordingly.

What will the Prime Minister do to ensure the construction of Trans Mountain expansion project, the thousands of jobs it will create and the economic benefits that it will provide to all Canadians for decades to come?

Senator Harder: Again, the Government of Canada and the Prime Minister in particular are well aware of the economic benefits that derive from the project. The project has had the approval of the regulating authorities, it has the support of the government, and the government will continue to work diligently with all of the parties to find a path forward that allows the project to go forward.

FAMILIES, CHILDREN AND SOCIAL DEVELOPMENT

CANADA SUMMER JOBS PROGRAM

Hon. Norman E. Doyle: Honourable senators, I have a question for the Leader of the Government in the Senate.

I want to ask him about the Canada Summer Jobs Program, and the Prime Minister's values test for those communities who decide to apply for a student summer jobs program.

As the leader is aware, this values test requires the sponsoring organization to agree to tick off a box that indicates that you have, more or less, philosophical views that are in sync with the Prime Minister's, whether that's reproductive rights or a whole range of things that the PM supports.

Leader, the Prime Minister has caused a very complicated problem here for people who cannot, in conscience, support what ticking off the box implies.

The various organizations from my province applying for the student summer jobs program are wondering if the Prime Minister and this government would stop this intellectual snobbery and intolerance, come down from their lofty perch and simply allow an organization to say on the application form that all applicants are subject to the laws and the Constitution of Canada, period.

Wouldn't that solve the problem, leader?

Hon. Peter Harder (Government Representative in the Senate): It is the view of the Government of Canada — and I would share it — that the position the government has put forward solves the problem that was found in the applications of last year.

The application today asks organizations to confirm that both the job and the organization's core mandate respect individual human rights and labour laws and do not support discriminatory practices. I would have thought that's a position that all of us in this chamber would support.

Senator Doyle: Has the Government of Canada changed the application form, as it said it would? I believe we were given indications here in the house that the government was in the process of changing the application forms.

As of 1:15 today, I've contacted people in the city of St. John's who indicated to me that in spite of all their efforts to get a clear answer on this today, there has been no reply.

Does the Government of Canada have plans to change that application form or at least make ticking off the box optional? Back in St. John's, for instance, the local Catholic archdiocese runs a museum, and it's part of our capital city's summer tourism scene. They've always staffed it with summer students. Given the Catholic church's stand on pro-life issues and abortion issues, isn't it more than a little bit absurd and unfair to expect them to endorse abortion in exchange for a couple of summer students?

• (1410)

Your Honour, this is terribly unfair, and I would hope that the leader would make the Prime Minister aware that it has caused some complicated problems when it comes to applying for student summer jobs this year.

Senator Harder: Again, I thank the honourable senator for his question. Be assured that I will bring his question to the attention of the government. I just want to, for the record, provide a bit of background on the attestation that is being asked for.

When it speaks of the organization, of course, it's the entity that is directly applying for the Canada Summer Jobs funding. With regard to core mandate, these are the primary activities undertaken by the organization that reflect the organization's ongoing services to the community. It is not the beliefs of the organization, and it is not the values of the organization but, rather, the primary activities undertaken by the organization in respect of this program.

Individual human rights are respected when an organization's primary activities and the job responsibilities do not seek, remove or actively undermine these existing rights.

The Canada Summer Jobs program will not fund organizations whose primary activities involve partisan political activities or do not respect or actively undermine established individual human rights in Canada.

Let me give some examples. Example one: A faith-based organization with anti-abortion beliefs that operates a summer camp for disadvantaged youth applies for funding to hire students as camp counsellors. The students would be responsible for developing programs for the youth, including leadership and skills development. This organization would be eligible to apply.

Example two: A faith-based organization with anti-abortion beliefs applies for funding to hire students to serve meals to the homeless. The organization provides numerous programs in support of their community. The students would be responsible for meal planning, buying groceries and serving meals. This organization would be eligible to apply.

Example three: A faith-based organization that embraces a traditional definition of marriage but whose primary activities reduce social isolation among seniors applies for funding to hire students. The students would be responsible for developing and delivering programs to all seniors regardless of sexual orientation, gender identity or expression. This organization would be eligible to apply.

Example four: A summer camp submits an application to hire students as camp counsellors; however, the camp does not welcome LGBTQ young people. This camp is not eligible to apply. It makes sense.

Example five: The organization whose primary activities are focused on removing or actively undermining women's existing reproductive rights applies for funding. This organization would not be eligible to apply.

I want to remind all senators that this is a very targeted and important expression of support for Canada's rights and values.

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table the answers to the following oral questions: the response to the oral question of September 27, 2017, by the Honourable Senator Housakos, concerning the Prime Minister's Office — Trudeau Foundation; the response to the oral question of November 2, 2017, by the Honourable Senator Jaffer, concerning national defence — gender representation; the response to the oral question of November 9, 2017, by the Honourable Senator Raine, concerning environment and climate change — energy-efficient housing; the response to the oral question of November 22, 2017, by the Honourable Senator Downe, concerning national revenue — Canada child benefit; the response to the oral question of November 22, 2017, by the Honourable Senator Raine, concerning national defence — compensation for civilian employees — Chalk River decontamination; the response to the oral question of November 30, 2017, by the Honourable Senator Martin, concerning families, children and social development — employment insurance — youth; the response to the oral question of December 6, 2017, by the Honourable Senator Ataullahjan, concerning immigration, refugees and citizenship — citizenship guide; the response to the oral question of December 7, 2017, by the Honourable Senator MacDonald, concerning Canadian heritage — Parliament Hill hockey rink; the response to the oral question of December 8, 2017, by the Honourable Senator Martin, concerning finance — disability tax credit; the response to the oral question of December 8, 2017, by the Honourable Senator Smith, concerning national revenue — Canada Revenue Agency — recovery of tax avoidance funds; the response to the oral question of December 12, 2017, by the Honourable Senator Carignan, concerning transport — aircraft maintenance; the response to the oral question of December 12, 2017, by the Honourable Senator Maltais, concerning Canadian heritage — broadcasting tax policy; and the response to the oral question of December 12, 2017, by the Honourable Senator Smith, concerning national defence — aircraft procurement.

PRIME MINISTER'S OFFICE

TRUDEAU FOUNDATION

(*Response to question raised by the Honourable Leo Housakos on September 27, 2017*)

Both prior to and subsequently to becoming Prime Minister, the Prime Minister has not received remuneration from the Trudeau Foundation.

NATIONAL DEFENCE

GENDER REPRESENTATION

(*Response to question raised by the Honourable Mobina S.B. Jaffer on November 2, 2017*)

Foreign Affairs

On November 15, 2017, at the 2017 UN Peacekeeping Defence Ministerial conference in Vancouver, the Prime Minister of Canada announced that Canada will be making a

range of contributions to UN peace operations, including military capabilities; an initiative to increase the numbers of women participating in peace operations and expand their roles; innovative training programs; and efforts to address the problems posed by child soldiers. Further details and background on the announcement are available at the link: (https://pm.gc.ca/eng/news/2017/11/15/canada-bolsters-peacekeeping-and-civilian-protection-measures).

Canada's contribution of over $1M to UN Police will help train up to 200 women police officers from recipient countries. These will be separate and in addition to the Canadian personnel – both men and women – who will be deployed to UN peace operations.

Canada will also launch the *Elsie Initiative for Women in Peace Operations*, a pilot project to develop a systematic approach to accelerating progress on women's participation in peacekeeping, through tailored technical assistance packages to police and troop contributing countries, support to designated UN missions to help provide an enabling environment for women peacekeepers, and a global fund to support the deployment of women to peace operations. Canada will provide $15M to establish this fund. Canada hopes to lead the way for other countries to replicate the approach and make a breakthrough on women's representation and roles in peacekeeping. Further details and background on the announcement are available at the link: (https://pm.gc.ca/eng/news/2017/11/15/elsie-initiative-women-peace-operations).

ENVIRONMENT AND CLIMATE CHANGE

ENERGY-EFFICIENT HOUSING

(*Response to question raised by the Honourable Nancy Greene Raine on November 9, 2017*)

Energy codes in Canada currently apply only to new buildings. However, federal, provincial and territorial governments committed to develop a model energy code for existing buildings by 2022, given the significant percentage of the built environment they represent and will continue to represent in the future.

The Canadian Commission on Building and Fire Codes is charged with developing this new model code. The process is collaborative, consensus-based and includes public consultation. The development of codes will consider cost effectiveness and affordability, and will benefit from evidence-based research. Analysis on the cost/benefit for homeowners is underway, and results will be made available as part of public consultations during the code development process.

Past experience demonstrates that higher energy efficiency standards save Canadians money on their energy bills, and improve the value and comfort of their homes. When energy efficiency was first added to new housing codes in 2012, it helped homeowners reduce their energy costs by up to 20 percent. The International Energy Agency's Energy Efficiency 2017 report noted that energy efficiency improvements helped households across the world save 10 to 30 percent of their annual energy spending in 2016.

NATIONAL REVENUE

CANADA CHILD BENEFIT

(*Response to question raised by the Honourable Percy E. Downe on November 22, 2017*)

The Canada Revenue Agency (CRA) is committed to ensuring all Canadians receive the benefits and credits to which they are entitled. This includes vulnerable Canadians facing abusive situations.

Although the *Canada Child Benefits Application* form (RC66), which can be used to apply for the Canada Child Benefit does request the signatures of the applicant and their partner/spouse, the CRA would not expect an applicant to seek or provide the signature of an abusive partner/spouse, as it is not the CRA's intention to cause anyone hardship or place them in danger.

Moreover, should additional information be required later on as part of a validation review, specifically, in cases of spousal abuse or when the individual has fled to a shelter to escape domestic violence, the CRA will accept copies of: a police report, restraining order or order of protection, or a letter from the shelter confirming that the individual is living at that location. As soon as any of these documents are received, the review is terminated and the case is closed. No further action is required on the part of the individual.

The CRA proactively reaches out to vulnerable individuals facing abusive situations through in-person visits to shelters, outreach partnerships with shelter organizations, and dedicated training sessions for shelter organizations to equip them for their own outreach activities.

Canadians experiencing these situations are encouraged to contact the CRA to obtain assistance for their specific situation.

NATIONAL DEFENCE

COMPENSATION FOR CIVILIAN EMPLOYEES— CHALK RIVER DECONTAMINATION

(*Response to question raised by the Honourable Nancy Greene Raine on November 22, 2017*)

The Government acknowledges the question about the Atomic Veterans Recognition Program and the leading role of former Atomic Energy of Canada Limited employees who participated in the clean-up and decontamination efforts at the Chalk River Laboratories during the 1950s.

While there is currently no program for civilian employees similar to the Atomic Veterans Recognition Program, Natural Resources Canada continues to give consideration to former Senator Céline Hervieux-Payette's

motion and is actively looking at how the Government can move forward to recognize the contributions of these individuals.

FAMILIES, CHILDREN AND SOCIAL DEVELOPMENT

EMPLOYMENT INSURANCE—YOUTH

(*Response to question raised by the Honourable Yonah Martin on November 30, 2017*)

Canadian youth have the talent and determination to succeed in today's labour market if we provide the tools and supports they need to reach their full potential. The Government of Canada knows that young Canadians will drive the future growth of Canada's economy.

That's why we're making a historic investment of $395.5 million over three years in the kinds of skills training, education and experience they'll need to succeed.

This means that more than 33,000 vulnerable youth will be able to develop the skills they need to find work, or go back to school. It means the continued creation of thousands of summer jobs for students through the Canada Summer Jobs program. In fact, our Government has nearly doubled the number of jobs for young people through the Canada Summer Jobs program compared to the previous government.

Based on research conducted by the Department of Finance, it was determined that a hiring credit was not the most effective or efficient way of spending public resources to create jobs for young people.

It is also important to underscore that the EI premium has been significantly reduced from $1.88 in 2016, to $1.66 in 2018, delivering savings to both workers and employers.

IMMIGRATION, REFUGEES AND CITIZENSHIP

CITIZENSHIP GUIDE

(*Response to question raised by the Honourable Salma Ataullahjan on December 6, 2017*)

- Canada condemns the practice of female genital mutilation/cutting (FGM/C), which is an offence under the Criminal Code.
- The Government's approach to addressing FGM/C includes enacting and supporting laws at the various governmental levels, as well as developing policies and leading educational initiatives related to FGM/C in areas, such as law enforcement, immigration, health, and child protection. For example, the Government recently announced funding for a project for prevention, intervention and support for immigrant women and girl victims of FGM/C.
- The new Citizenship Guide is still under development. However, we can confirm that the new guide will include information on Canada's laws against gender-based violence, including FGM. As consultations progress, the content of the guide will continue to evolve to incorporate ongoing feedback. The final study guide will be available once completed.
- The Government takes all acts of gender-based violence, including violence against women and LGBTQ2 individuals very seriously.

CANADIAN HERITAGE

PARLIAMENT HILL HOCKEY RINK

(*Response to question raised by the Honourable Michael L. MacDonald on December 7, 2017*)

The Government of Canada has entered into a contribution agreement with the Ottawa International Hockey Festival to design, build and program an unprecedented outdoor skating rink on Parliament Hill in the context of the closing events for Canada 150.

As part of the agreement, the Ottawa International Hockey Festival is required to donate the rink to a local community to serve as a legacy of Canada 150; the selection of the recipient community will be conducted through a fair, independent and transparent process conducted by the Ottawa International Hockey Festival in collaboration with the Ottawa Senators Foundation. The Government of Canada will not be involved in choosing which community receives the rink.

FINANCE

DISABILITY TAX CREDIT

(*Response to question raised by the Honourable Yonah Martin on December 8, 2017*)

The Canada Revenue Agency (CRA) can confirm the Minister of National Revenue did not see or approve the communique sent to the employees in the tax centres.

While there has been no change to the eligibility criteria for the Disability Tax Credit (DTC) as set out in subsection 118.3(1) of the *Income Tax Act*, on November 23, 2017, the Minister of National Revenue announced the re-instatement of the Disability Advisory Committee (DAC) to serve as an important forum for persons with disabilities to have their voices heard as the CRA works to improve the way it administers the tax measures designed to support this community.

Additionally, on December 8, 2017, the CRA announced it will return to using the pre-May 2017 clarification letter for DTC applications related to Life-Sustaining Therapy. The CRA will also review the applications that have been denied since May 2017, for which the CRA relied on the revised clarification letter to determine eligibility to the DTC. Individuals do not need to submit new or additional information unless they are contacted by the CRA.

This decision will allow the DAC to formulate recommendations on the CRA's administrative practices, including clarification letters, through broader, more comprehensive stakeholder consultations.

NATIONAL REVENUE

CANADA REVENUE AGENCY—RECOVERY OF TAX AVOIDANCE FUNDS

(*Response to question raised by the Honourable Larry W. Smith on December 8, 2017*)

Fiscal impact is the traditional measure used for the CRA's Departmental Performance Report to report on the audit assessment and examination results from compliance activities. This consists of federal and provincial taxes assessed, tax refunds reduced, interest and penalties, and the present value of future federal tax assessable arising from compliance actions. It excludes the impact of appeals reversals and uncollectable amounts.

Over the past two fiscal years, the CRA identified $25 billion in fiscal impact. More specifically, the CRA's fiscal impact from audit activities was $12.7 billion in 2015-2016 and was $12.5 billion in 2016-2017. Almost two-thirds ($15.9 billion) was from audits of international, large business and aggressive tax planning activities. The revenue has been assessed and the CRA will take the necessary steps to collect it.

In fiscal year 2016-17, the CRA resolved $52.1 billion in outstanding tax debt. This reflects debt from all revenue lines, most notably individual tax, corporate tax, GST/HST and payroll deductions, which was payable for current and previous years.

The CRA does not report on the payment situation for every account audited. The CRA's accounting systems manage millions of taxpayer accounts at a level that applies payments to the cumulative account balance, not to a specific transaction such as an audit.

TRANSPORT

AIRCRAFT MAINTENANCE

(*Response to question raised by the Honourable Claude Carignan on December 12, 2017*)

While the *Air Canada Public Participation Act* (ACPPA) was amended through Bill C-10 in July 2016, it is important to note that federal officials had been considering the policy challenges presented by the ACPPA's provisions on aircraft maintenance facilities for a number of years. The ACPPA and its provisions were promulgated during a specific time of Air Canada's privatization, almost 30 years ago. The air sector had evolved significantly since that time, resulting in questions about the appropriateness of the Act's provisions that put more limitations on Air Canada than on its domestic and international competitors.

The announcement of the intention to discontinue the litigation involving Quebec and Manitoba created an appropriate context to modernize the ACPPA, which is almost 30 years-old. These amendments to the Act allow Air Canada the flexibility to be competitive in the face of a constantly evolving air transport sector. At the same time, the ACPPA continues to reinforce the Government's expectation that Air Canada will undertake aircraft maintenance in Québec, Manitoba, and Ontario.

CANADIAN HERITAGE

BROADCASTING TAX POLICY

(*Response to question raised by the Honourable Ghislain Maltais on December 12, 2017*)

The Government of Canada recognizes that creative content is essential to community vitality and pride as well as language transmission. The Government of Canada supports the music industry in minority communities through various programs such as the Canada Music Fund, the Canada Arts Presentation Fund, the funding of official languages and through the Canada Council for the Arts.

For example, in 2016-2017, more than $1.8 million was provided to 310 projects from Francophone minority communities through the Canada Music Fund.

As set out in the Creative Canada Policy Framework, the Government is committed to continuing to fulfill its responsibility for official language minority communities. It was also announced that the next Action Plan for Official Languages (2018-23) will strengthen the Government of Canada's support for the vitality of Canada's official language minority communities.

NATIONAL DEFENCE

AIRCRAFT PROCUREMENT

(*Response to question raised by the Honourable Larry W. Smith on December 12, 2017*)

Through Canada's defence policy — *Strong, Secure, Engaged* — the Government committed to acquire 88 new fighter aircraft. This represents one of the most significant investments in the Royal Canadian Air Force in many years.

On 12 December 2017, the Government launched an open and transparent competition for the permanent fleet. Canada is creating a list of suppliers permitted to participate in stakeholder engagement activities throughout 2018 and 2019, and to submit proposals via the formal Request for Proposal planned for spring of 2019.

Canada has been a partner in the Joint Strike Fighter Program since 1997, expending a total of 372.8 million US dollars and allowing companies in Canada to secure in excess of one billion US dollars in contracts to date. The latest payment, made on 28 April 2017, was approximately 30 million US dollars and covers the period from October 2016 until September 2017. Canada will continue participation in the program at least until the contract is awarded for the permanent fleet. This does not commit Canada to purchasing the F-35, but provides the option to buy aircraft through the F-35 Memorandum of Understanding should the F-35 be successful in the competition for the permanent fleet.

ORDERS OF THE DAY

CANADA BUSINESS CORPORATIONS ACT
CANADA COOPERATIVES ACT
CANADA NOT-FOR-PROFIT CORPORATIONS ACT
COMPETITION ACT

BILL TO AMEND—THIRD READING—
DEBATE ADJOURNED

Hon. Howard Wetston: moved third reading of Bill C-25, An Act to amend the Canada Business Corporations Act, the Canada Cooperatives Act, the Canada Not-for-profit Corporations Act, and the Competition Act, as amended.

He said: Honourable senators, thank you for your attention as I rise to address the chamber on Bill C-25, An Act to amend the Canada Business Corporations Act, the Canada Cooperatives Act, the Canada Not-for-profit Corporations Act and the Competition Act.

Fundamentally, Bill C-25 is a business statute. It will impact the business environment in Canada through a series of targeted amendments to four different pieces of legislation. But this is not a typical corporate or business bill. The government has determined that there is a strong business case for diversity. I agree with that, but I also believe that we must make every effort to align the corporate and other business interests of boards and executive management with the promotion of diversity goals.

Colleagues, this bill, as you know, is non-partisan. It represents a consensus package that has broad support among political parties and key stakeholders.

[*Translation*]

Bill C-25 deals with a number of different areas. It will improve corporate governance and modernize digital-era processes while boosting capacity and profit. Diversity and board member elections have been the most attention-grabbing aspects of the bill though, and that is what I am going to talk about.

[*English*]

I will focus my remarks largely on majority voting and diversity.

In regard to majority voting, proposed changes in Bill C-25 will mandate majority voting in the annual and individual election of directors for the boards of distributing corporations governed by the CBCA and the Canada Cooperatives Act.

The introduction of annual elections will end staggered multi-year terms for directors. In addition, a true majority voting model means shareholders will not be forced to accept an all-or-nothing slate of candidates. These measures give shareholders a meaningful say in choosing their directors and helps to free up board seats to allow for new directors. True shareholder democracy.

We heard the potential risk of forcing an immediate change if a board member is rejected by a majority of votes. It is for that reason that amendments were tabled at the Banking Committee to allow for a grace period of up to 90 days before a director ceases to be a member of the board. This should mitigate any business disruption and accommodate the loss of a key director.

Honourable senators, the CBCA is the governing statute for almost half of Canada's largest companies, but not all public companies are CBCA companies. Many other TSX companies are incorporated under provincial statutes. Since 2014, the TSX took important steps to implement a majority voting policy for all its listed companies for which they should be congratulated, but it is not the company law solution that is required.

Colleagues, the corporate statute is the legitimate place to enshrine majority voting. Shareholders deserve to have this improvement to corporate governance. My hope is that other provincial corporate statutes will eventually be amended to align with the CBCA. Historically that has been the case. The CBCA has led, provincial statutes have followed.

• (1420)

[*Translation*]

Dear colleagues, I now want to talk about diversity, which has, without question, been the dominant topic of discussion on this bill.

[*English*]

Our diversity is an asset and could be an even greater one for global competitiveness. Just last month, McKinsey, the global management consulting firm, released *Delivering Through Diversity*, a follow up to their groundbreaking 2015 report on diversity in business.

The benefits of having a diverse board have never been clearer. Companies in the top quartile for gender diversity on executive teams were 20 per cent more likely to outperform on profitability.

Companies in the top quartile for ethnic cultural diversity on executive teams were 33 per cent more likely to have industry-leading profitability.

[*Translation*]

So, what is the bottom line?

[*English*]

I love that line, the bottom line.

[*Translation*]

Promoting diversity on corporate boards makes good business sense and also promotes better corporate governance.

[*English*]

Honourable senators, I would like to highlight four points as to why I believe the comply-or-explain model as contained in the proposed regulation is a legitimate choice to address diversity at the board and executive level in Canada.

First, maintaining comply or explain will lessen the challenges inherently found in a fragmented federal/provincial system at least with respect to increasing gender diversity.

Second, more available seats will lead to more opportunities for underrepresented candidates.

Third, current reporting under the provincial comply or explain model, form 58-101F1, focuses only on gender. Bill C-25 will significantly broaden the scope of the reporting to designated groups.

Fourth, shareholders have recognized the value of diversity and will hold boards accountable.

My first point, a consistent approach. Why do I say that? First, the provincial corporate governance rule No. 58-101 — these are the securities commissions — regarding gender diversity only applies to TSX-listed companies. It does not apply to companies on other exchanges.

Also, as mentioned previously, not all TSX companies are CBCA companies. If the comply-or-explain model, as proposed by the government is adopted, there will be greater consistency between provincial regimes and the federal CBCA regime.

Honourable senators, let's consider the context in Canada. We have many non-CBCA companies. We have a number of stock exchanges. We have shared oversight by regulators across the country over these exchanges. We have a number of self-regulatory organizations, and we have 14 corporate statutes and 13 provincial securities statutes.

Consistency will reduce confusion, costs, and provide a similar and familiar framework to business and the public regardless under which statute they incorporate or which exchange they are listed on.

[*Translation*]

Right now, the same people hold their seats on boards and positions in senior management for a long time. Directors often keep their seat for eight or nine years, and sometimes even longer.

[*English*]

Annual individual elections should open up more seats which in turn will create additional opportunities for underrepresented candidates.

My third point is broadening the scope. Most of our provincial securities regulators, but not all, have adopted corporate governance rules to require TSX-listed corporations to annually place information before shareholders. The following prescribed information respecting women on boards and executive officer positions should be disclosed, to shareholders, not to government. Director term limits and other mechanisms of board renewal. Second, written policies regarding the representation of women on boards. Third, the board's or nominating committee's consideration of the representation of women in the director identification and selection process. Fourth, the issuer's consideration of the representation of women in executive officer positions when making executive officer appointments. And fifth, targets regarding the representation of women on the board and in executive officer positions.

The last point is an important point. Government can do more in a comply-or-explain approach. They can provide guidelines. They can get the director of corporations candidate to do more. There can be more outreach. Basically, these categories allow for a great deal of opportunity by the government to do more within this model if it so chooses.

There are obvious concerns expressed regarding progress, that's clear, but these measures have been in place for three years, and we know from other jurisdictions that progress can take time, but it does occur. For instance, in the last CSA staff review of women on boards and executive officer position, number 58-309, released in October 2017, it noted that 26 per cent of the board seats filled last year were filled by women. We can pick our categories and look for our places but I look at this to say there is movement.

Bill C-25 takes these requirements a step further by expanding the prescribed disclosures. The government has made it clear that it will use the designated groups under the Employment Equity Act — women, indigenous Canadians, persons with disabilities and members of visible minorities — as a starting point for the diversity information that public corporations will disclose and which must be included when a corporation develops its diversity policy. This will be contained in the regulation pursuant to Bill C-25. As discussed previously, differences in information disclosure will occur, as a general rule inconsistency where possible should be reduced.

My point regarding holding boards accountable. How will that occur? Bill C-25 compels relevant corporations to disclose the information on diversity regarding their boards of directors and senior management to the Director of Corporations Canada. The data is subject to the open data policy, and a commitment to sharing information with the public.

In short, honourable senators, all of this data that I referred to previously will be made public. As a result, shareholders will have the opportunity to evaluate the priorities of their leadership with respect to diversity policy. The data to measure progress against that policy and together with majority voting hold company directors accountable. Shareholders need to take some responsibility here. They can and they should encourage a change in culture that is both meaningful and sustainable.

I want to bring to your attention two recent developments regarding the ongoing assessment process which was recently provided by ISS, the Institution Shareholder Services and Glass Lewis, another proxy advisory service. Both have updated their proxy voting guidelines for 2018 and 2019. Both firms provide global governance services for institutional investors and corporations through its research and proxy vote management services. Glass Lewis alone empowers institutional investors that collectively manage $20 trillion in 100 countries. ISS is even larger.

• (1430)

ISS is introducing a gender diversity guideline for the first time that recommends withholding voting for the chair of the nominating committee or the board chair if the company has no female directors and no robust gender diversity policy in place, which should include measurable goals.

Glass Lewis will introduce a gender diversity voting recommendation for the 2019 proxy season that will generally recommend voting against the chair of the nominating committee if the company has no female directors or no formal written policy in place. Both ISS and Glass Lewis have let it be known they are looking for an issuer's clear commitment to increase gender diversity on its board. Please note that while the above diversity guidelines deal with gender diversity only, nevertheless, the direction of these services is clear.

[*Translation*]

In addition, management will also have the opportunity to self-assess the diversity composition in their senior leadership positions. They will be better positioned to establish or improve diversity policies to bring the right mix of backgrounds and experience to the table, and to satisfy shareholder interests.

[*English*]

Colleagues, governments can only do so much. It is essential that corporations take the lead and create a sustainable culture of diversity, innovation and accountable leadership.

What are the best instruments to achieve these goals? Jurisdictions have chosen what they believe works best for them. Some unitary governments — we are not a unitary country in that way, as we know from the pipeline issues — have chosen quotas. Some have chosen comply or explain. For example, in Australia, it's the Australian Stock Exchange that has led the approach to diversity, and their approach is called, as you would expect in Australia, "if not, why not?" It is imperative for us to choose what is most effective for us.

The government, after considerable consultation and collaboration, has proposed the implementation of annual director legislations, majority voting and a comply-or-explain model. I know of no other country that has done it by way of a statute. I could be wrong, but I don't believe that I am.

As the Minister of Innovation, Science and Economic Development stated in his recent *National Post* article:

> Bill C-25 enjoys broad support from institutional investors, governance experts to regulators, and represents an important step in making our corporate sector more democratic. . . . it will modernize Canada's legislative framework and support shareholders who want their companies to be more diverse and able to reflect our communities . . . .

The comply-or-explain model will allow companies to tailor their diversity targets to maximize impact and force them to reveal any lack of progress. Changes to director elections will empower shareholders to hold boards accountable when they are not meeting their diversity goals.

Before the Banking Committee, the minister committed himself to re-examine the tools available and consider other actions if meaningful progress has not been achieved within a three- to five-year period.

I want to take a moment, honourable senators, to acknowledge the work of a group of senators who have collaborated to create and distribute a proposed amendment to this bill prior to our discussion today. I appreciate that those senators have shared their proposed amendment in advance for the consideration of all senators.

Finally, honourable senators, I do not ask you to consider whether Bill C-25 uses the strongest regime, but whether it uses an appropriate one. Does it rely on an approach that would best encourage sustainable change towards a culture of diversity in the boardroom and executive management? If it uses a model that takes Canada's unique geography, demographics, wide breadth of sectors and federal-provincial system of government into consideration, then I believe that is the approach that we should accept.

I want to thank you for your attention. Those are my remarks on third reading.

Hon. Senators: Hear, hear.

[*Translation*]

Hon. Paul J. Massicotte: Honourable senators, this is the second time I rise to speak to the chamber on Bill C-25, An Act to amend the Canada Business Corporations Act, the Canada Cooperatives Act, the Canada Not-for-profit Corporations Act, and the Competition Act. During our deliberations at second reading of this bill last October, I expressed my concerns regarding the system proposed to encourage federal companies listed on the stock exchange to increase women's participation and diversity in corporate leadership.

Clearly, considering the slow pace of progress regarding the proportion of women and diversity within Canadian businesses, the "comply or explain" system proposed by the federal government is simply not rising to the challenge. As we enter 2018, it's high time we met that challenge.

[*English*]

Let's face it: Despite the world's perception of Canada as a leader on women's rights and multiculturalism, this country's corporate leadership remains overwhelmingly dominated by White men. No later than a couple of weeks ago in Davos, Prime Minister Trudeau made a strong plea for the advancement of women and diversity in the corporate world. He said:

> . . . not just because it's the right thing to do, or the nice thing to do, but because it's the smart thing to do.

Several studies have linked diversity with superior performance and have demonstrated that boards that are composed of people from a range of backgrounds, experiences and expertise outperform those that aren't. None of this implies accepting less experienced or less competent individuals.

[*Translation*]

If we really and truly want to achieve gender equality — a reasonable and logical objective, given that women make up 48 per cent of the workforce and 60 per cent of university graduates in Canada — we need to bring in tougher measures to live up to Prime Minister Trudeau's statements.

First, let's take a look at how the proposed system is inadequate. If we go along with the existing provisions and simply ask the companies in question to present their diversity policy to shareholders every year — if they have one — and, if they do not have one, to explain why, we will not make any significant progress with respect to diversity on boards in senior management. Just look at the results so far from similar measures taken with respect to women.

[*English*]

Three years after the Ontario Securities Commission moved forward with the comply-or-explain rule for women, 53 per cent of companies listed on the Toronto Stock Exchange still don't have any gender diversity policy. Board seats occupied by women in those same companies only rose from 11 per cent to 14.5 per cent between 2015 and 2017.

As to women in senior management roles, the percentage sits at 15 per cent, and it has been there since 2015. At this rate, how many decades will it take to reach equality?

As to non-gender diversity in the corporate world, the situation is even worse. In Financial Post 500 companies, only 1.1 per cent of board members are indigenous, 3.2 per cent are persons living with a disability, and 4.3 per cent are members of a visible minority.

Of course, one has to recognize that the merit of Bill C-25 is that its application is more extensive than previous comply-or-explain measures. The bill covers diversity in general, not only women, which is significant progress. The minister also recently accepted to define diversity based on, but not limited to, the four groups designated in the 1995 Employment Equity Act: women, visible minorities, indigenous people and people with disabilities. We are very happy that the government has acknowledged the need to define diversity.

• (1440)

[*Translation*]

However, what good is this definition if companies have no obligation to set objectives and report on their progress in increasing the representation of diversity?

The statistics that I gave show that we are so far behind, that a system of voluntary compliance with diversity policies will clearly not be enough to accelerate the increase in the representation of women and other forms of diversity on corporate boards, let alone in senior management positions.

[*English*]

So let me explain what we are proposing today.

We need to give teeth to the current provision in Bill C-25: Federally registered, publicly traded corporations need to be required to set self-determined numerical goals, such as percentages, to bolster the representation of diversity within boards and senior management. In fact, Innovation Minister Bains recently said to a group of students in Windsor that corporations should have a diversity policy that has targets. Since this is not in the legislation, we are proposing to put it in there.

As well, companies should be asked to send their diversity numbers and targets to the government so that each year the minister publishes a report presenting the aggregate data received.

Let me elaborate on these elements.

I repeat that our proposal is about targets, not quotas — not the quota system we see in Europe or in many countries. In our case, it is about targets. I am convinced that we can reconcile the need to increase diversity and avoid the rigid, artificial and cumbersome side that quotas can entail. We are not setting any minimums, and corporations would have the flexibility to adopt goals that are best suited to their markets and their communities. And although companies would have to report on a yearly basis on the progress made to reach these targets, we are giving them full flexibility to fix their own goals and timelines, in light of their own strategies and particularities.

We know that this approach accelerates a path towards diversification. According to the Canadian Securities Administrators, issuers that set their own targets for the representation of women on boards do more than twice as well — reaching a 26 per cent female composition of their boards — than companies that do not set any such targets, with that number sitting at 12 per cent.

I reiterate that corporations would be free to establish their own goals, either strictly for the four designated groups, or to expand groups to other categories of diversity of their choice, such as linguistic minorities, regional background, et cetera.

In that way, one ensures that both the goals and the targeted diversity groups are adapted to specific industry constraints and circumstances, as well as with the social fabric of the markets served by these companies.

Finally, I would like to expand on the reporting dimension.

If we are to know whether real progress is made in the representation of women and diversity in the corporate world's boards and senior management, we absolutely need a periodical, complete, up-to-date picture of the situation. That is why we ask that federal public corporations also send to the government the diversity report that they must provide to their shareholders. There is no additional work here. The government would be required to prepare and table, every year, with both houses of Parliament, a report with the data from the previous year. This report would also be made public.

[*Translation*]

Dear colleagues, the flexible system that we are proposing strikes the best possible balance between the optional self-regulation proposed in Bill C-25, which we already know has limitations, and a one-size-fits-all system, such as quotas.

By asking companies to adopt their own diversity policies and objectives, we are fulfilling our duty as a collective to give women and minority groups the opportunity they deserve to contribute to the highest echelons of business, to be recognized for those contributions and to benefit the companies they work for.

MOTION IN AMENDMENT

Hon. Paul J. Massicotte: Therefore, honourable senators, in amendment, I move:

That Bill C-25, as amended, be not now read a third time, but that it be further amended in clause 24,

(*a*) on page 9, by adding the following after line 31:

"**172.01** A prescribed corporation shall establish numerical goals, such as percentages, for the representation of persons in each *designated group*, as defined by regulation, among its directors and among *members of senior management,* as defined by regulation, and shall establish a timetable for attaining those goals, within one year after the day on which this section comes into force."; and

(*b*) on page 10,

(i) by adding the following after line 2:

"**(1.1)** The directors shall also place before the shareholders, at every annual meeting beginning one year after the day on which the numerical goals referred to in section 172.01 are established and until the corporation has attained those goals, a report on the progress made by the corporation in the previous year in terms of attaining those goals.",

(ii) by replacing lines 3 to 5 (as replaced by the decision of the Senate on February 7, 2018) with the following:

"**(2)** The corporation shall provide the information referred to in subsections (1) and (1.1) to each shareholder, except to a share-", and

(iii) by replacing lines 7 to 9 (as replaced by the decision of the Senate on February 7, 2018) with the following:

"they do not want to receive that information, by sending the information along with the notice referred to in subsection 135(1) or by making the information available along with a proxy circular referred to in subsection 150(1).

(3) The corporation shall concurrently send the information referred to in subsections (1) and (1.1) to the Director in the form that the Director fixes and the Director shall file it.

(4) The Director shall, within three months after receiving it, provide the Minister with the information filed under subsection (3).

(5) The Minister shall prepare and cause to be laid before each House of Parliament, on any of the first 15 days on which that House is sitting after October 31, an annual report for the previous year containing an aggregate of the data from the information received under subsection (4). The Minister shall also, after it is tabled, make the report available to the public.".

Hon. Senators: Hear, hear!

The Hon. the Speaker pro tempore: In amendment, it was moved by the Honourable Senator Massicotte, seconded by Senator Christmas, that Bill C-25 be not now read a third time, but that it be further amended in clause 24, on page—

Hon. Senators: Dispense.

[*English*]

Hon. Elaine McCoy: Your Honour, could I ask a question of the previous debater?

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

Would you entertain a question, Senator Massicotte?

Senator McCoy: I do.

Senator Massicotte: With pleasure.

Senator McCoy: Thank you. I'm reading your amendment to require a corporation to establish a numerical goal. It is not specified here that the goal will be higher than the diversity that is already achieved. Is that deliberate?

Senator Massicotte: Yes, it is very much deliberate. We sought a balance between being responsible to our society in terms of allowing everyone an equal chance to be members of a board or of senior management, but at the same time providing full freedom and flexibility to every public corporation to define its own goals and targets. We did not want to impose that upon corporations. It is for them to publicly report it. The public and the governments could then respond to it if they so wish. Again, it is about full flexibility for the corporations. There are no quotas — just percentages. But at the same time, let the public and the shareholders decide on those consequences.

• (1450)

Senator McCoy: Supplementary, if I may. I'm sorry to ask the question with my back to you, senator. I apologize to the senator that I'm asking this question with my back to him, and apologize and I to the chamber for having apologized with my back to you.

Now that we're all back on track, let me see if I have this straight. If I am this hypothetical corporation XYZ and I have a diversity in my board of directors right now 10 per cent, I could announce my target of 10 per cent and that would be —

The Hon. the Speaker *pro tempore*: Senator McCoy, I'm very sorry. The time is up.

Five more minutes? Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator McCoy: Did I get to the end of my question? I did get to the end of my question. You do understand the question. Then let the senator answer it.

Senator Massicotte: The answer is yes.

Senator McCoy: Thank you.

Hon. André Pratte: Will the senator take another question?

Senator Massicotte: Yes.

Senator Pratte: Following up on Senator McCoy's question, the situation presently, if I understand correctly, would also allow a corporation to forward its diversity policy and reduce the number of women on boards. Furthermore, according to the amendment, the whole idea is that a corporation that publishes its numerical target, according to which it would reduce diversity on its board, would have to face public opinion and its shareholders' opinions towards that reduction in the number of women and visible minorities on its board. That's the whole idea of publishing numerical goals. Am I correct in interpreting your amendment?

Senator Massicotte: You answered Senator McCoy's question more completely than I did.

Let me also note that 53 or 54 per cent of companies under "comply or explain" do not have a diversity plan, which means they simply respond by saying, "I'm not going to submit to such a plan." Experience has shown that once a company is engaged in defining targets, they immediately get engaged to get better results. We're seeking a nudging process to encourage companies to assume their responsibilities to our society but not imposing it.

Hon. Carolyn Stewart Olsen: Senator Massicotte, how on earth will this work? They will publish their targets in their corporate annual reports. Who is going to look at the annual reports?

Is this amendment just pro forma? Will anyone actually look at it or look at results?

It sounds good; it sounds lovely. However, when the minister was asked about this issue in particular, he felt this would be an intrusive thing on private corporations.

Who will report and to whom? If they don't meet their targets, what happens? All of these things are questions in my mind.

Senator Massicotte: First, let me thank you for your first comment, namely that you think this is a very good bill. We appreciate your support.

Having said that, let me also respond to you. Currently, 50 per cent of companies prepare a "comply or explain." They already adopt a strategy of diversity. We want to increase that number, so it will be the same process. Every year a company will publish in its proxy to shareholders the diversity plan and

their target. As they do today, they will explain any comments relative to last year's plan and whether or not they met it. That is largely the same process; it's not additional paper.

We're asking that once they publish that plan, they should send a copy to the government so the minister can put that information together and deposit a report to both houses saying, "What progress are we making towards achieving diversity on boards and within senior management?"

Senator Stewart Olsen: Thank you for that.

So the copy has to go to the minister. The minister, or someone in the minister's office, now has to look at all of these reports from all the corporations and compile reports. That's a lot of work and it's going to mean a lot more bureaucracy. Have you thought through how it will work?

Senator Massicotte: I think we have. There are 600 companies on the TSX. It is a little more work but, relative to the goals and values we have as a society, it's minimal relative to ensuring that corporations represent our values as a country or a nation.

I think it's not that onerous. It will not be the minister doing the work but somebody in a back office that will collaborate on the information and present it to us.

Hon. Elizabeth Marshall: Senator Massicotte, this is for publicly traded companies, too. I don't know what's happening with the Crowns. Do they have quotas now?

The Hon. the Speaker *pro tempore*: I'm sorry. We're out of time.

Five minutes?.

Hon. Senators: Agreed.

Senator Marshall: Do the Crowns have quotas? What's in place for Crown corporations now? Why are you targeting publicly traded companies?

Senator Massicotte: We are only targeting federally incorporated public corporations, not the great number of private corporations. It's only for those who are responsible for a broader portion of the population.

As for Crowns, every Crown has a different target. Quebec has set quotas, as Ontario has. As you also know, the Prime Minister has set quotas for his boards. This is not dealing with quotas but with federally publicly traded companies.

[*Translation*]

Hon. Lucie Moncion: Honourable senators, I will be brief today. I would like to speak to the amendment to Bill C-25 that Senator Massicotte just moved. This amendment provides further support for the advancement of women and diversity on boards of directors. It introduces obligations to set targets for the diversification of boards of directors and gives specifics on the aspect of disclosure associated with the targets established.

This amendment is important and should be added to the bill for two reasons. First, Bill C-25 would be even more progressive in terms of the advancement of women in senior management and boards of directors. Second, it would make companies accountable to their shareholders and the general population with respect to the individuals they choose to lead them.

During my speech at second reading on Bill C-25, I asked members of the Standing Senate Committee on Banking, Trade and Commerce to study three important issues, namely, to assess the presence of women on boards of directors, to establish a clearer definition of the term "diversity," and to study the possibility of implementing coercive measures in order to encourage Canadian publicly listed businesses to increase the number of women sitting on boards of directors.

Today we are debating Bill C-25 at third reading. An amendment was proposed in committee concerning the notion of diversity. I support that amendment because it represents a step in the right direction.

Minister Bains and his team are currently working on amending the regulations governing corporations by replacing the term "woman" with the term "diversity" and by referring to the Employment Equity Act for the definition of the concept of diversity.

Many people have recognized the benefits of having more women in decision-making corporate positions. In November, Minister Bill Morneau had the following to say about boards of administration to the Institute of Corporate Directors:

[*English*]

> More diversity around the boardroom table makes for better decision-making.

[*Translation*]

He added that, thanks to the gender parity in cabinet, and I quote:

[*English*]

> That balance is extraordinarily valuable because it feels different to have half women and half men at the table. It feels like the discussions actually have a more inclusive nature. I am absolutely 100 per cent converted to the benefits of boardroom diversity and would encourage boards to take action on the matter. It is clear to me that it makes a difference.

• (1500)

Now, let's be clear. Diversity is very difficult to achieve on boards, whether adding women or whether adding people from different parts of the society.

[*Translation*]

Even so, the results have been disappointing. Three years ago, as my colleague, Senator Massicotte, mentioned, the Canadian Securities Administrators adopted a "comply or explain" approach to female representation on boards of directors and in corporate executive positions. Currently, 14 per cent of directors and 15 per cent of executives are women, and that is not nearly enough.

I wish I had more up-to-date numbers than the ones Senator Wetston shared, but an analysis of statistics from the Canadian Spencer Stuart Board Index — Board Trends and Practices produced on August 31, 2016, shows how Canadian companies are performing with respect to female board representation. The analysis covers 100 publicly traded Canadian companies. Here are some of the results, which speak volumes.

Women account for between 29 per cent and 38 per cent of board members at Canada's seven big banks. National Bank ranks at the top with 38 per cent, and the Bank of Nova Scotia is in last place with 29 per cent. Our three air carriers fare less well, with women holding 20 per cent of board seats at WestJet, 25 per cent at Air Canada, and 27 per cent at Air Transat. The poorest-performing companies were Canfor Corporation, Fairfax Financial and First Quantum, which have no female board representation. SNC-Lavalin has 10 per cent, Resolute 11 per cent, Dollarama 12.5 per cent, Power Corporation 17 per cent, Shaw Communications 19 per cent, Canadian Tire and Maple Leaf 20 per cent, and Bombardier 29 per cent. The leader of the pack is Saputo at 50 per cent, with Jean Coutu a close second at 47 per cent. They set the bar.

When he appeared before the Banking, Trade and Commerce Committee, Minister Bains said at the outset that it was not only fair in terms of social justice, but also economically advantageous to have women on corporate boards. It seems, then, that there is a consensus on the end goal, but not on the best way to achieve it.

Canadian businesses are already aware of the importance of having women on corporate boards. However, it must not stop there. Tools for good governance have been developed to help corporate boards assess their membership, determine the skills they need for proper functioning, and take into account such factors as gender balance, age, ethnic origin, region, minorities and so on. When used properly, these tools help corporate boards not only become more diverse, but also evolve to adapt to changes in their competitive markets.

Another analysis, this one focusing on FP500 companies, provides more information on diversity. Only 1.1 per cent of the members of boards of directors are Indigenous, 3.2 per cent are persons with a disability, and 4.3 per cent are members of a visible minority.

The measures currently outlined in Bill C-25 are insufficient to really advance the cause of women and minorities, which is why we want to include more proactive measures. The proposed amendment encourages companies to set targets regarding the proportion of women and other groups that are currently under-represented on corporate boards.

This option seems to partially address our concerns. Companies would be required to have more substantive corporate governance policies, while preserving the flexibility needed to ensure that they can compete under the specific conditions of the environment in which they operate. Minister Bains did not want to create a one-size-fits-all solution. Thus, this amendment ensures that the measures can be tailored to each company.

With respect to the government's role in the implementation of diversity measures, Minister Bains summarized his position as follows, and I quote:

[*English*]

> There is no government intervention; there are no sanctions. There is no mechanism we have to force. We are saying that you should have a policy and if you don't, you need to explain to your shareholders why not. But that is the extent of our intervention.

[*Translation*]

The amendment proposed by Senator Massicotte respects this principle. Under its governance policy, the corporation would be required to set clear targets and to provide an annual report on the progress made, or lack thereof, to both shareholders and the government. For its part, the federal government would be required to publish an annual aggregate report that would make it possible to assess corporate diversity.

Some may not feel that it is necessary to amend the law in order to include provisions pushing corporations to establish diversity targets. This may in some ways represent a step backward for the advancement of women in the executive ranks of Canadian corporations. However, the federal government's wait-and-see approach towards diversity leads us to believe that it will take a long time for progress to be made and it will be slow to materialize. At the rate changes are being made, it will take at least 30 years before we see any real improvement.

According to Kathleen Taylor, Chair of the Royal Bank's board of directors and one of Canada's most distinguished board chairs, and I quote:

[*English*]

> I want regulators to help fix the gender imbalance in business, but greater barriers to women's success must be tackled by society at large.

[*Translation*]

The proposed amendment will give companies a push to ensure they will definitely put in place measures to improve diversity in senior decision-making positions. We strongly believe that this change will have positive economic impacts for businesses, for the advancement and success of women and, ultimately, for Canada's growth.

We urge you to vote in favour of this amendment.

[*English*]

Hon. Ratna Omidvar: Honourable senators, I rise today, too, to support the amendment tabled by my colleague Senator Massicotte and to thank Senator Massicotte, Senator Moncion and others who will come after me who have paid attention and engaged on this issue.

I think it is also important to thank Senator Wetston, the sponsor of this bill, who has worked with us and who delivered a really excellent third reading speech in spite of being not quite as well as he would have wanted to be.

Bill C-25, I've always believed and continue to believe, is a good piece of legislation, but good intentions are often not enough to drive us to where we want to go.

As I have said repeatedly, I think of Bill C-25 as a soft tap on the shoulder. This amendment that Senator Massicotte has proposed is a nudge in the right direction. It's an intentional nudge, so that we can get beyond aspiration — and I commend the aspiration and the intention in this bill — and take it to concrete action.

I do not want to repeat all the facts and the information and the evidence and the arguments that my two colleagues have put before us. Instead, I want to bring a new perspective and add value as I can.

I believe that there is something new in the discourse today, and we know that there is the growing voice of women on matters that concern them.

There are many who think that if Lehman Brothers had been Lehman Sisters, the narrative of the financial markets in 2008 might well have been different. I also think that if there were more women, minorities, indigenous peoples and people with disabilities on boards, regardless of whether they are corporate, I believe there would be a stronger check on the bad behaviour that seems to be increasingly associated with positions of power and privilege.

• (1510)

This amendment does not ask anyone to climb Mount Everest. It asks for targets, the targets are voluntary, and the corporations can set these according to their own history, their own context, their own region and their own industry. This is common business practice. Businesses set targets to know where they are going so that they can evaluate their progress. Therefore, I don't think this is a terribly out-of-the-box idea to ask businesses to set targets and put intentions behind them.

Wendy Cukier, from the Diversity Institute, said at committee:

> The advantage of using targets is they are flexible and they allow us to adapt.

Sarah Kaplan, from the Institute for Gender and the Economy at the Rotman School of Business said:

> . . . the bill in its current form only requires firms to report whether or not they have targets. My fear is that this voluntary approach will not move us beyond the 11 per cent that report having targets now. I suggest that it would usefully include a requirement that firms set and report targets rather than just explaining why they don't.
>
> Targets are valuable because they give citizens and shareholders a means for holding firms accountable.

In addition, as Senator Massicotte said, this amendment would help us understand where we are making progress by requiring corporations to further report out to the director of corporations, who would then be required to do an aggregate reporting, not how the Royal Bank is doing or how the Bank of Nova Scotia is doing but how, let's say, the country is doing, how corporate governance in the country is doing, and further, possibly, how corporate governance in the mining sector, or in the financial sector, or in the consumer sector is doing. It gives you a baseline to understand where you've come from and to appreciate where you're going, and it provides context.

I want to say a few words, once again, about diversity and the lens we are using to view diversity. I understand, I appreciate and I'm a strong proponent for gender equity, but gender equity is not the sum of diversity. I fear that if we do not appreciate the intersections between gender and race, gender and ability and gender and indigenous status, all these other excluded groups will be a very poor second cousin in this context.

Finally, I want to say a few words to Senator Wetston's very compelling argument about consistency and the myriad of institutions, systems and structures that occupy the corporate world, and I don't discount the complexity of navigating all of these structures and systems and adding something more on top. However, I do believe that the federal government has a special responsibility to lead, to set the tone where others will follow. I do believe that the federal government has a higher bar to respond to, and that is a bar of nation building.

Two nights ago, we heard a lot about nation building and I was struck by our commitment to ensuring the future of this whole nation, not parts of it, but the whole nation, not parts of demographic groups but all of us.

I will say that just as 1995 was the year for employment equity, and I will continue to insist and believe that if there have been legislative measures that have built our nation, employment equity has a very proud role and status in this narrative because it was that piece of legislation that changed the narrative of our country, especially from the point of view of excluded groups. So just as 1995 was the year for employment equity, I will suggest that 2018 is the year for governance equity. If not now, then when? If not us, then who?

Thank you very much.

Hon. Senators: Hear, hear.

The Hon. the Speaker *pro tempore*: Senator Omidvar, would you accept a question?

Senator Omidvar: Gladly.

Hon. Yuen Pau Woo: Thank you, Senator Omidvar and colleagues, for your speeches on this amendment.

I was quite taken by your analogy with respect to business planning and the reference to the fact that companies do all kinds of business planning, so what's another planning document specific to diversity, no skin off their nose so to speak. But we, of course, do not require businesses to submit business plans to the government. We do not require businesses to submit HR plans or investment plans or any other plan that is part and parcel of running a big business, particularly a listed business. Presumably, businesses do planning and they develop plans for themselves and their shareholders because it's good for their business. That's the reason they do it.

You and others and I fully accept that there is already a very strong case for diversity as a business strategy. It's good for business. It's good for the bottom line. That's not what we're debating here today. But it strikes me that your analogy is not quite there because if businesses understand that planning in a variety of areas is good for their businesses, they should do it on their own. They should not be required to do it.

And this is the question: I wonder if requiring them to do this diversity policy is just a tad more intrusive than government should be.

Senator Omidvar: Thank you, Senator Woo, for that question. I will restate the facts: After comply and explain, 11 per cent of corporations had developed targets, and Senator Massicotte gave us some other figures. I'm not sure whether mine are right or wrong, but I will suggest that in fact the number of corporations that stepped up to the plate to develop diversity policies is not as strong as we would like it to be.

I will suggest that this country has engaged in social engineering in a number of ways. Employment equity was in a way social engineering of a different kind. We are the flag bearers of diversity in the world, and it is, frankly, very disappointing to know that in this very important part of Canadian life, which is the big corporate sector, we lag behind others. That's because we haven't really embraced the fullness of diversity in a way that will lead us to results.

It's not onerous, it's not climbing Mount Everest. These businesses are publicly traded organizations. They have HR departments. They have business planning departments. They have board governance strategies, so I do not believe it is terribly onerous. Thank you.

Senator Woo: Do you have time for another question, Senator Omidvar? Thank you.

Your answer is very helpful. The social engineering dimension, I think, provides clarity to all of us who are thinking about whether this amendment is something that we want to support.

I want to ask a slightly different question on the aggregation of data that will be then tabled to Parliament to give, as you put it, the country a sense of how our corporate sector is doing. I always worry about what data purports to say and maybe does not say.

• (1520)

Of course, this is a small sample of the corporate sector, as we all know. Do you not worry a little that the information we'll be getting doesn't really tell the story that will paint us the picture that we're trying to understand when it comes to diversity in business across the country, broadly speaking, rather than for this quite small subset of companies that will be required to report?

Senator Omidvar: Thank you for that question. First, I will submit to you that having data is better than having no data. At least I think so.

Second, I agree with you that we're only looking at a small subset of corporations and that, in fact, we need to think about small business, Crown agencies, not-for-profits and charities. If I had my way, we would have a separate bill doing just that, but I won't have my way there. We're speaking within the confines and the scope of Bill C-25.

But I have seen and witnessed how big business — and we're talking about big business — is the leader, and they bring other businesses — especially their suppliers — along.

I have worked for a very long time in the GTA with the Royal Bank, the Bank of Nova Scotia and others and it's been very interesting how I have witnessed the circle of influence grow beyond the confines of a specific corporation to their entire business environment.

So the Royal Bank, for example, has had a significant influence in helping its suppliers hire youth interns, which is what they do. So I'm looking at a knock-on effect from big business to small business. I hope that answers your question.

Hon. Lillian Eva Dyck: Would you accept another question, Senator Omidvar?

Senator Omidvar: Yes, of course.

Senator Dyck: I've been listening to the speeches this afternoon. Basically, I think it is a good move to set targets and goals, but as I'm sitting here thinking, I suddenly thought, "What about the case where, today, I have something with me that comes from an all-Aboriginal owned company?"

Aboriginal businesses are emerging and growing. Would there not be cases where I would want the board, perhaps, to be all Aboriginal people and not necessarily have non-Aboriginal people on the board? Or there are cases where there are companies that are run by women and probably have markets that are directed towards mostly female consumers because women have insights into products that some companies might not get.

So I think the intention of the amendment is based on the assumption that all businesses are mostly controlled on the boards by males; I don't know whether the proper term is "White board members."

So I understand why we'd want to increase diversity, but I think there are cases where I wouldn't necessarily want that diversity.

How would you respond to that with respect to the amendment?

The Hon. the Speaker *pro tempore*: Senator, your time is up. Are you requesting five more minutes?

Senator Omidvar: I am requesting five more minutes.

The Hon. the Speaker *pro tempore*: Are you in agreement, senators?

Hon. Senators: Agreed.

Senator Omidvar: Thank you, Senator Dyck, for that question. First, I will say that our amendment — and this bill — impacts only publicly traded corporations and that these targets are voluntary. In that particular case, the board could declare that its diversity targets in terms of minorities are zero. They could do that, and they would explain it to their shareholders because of the context, because these are targets and not quotas.

I will repeat that again and again, and I find it really interesting how transposed those words become. These are targets. They are voluntary.

You can choose to set your target as low or as high as you like. That's up to you. The amendment leaves it entirely up to you.

I hope that answers your question.

Senator Massicotte: Would you take another question, senator?

Senator Omidvar: Of course. .

Senator Massicotte: All of us — and maybe, in particular, males — think we are always rational and logical, and when we come to making choices about employment or strategy we always think it's rational based upon the extreme logic.

Would you not agree that there's immense evidence to suggest that that is not the case, that when we intend to employ or place a board we are often influenced? And would the statistics not also show that we predominantly employ people in the image of ourselves, and that there's an immense prejudice in society relative to allowing that free and fair choice, irrespective of business plans, and so on? Would you not agree that the evidence points to that?

Senator Omidvar: Senator, all the evidence points to that. I will submit to you that we are all, as human beings, biased individuals.

Five or six years ago, I did an audit of whom I hired at the Maytree Foundation, where I was the president, and guess what I found: I hire in my own image. Whom did I hire? Women, short, high energy. There's my bias. I had to make a deliberate effort to find a few good men. I did find them.

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I want to begin my remarks by thanking Senator Wetston for his sponsorship of Bill C-25. It has been, or perhaps I should better say, it has become a courageous act, one for which I want to thank him. He has my profound gratitude.

I'm also grateful to Senator Massicotte, Senator Omidvar, Senator Moncion and others who have yet to speak for the contributions on this part of the debate on these amendments. And I want to assure you that it is a debate that the government has been following and will continue to follow closely.

I would be remiss if I didn't mention and refer back to second reading debate, where my former counterpart, Senator Carignan, who is the official opposition critic for this bill, participated so effectively.

I want to pay particular tribute to his willingness to set aside partisan considerations in order to support Bill C-25, which was a bipartisan initiative that is good for Canadians and good for Canadian business.

I, for one, have been touched by the passion with which senators have worked on this legislation, even if they have differing perspectives on the tools that should be employed.

I think the Senate has shown once again that issues of diversity and gender equity are at the heart of our mandate and our thinking about our role.

My remarks today are not meant to provide an overview of Bill C-25 or to get into the nuts and bolts of the measures contained in the bill.

Senator Wetston, who is far more qualified than I on corporate governance matters, has already done so, as have other speakers earlier in the debate.

Rather, I want to limit my remarks to what I consider to be the crux of the question before us: Should we exercise, as a Senate, our constitutional right to amend government legislation in the case under study today? Or would it be preferable to leave intact the government's public policy choice as enacted in this government initiative and brought forward to this chamber from the other place?

I submit to you that the measured and sober course of action would be to defer to the policy choice the government has made, one that is non-partisan and the product of a broad consensus.

Honourable senators, when we send government legislation back to the other place, we should not do so lightly, and I know we do not.

Each and every time we examine a Senate amendment to a legislative initiative of the government, we ought to carefully consider the context and circumstances at issue and do so in light of our complementary role as a Senate.

I say this because I believe there are cases that call for some measure of restraint and require us to be more measured and circumspect in our approach to the government and the House of Commons.

Which brings me to the matter at hand: Senator Massicotte's amendment to Bill C-25.

At the outset, let me state clearly that the government shares Senator Massicotte's ambition. It seeks the same destination: a more diverse and gender-balanced corporate sector.

However, the government fundamentally disagrees on the means to reach that destination. As you know, in Bill C-25 the government has chosen to enact the policy instrument known as "comply or explain" to enhance diversity and gender representation in corporate boards, and companies more generally.

Comply or explain is the legislative technique whereby Parliament sets out objectives with which companies must comply, or, if they do not, they must explain why that is.

• (1530)

I can confirm that the strong view of this government is that comply or explain represents an appropriate balance going forward. It reflects a broad consensus amongst stakeholders as well as members of Parliament and it ultimately respects free enterprise by putting the onus on Canada's corporate sector.

One of the effects of comply or explain is to let the market decide whether a set of standards is appropriate for individual companies. The government has faith that the Canadian market will speak, but corporations are also being put on notice to get their act together. The Minister of Innovation, Science and Economic Development has been crystal clear that Canadians can expect corporations to step up their game. The government will closely monitor and review the effectiveness of comply or explain at enhancing diversity and gender representation on corporate boards and corporate administration.

If results aren't forthcoming, the law of the land will inevitably be revisited with a prospect of more coercive policies being adopted in the future, not now. As Senator Massicotte's proposal indicates, more aggressive policy instruments will be available to the government and to Parliament. Whether or not those will be necessary will be entirely up to Canadian corporations.

As we know, the critic of this bill — and many other government bills, I should say — Senator Carignan has spoken eloquently on this very subject during the second reading debate and I want to quote from his second reading speech, because it's worth reminding ourselves in the context of the discussion before us right now. He said:

> What we have before us is essentially a non-partisan bill that was developed by two different successive governments. In addition, the measures in Bill C-25 were informed by broad consultations. There was consensus within the industry, and the government honoured that.

I thank Senator Carignan for more of his thoughtful analysis. What Senator Carignan implied is that the government's choice of comply or explain was not made lightly. It has been the subject of extensive consultations from 2014 onwards and has received the support of the government and Her Majesty's Loyal Opposition in the other place, passing report stage by a vote of 252 to 32 and third reading stage on division. It is, as Senator Carignan has stated, a nonpartisan bill, or in many ways, a bipartisan bill.

Honourable senators, we should not lose sight of the fact that Bill C-25 is widely viewed as a step in the right direction for corporate governance. In fact, I'm quite confident that the proponents of Senator Massicotte's amendment would freely concede that Bill C-25 is a positive step forward, and we heard that in several of the comments made by those who support Senator Massicotte's amendments.

Within the range of reasonable policy options available to it to foster greater diversity and gender representation on corporate boards, the government has selected the policy instrument of comply or explain. Yet the amendment before us would choose a different public policy course.

What's being argued is that it would be preferable for the government to go even further by adopting an entirely different public policy. We would prefer that the government listen harder and that it go forward, but the government, with full political accountability, has made its choice and one that is legitimate and reasonable.

Honourable senators, we know how important it is to tend to our relationships. So while I am, as Senator Carignan, on the record in this place and other fora as a proponent of the Senate's crucial role in our constitutional architecture, I question whether this amendment to Bill C-25 reflects a measured and judicious approach to our relationship with the other place.

On this point, I again find myself quoting Senator Carignan's excellent second reading speech when he said:

> It seems to me that it would be dangerous for the Senate to challenge a delicate balance set out in a technical piece of legislation that was the subject of thorough consultation and the product of broad consensus among those who will be affected by these measures.

Colleagues, Senator Carignan is quite right. The amendment at issue would upset the delicate balance of interest that is reflected in Bill C-25 and return to the House of Commons a more divisive piece of legislation.

Given all of this, the minister responsible has expressed on multiple occasions that the policy proposed in Senator Massicotte's amendment on legislative targets would not find favour with the government. As a result, I will vote against this amendment and urge all senators to do the same.

But if you will indulge me, honourable senators, I also want to make two additional points given the subject at issue. First, I want to assure senators that this government's commitment to diversity and gender equity is unwavering. In fact, one could make a strong case that on issues of diversity and gender equity, this government has been one of the most progressive in Canadian history. Look around. The evidence is before us in this chamber. Women now make up 46 per cent of senators and the number, I hope, will increase even in the coming days to accomplish gender parity in the Senate.

See? They're listening.

I would also point to the government's efforts to strengthen diversity across the public sector through a renewed GIC appointments process which makes diversity a key principle of the selection process. This was highlighted through the release of the final report in December of the Joint Union/Management Task Force on Diversity and Inclusion entitled *Building a Diverse and Inclusive Public Service*.

I want to assure honourable senators that the government has listened very carefully to the concerns that have been raised by proponents of this amendment and it has fully considered the policy of legislative targets.

In the media, a senator I hold in the highest esteem, advocating for this amendment, noted a desire to make the government listen harder — I was pleased it wasn't a capital H, by the way — in respecting their policy deliberations on this matter.

I want to reiterate to this chamber that this government has been listening respectfully to the Senate and with a sense of the immense contribution it can have on public policy in the Parliament of Canada.

I would argue perhaps that more so than any other government in history that has listened to this chamber, it has listened to senators of all stripes and indeed no stripes. In less than three years into this mandate, there is overwhelming evidence of the government's openness to the Senate's public policy input, regardless of the source.

The government listened on Bill C-6. Our esteemed colleague Senator Omidvar would likely be the first to attest to that, as would Senator Oh, for that matter.

The government listened on Bill C-29. Senator Pratte will surely remember the day the government took the extraordinary step of voluntarily removing an entire section of the Budget Implementation Act.

The government listened early on in Bill C-22, increasing the number of senators on the National Security and Intelligence Committee of parliamentarians from two to three through a House of Commons amendment and including Senate committee observations in its work.

The government listened to the Senate on Bill S-3, a major achievement for the strong indigenous voices in this chamber.

The government also listened to the Senate on Bill S-2, Bill C-7, Bill C-14 and Bill C-37.

The government listened to the Senate Banking Committee report on interprovincial trade entitled *Tear Down These Walls*, ultimately bringing its renewed Canadian Free Trade Agreement as a part of the most recent Budget Implementation Act, Bill C-63.

The government has not been limited to government bills alone. New life has been breathed into Senate public bills. The government notably listened to Senator Runciman's bill, Bill S-233, on boating; Senator White's bill, Bill S-225, on fentanyl; Senator Carignan's bill, Bill S-231, on journalistic sources protection; Senator Greene Raine's bill, Bill S-228, on food and beverage marketing for children; and Senator Griffin's bill, Bill S-235, birthplace of Confederation. These are only a few of the examples of listening to the work of the Senate in various ways.

Now, my last example may surprise honourable senators. The government has also listened to the Senate on the bill that is before us, Bill C-25, and it could hardly have listened more closely. However, it is not because the government disagrees that it has not listened. It just doesn't agree with the propositions being made in the amendments we have before us.

I'm pleased to indicate that the government will accept, though, three amendments presented in the Banking Committee by Senator Wetston that were referred to it at report stage the other day.

On the issue covered by Senator Massicotte's amendment, as outlined, the minister has engaged constructively and in good faith with senators and has given serious and sober consideration to the strong advice that was given. The Canadian public and interested civil society actors have also been alerted by the work of senators, including through numerous speeches as well as a range of direct appeals to the public through the media, which is entirely appropriate. I can assure you that the government has listened very closely, albeit with no shortage of anxiety, to the media coverage surrounding Bill C-25.

• (1540)

The government has also factored the advice of senators, who have worked together on this amendment, into its revisions to the regulations that will come into force following the enactment of Bill C-25. These are available to all senators online through the department's website. For example, the revised regulations will reference the designated groups under the Employment Equity Act as a necessary starting point. This means that the reporting requirements will indeed cover these groups at a minimum.

Further, the minister has been very clear that employment equity will serve as a minimum for diversity policies and data disclosures, and this will be incorporated explicitly into the regulations. The regulations draw on the national instrument already in use for gender, which allows for clarity on the elements of a diversity policy. This instrument has very specific directions on what must be included. It specifically asks that corporations disclose if they have targets, what those are and what progress is being made toward those targets. The minister has outlined this and is thereby addressing the issues at the heart of the proposed amendment.

Honourable senators, it would therefore not be fair to assert that the government has not listened. There has been dialogue. There has been a healthy and fruitful debate, but ultimately on this specific issue, the government has made its policy decision and is not intent on reversing its course. The decision is to move forward with the policy of "comply or explain." A Senate amendment to this government bill will not change the government's view of moving forward with "comply or explain." What it would do is return a more divisive version of the bill to the House of Commons.

In sum, having considered the context as a whole, I would hope to see us collectively adopting a measured approach to the legitimate and reasoned policy decisions of the government and the House of Commons as a whole.

As a final comment, I would point out that a show of restraint on Bill C-25 need not be the end of the road for the Senate. It does not preclude other influential Senate initiatives. For example, a deep dive by a Senate committee into issues of diversity and gender representation in the private sector could be harvested by this fall for future governments in years to come. The production of a Senate public bill seeking changes to the CBCA would also be a constructive vehicle for pushing the policies contained in Senator Massicotte's amendment and keeping those alive in public discussion.

I would also add that an amendment brought to Bill C-25 in the House of Commons has ensured the inclusion in the bill of a strict timetable for the review of the legislation in five years' time. Such a Senate committee may well be called upon to ascertain whether Bill C-25 has been effective at meeting the government's diversity objectives when that review takes place.

We ought to collectively consider the whole range of parliamentary tools at our disposal and that can be deployed to act as a watch dog or to promote different policy instruments available to government.

So the conversation about diversity and gender representation on corporate boards will not end with the adoption of Bill C-25. It will not end with the adoption of "comply or explain," nor would it end with the adoption of Senator Massicotte's amendment, if that is the choice of this chamber.

I, for one, will be looking forward to continuing the conversations on this important issue for years to come, but I would urge that the Senate adopt the policy framework that was sent to us in a bipartisan fashion from the other place.

Senator Massicotte: Would the senator accept a question?

Senator Harder: Of course.

Senator Massicotte: Thank you for your presentation. You make reference that the bill as it now stands represents a consensus of opinions by all stakeholders and people of interest in our Canadian affairs. Could you give some details as to what that means? I presume that was a meeting of all interested parties, including social activists. It was a slugfest, and they all negotiated hard and came to this consensus.

Could you let us know when that meeting took place and who was there, especially the social activists?

Senator Harder: I don't have the entire list before me, but I want to describe the process.

In 2014, some time ago, under the previous government, the department and the minister of the day began a process of consultations with stakeholders, and that continued through this minister. That involved various stakeholder groups that were affected, and it involved a review with the best practices internationally and the best practices in Canadian jurisdictions. It led to Bill C-25, which then became a subject of discussion and review in the other place.

The point I want to register, and one that Senator Carignan's second reading speech spoke to, is that this was a consensus. It is a balanced view from a range of policy proposals that have been out there in the public and have been part of the consultation process. It is the government's view that this is a balanced way of proceeding at this time on this important issue.

As Senator Wetston said, this is the first jurisdiction in the world to legislate diversity in this fashion. The prudence of the House of Commons' view is that we ought to begin with "comply or explain," because it is such an innovative approach to corporate governance.

Senator Massicotte: From the answer you gave us, I think it's consistent with what we heard at the briefing session, whereby the process that was followed four years ago asked for papers on this matter, and the government never had a full meeting with all the interested parties. They took these position papers and then decided what they thought was an appropriate bill. Is that accurate?

Senator Harder: Again, senator, I don't have before me the reference of the log of consultations. I do want to emphasize, though, that this process of deliberation, which began in 2014, has extended over a number of years with a number of stakeholders through various jurisdictions, including those like the OSC and others that have oversight obligations in respect of the private sector.

[*Translation*]

Hon. Renée Dupuis: Senator Harder, there's something I would like to understand. From what I gather, there is a consensus, since this is a non-partisan bill. We've had a federal anti-discrimination framework since at least 1978 through the Canadian Human Rights Act. The framework has changed a bit and has shifted to include employment equity. It has created obligations for employers with respect to the four designated groups we are talking about. I think it's a shame that this follows the Becket model of "Never complain; never explain."

In our case, it is an adaptation. We have had a specific anti-discrimination framework for 40 years, and this framework applies to the lower ranks of our organizations. We are creating a voluntary model for the senior ranks of these organizations, which I see as a step backwards, not forwards.

Tell me how we're supposed to reconcile having a comprehensive human rights framework with giving an organization the option to explain why it is not abiding by this framework. Thank you.

[*English*]

Senator Harder: I thank the senator for her question. It gives me the opportunity to repeat in a different way that what we have before us is answering the following public policy question: What is the role of the state in advancing through corporate governance Canada's desire to have better diversity representation in its corporate institutions? What's the role of the state?

• (1550)

What the government has chosen and what the House of Commons has overwhelmingly agreed to is that at this stage in the evolution of achieving greater diversity, the public policy instrument of choice is "comply or explain."

The minister, Parliament itself and the House of Commons, certainly, have reserved whether or not that will be the forever policy instrument, but it has said, "Let's start there and see where we go." I would suggest that the Senate of Canada has a role as this policy unfolds to encourage, to bully pulpit, to ensure that the private sector listens to and hears the public interest being expressed by parliamentarians. But we ought to be careful about infringing on the corporate responsibility to shareholders for their governance.

That's essentially the balance that we're trying to achieve. That's the question before us.

Senator Omidvar: I have a question for Senator Harder, if he would accept one.

Senator Harder: Of course.

Senator Omidvar: I listened with great interest to your remarks. I have a bit of a problem in understanding the divide between the Canada Brand our Prime Minister and his colleagues have embraced, the brand of diversity and inclusion on the one hand — the strong words in Davos, for instance, by the ministers and the Prime Minister — and the gap in what we say and what we do.

You appropriately noted the role of the state. The Government of Canada in this bill has decided in which way the state will advance diversity in the corporate sector, and it is through "comply or explain."

I'm going to ask you a question that is slightly hypothetical. Let's go back to 1995 and employment equity. If employment equity had been "comply or explain," do you believe that in these 23 years since 1995 — with no targets, with no reporting, with no benchmarks — that we would have gotten so far? I hope you are as proud of employment equity as I am.

Senator Harder: I thank the senator for her question. I will address it, but I want to address the preamble as well because I see no inconsistency, as the senator does, between the Prime Minister's advocacy for diversity and for branding Canada as committed to diversity in its public policy and in itself.

The government expresses its commitment to diversity in different instruments. The government has its own decision making to do regarding who is in cabinet. There is a certain expression of diversity commitment that the Prime Minister exhibited.

In respect of its Crown corporations, the government has expressed a policy instrument for these corporations, as, by the way, have other provincial Crown corporations.

However, with respect to the private sector, the Government of Canada is saying that we should, at this stage, begin with "comply or explain" because it's a policy instrument imposing certain obligations on the private sector that we should be careful about.

That is the difference of instruments, and there are other occasions.

I know at the G7, issues of diversity and gender issues will be part of it. I don't see any inconsistency between a government that is committed to diversity and inclusion, saying in respect of corporate governance, "Here's the step we should be taking to encourage greater diversity." By the way, this is the only jurisdiction in the world to do it through legislation, doing it not on the basis of gender alone but on the full definition of diversity.

I then come to your comment about employment equity. Absolutely, I'm proud of that. That was a significant policy instrument of changing the workplace in Canada. It was an appropriate choice at the time, but I would also note that that hasn't been the first or the last word on this. There continue to be evolutions in how we think of diversity and equity issues from when it was first introduced.

I expect that 20 years from now, if we adopt the bill as it came to us from the committee with the amendments that Senator Wetston describes, we'll look back and be able to judge whether or not our faith in the private sector responding with the instrument of choice — that had the consensus it does — worked or not.

Let's not plant a seed and keep pulling it up every year and asking, "Is it still growing?" It does take time. Senator Wetston had an important piece of data with the report from last

October with 26 per cent of the new nominees, but we will have to be vigilant. I would hope that the commitment of all senators to this subject doesn't end with whether or not these amendments are adopted. We in the Senate, as I've suggested, have other roles to play in ensuring that there is an ongoing attention and commitment to this.

(On motion of Senator Pratte, debate adjourned.)

CANNABIS BILL

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Dean, seconded by the Honourable Senator Forest, for the second reading of Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts.

Hon. Dennis Glen Patterson: Honourable senators, I rise to speak to Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts.

I want to begin by commending Senator Galvez for her thoughtful and science-based analysis of the public policy and health implications of this important bill, and I thank her for acknowledging the special situation of Aboriginal people, which has not yet been much discussed or examined. I agree entirely with her recommendation that the government must put health considerations at the forefront by adopting a real and not theoretical public health approach without promoting, intentionally or unintentionally, the emergence of an economic sector through legalization, attractive to many, to support an existing risky practice. Today I hope to give you some insights as to why this recommendation applies to Nunavut.

Nunavut is not ready. Senator Galvez is right: Bill C-45 is a complete repeal of prohibition with absence of regulations. It transfers a majority of the responsibilities of legalization to the provinces — in my case, a territory — which in turn may transfer those responsibilities to unprepared municipalities.

In Nunavut, this is a very rushed process due to several factors. First, Nunavut elected a new territorial government on October 30, 2017. The previous government made a decision not to deal with this issue beyond conducting an online anonymous survey on attitudes towards legalization, which I believe provides the Government of Nunavut with a baseline but does not constitute meaningful consultation, as this legislation warrants.

The new government was not formed until November 2017 and has only just begun working on this major social issue. The government has announced a series of community consultations, which will see public meetings held in only 11 of Nunavut's 25 communities, and began in late January and will continue until late February.

The Nunavut Association of Municipalities put the subject of cannabis legalization on the agenda of their annual meeting in Iqaluit in early December 2017. As a federal parliamentarian, I was invited to attend and participate.

Honourable senators, there was a litany of concerns. No one in the room welcomed this legislation. The bill has been described by the federal government as representing transformative social change. Nowhere may this be more dramatic, I fear, than in remote communities in the Far North.

I found community members and officials to have great concerns about the apparent rush to implement the new legal regime, complaining about not having been consulted whatsoever, about not having the resources to enact bylaws and policies they may well wish to put in place.

They also lamented the absence of mental health supports in their communities and the complete absence of any alcohol and drug treatment facilities anywhere in Nunavut. "How will we treat residents and employees who may become addicted without community mental health or territorial addiction programs," they asked.

Mayors had many questions about what powers they might be given to govern their own affairs. "Can we prohibit the use of marijuana in our communities," some asked, in the same way that many communities have implemented controls on the use of alcohol, or outright prohibition following community plebiscites — a procedure allowed under Nunavut's liquor act.

• (1600)

Will communities be able to regulate the age of possession given their strong concerns about the effects of marijuana use amongst vulnerable youth who are already absent from school in alarming numbers and displaying serious mental health issues associated with violent crime, armed standoffs — sadly, now commonplace in remote communities in Nunavut — depression and suicide?

What powers will communities have to regulate retail sales and the use of marijuana in public places? Will funds be available to assist communities in the complex task of drafting bylaws and the development of workplace policies?

The mayors had a briefing from lawyers from a Yellowknife law firm who suggested that the legalization of marijuana need not represent significant change, that it can be dealt with the way the municipalities and governments already deal with cigarette smoking. That glib assertion clearly did not provide comfort to the mayors at the meeting.

The lawyers' advice clearly raised concern. They were told municipalities can further restrict the use of marijuana by bylaw. You may wish to enact bylaws to prohibit use on schools or playgrounds. You could also prohibit use in public buildings or in staff housing. Also, that could be a term for the use of land or other commercial contracts. It is unknown, they were told whether the Government of Nunavut will enact a law requiring a plebiscite to approve or restrict local use, but the legislation will allow online sales, the mayors were told. So there will be a lot of marijuana in circulation, it was forecasted.

They mayors were told that they should have an updated drug and alcohol policy if they have one. And to get one if they don't. They were told they would also need guidelines for medical use such as the employer's need to know, the employee's duty to disclose. They were advised on the principles for such policies, how to deal with disciplinary issues. They were advised on the human rights implications of bylaw making and how a municipal employer must allow treatment of employee addictions.

Honourable senators, these municipal mayors are crucial levels of government in the scattered, remote communities of the Arctic. They already have their hands full in the harshest climate in the world dealing with water and sewer, roads, garbage and dogs.

Many mayors are from villages of very small populations and are struggling with the capacity to deal with an increasingly complex world. They're now going to have to engage lawyers from distant places to help them develop bylaws and policies for legislation which they fear will become law imminently.

Who will pay for this? Who will train our bylaws or the RCMP? Here's what some of the mayors said about those issues.

The Mayor of Resolute Bay, population 198 in 2016:

> My concern is for my community. Today we are hearing that it will be okay and that we can deal with it. This is not true; 10-year-olds are using and skipping school. We will need help. Also when it is legal, like cigarette smoking in public places... people don't follow that rule. How far from a building can you smoke? Nobody listens to that. Just an example. It will come with problems like enforcement, employees, bylaws, not enough funding.
>
> The Government of Nunavut should ask for more funding from the federal government since they are making it a law. We have no choice but to go with it when it is legal. Who will enforce it? The GN or municipalities? It's almost like we're going backwards, she said, run by a government that was colonizing us years ago. Resolute Bay is part of Canada. We see problems first hand. We know our communities. Many people are impoverished. Many people are already dealing with these illegal products. We have concerns about our children.

Mayor of Taloyoak:

> It will be a challenge. Seven months is not a long time to prepare... age limits and so on. We need to look at our bylaws. Those of us in the territory will need an awful lot of support.

The Mayor of Gjoa Haven:

> We mayors will need to be doing a lot of work. If by July 1 we don't have a plan past that date, that will be a problem. We don't have bylaw enforcers, bylaws in place. We need more funding for the enforcement of the bylaws.

Honourable senators, having heard the strong and thoughtful concerns of the mayors of Nunavut about this federal legislation being imposed in Nunavut, I promised then and there to give voice to the concerns of Nunavut community leaders in the Senate. This was the impetus for me to plan to travel to every one of Nunavut's 25 communities in the next two months, mostly during break weeks, although I will be away next week. I'll begin my travel with town hall meetings and meetings with mayors and councils next week in south Baffin, then the seven communities in the western Kitikmeot region.

The Mayor of Taloyoak said it very clearly at the NAM meeting:

> No one has talked to us. Who will hear our concerns? You have to come to our communities.

So I'll be armed with more information and a better identification of concerns and recommended solutions when I return, but in speaking to the principles of the bill today, I want to signal what I've already heard and expect to hear.

I've spoken about this in Question Period already, but Nunavut Tunngavik Incorporated spoke loudly and clearly at their annual general meeting last year about the solemn legal obligation under the Nunavut Land Claim Agreement, Article 32, that requires governments to consult with Inuit on social policy changes. Consultation with a national Inuit organization based in Ottawa does not meet this constitutionally protected statutory obligation.

The president of ITK has publicly stated that a few conversations with his organization is not adequate. In fact, that duty is owed to each comprehensive claimant group in Inuit Nunangat. Yet this week in her appearance before the Senate, Minister Petitpas Taylor cited meetings with ITK as evidence of the government's consultation with Inuit.

I'd like to share with you other specific concerns identified by mayors. The Mayor of Gjoa Haven said:

> How is it going to help by legalizing [marijuana] in small communities where it's already bad enough?

Keep in mind, honourable senators, that yes, marijuana use is widespread in Nunavut communities. Anyone who has campaigned door to door — as I have done often over many years — knows this, but there are natural barriers to the widespread use of marijuana now in place by virtue of the North's isolation.

In Iqaluit where I live, with daily jet service and a huge population of around 8,000 people, marijuana costs about $20 a gram. The Hells Angels or other criminal organizations are probably not present there. Those suppliers from southern communities undoubtedly have those connections. In the more remote communities, where there are intermittent scheduled flights over long distances, prices for a gram of marijuana can easily reach $50 per gram. What will happen when marijuana can be ordered online and mailed for a price of $10 per gram?

On the subject of education, the Mayor of Qikiqtarjuak said:

> There are users under 12 years of age. They have dropped out of school. That is a concern.

Attendance in schools in Nunavut is a serious problem. On any day of the week inside an average Nunavut school, you might find only seven students attending class for every ten who are actually enrolled. The rate of attendance is dropping, not improving. Nunavut students generally only attend until grade 7. Students in grade 10 and 11 only average just over 50 per cent.

The Mayor of Arctic Bay told the meeting:

> We created our own government so we can be more independent but rights we fought for are being degraded.
>
> I've witnessed a six-year-old stealing drugs from their parents. I'm not ready for this. There are too many problems we're facing now without it being legal. Elder abuse. No one can help them.

Honourable senators, Nunavut's also struggling with a lack of alcohol and drug treatment options. The Chief Justice of Nunavut's Court of Justice says that 90 per cent of the crime in the territories is linked to alcohol. He said he and other judges send people out of the territory for treatment, but that can be costly. It's not always culturally sensitive, and it doesn't treat the whole family.

> It's not cost effective to rely solely on jails when we really need some interventions at a family level, at a community level to address a growing problem of substance abuse in Nunavut.

The Mayor of Arctic Bay echoed these concerns at the meeting in December.

> Now that we have alcohol, we were getting used to alcohol... now we have an additional challenge. The older generation is really intimidated...if it was available when illegal, imagine if it is legal. ...I have friends and families whose minds have been degraded by cannabis. I am concerned about the next generation being adversely affected by the use of cannabis. Even if prohibited, our experience with alcohol prohibition is that there is still a lot of alcohol.

• (1610)

The Mayor of Kimmirut, population 389, followed by saying:

> We are being burdened with additional challenges. Our young people will be addicted for sure. Good hunters are affected. They are not going out hunting.

The Mayor of Pangnirtung also displayed alarm:

> Users are getting lazy. They don't want to do anything. They don't want to work. It's bad enough with cigarettes. They keep taxing it, but nobody stops.

By the way, Nunavut has the highest rate of smoking in the country. Two thirds of residents already smoke cigarettes.

Now, Senator Galvez presented scientific evidence to support her concerns. We must have scientific evidence of the links between educational achievement and cannabis use. There are studies that show that rates of attainment are linked to cannabis use. One Australian study said:

> Early cannabis use appears to be associated with the adoption of an anti-conventional lifestyle characterized by affiliations with delinquent and substance-using peers, and the precocious adoption of adult roles, including early school leaving, leaving the parental home and early parenthood.

People are worried about the mental health impacts of cannabis on a vulnerable population. The Mayor of Pangnirtung linked the issue of marijuana to mental health struggles in the territory. He said:

> We've seen people that started to become schizophrenic. When we hear there won't be much change, they're wrong. There will be a huge impact.

The Mayor of Arctic Bay said:

> We don't have alcohol and drug institutions. Where are we going to send them? Nunavut doesn't have what we need. They all have to go south. There should be —

The Hon. the Speaker *pro tempore*: I'm sorry, your time is up. Would you like five more minutes?

Senator Patterson: I would like five minutes.

The Hon. the Speaker *pro tempore*: Are honourable senators in agreement?

Hon. Senators: Agreed.

Senator Patterson: He said there should be rehab in Nunavut.

The Mayor of Resolute Bay talked about the challenge of time. Seven months is not a long time to prepare. There is evidence that cannabis use does impact psychotic or affective mental health outcomes.

I won't mention the suicide problem in detail in Nunavut. It's sadly well-known. In fact, one study showed that the rate of suicide among young men in Nunavut is the highest in the world, and the overall rates are 10 times the national average.

Is there a link between cannabis use and depression and suicide? I've seen some evidence, a study undertaken in New Zealand, that said cannabis use is associated with increased rates of a range of adjustment problems in adolescence and young adulthood: crime, depression and suicidal behaviours, with these adverse effects being most evident for school-aged regular users.

Honourable senators, I'm struck in looking at these issues by how little we know. We don't know the extent of marijuana use in Nunavut. We don't know about the effects this drug may have on mental health among Aboriginal people.

I want to say that I was really amazed that the Government of Canada had confirmed it to be the case that we don't know the answer to a lot of these questions.

Minister Blair announced in January that Canada is going to begin to address what he described as certain knowledge gaps in this area, with a paltry investment of $1.4 million to fund 14 research projects across Canada. He said the research project:

> . . . is expected to lay a foundation to develop further studies on the broader impacts of non-medical cannabis legalization and regulation in Canada, and help inform the ongoing development of policies, practices and programs involving cannabis.

I'm surprised, frankly, honourable senators, that a government that has promised to make public policy decisions based on science is only now beginning, on the eve of legalization, to do a study on the health, behavioural, social and economic implications of the legalization of marijuana.

Now, finally, I want to say that as I listened to the ministers during Committee of the Whole on Tuesday, it struck me how much of an emphasis was placed on the findings of the Task Force on Cannabis Legalization and Regulation. However, at the task force presentation to senators last fall, Ms. McLellan, the chair, was very clear that the task force felt that more education and consultation were required. Meaningful engagement cannot happen in five months on what has been touted as a transformative social change. It's especially true in my region, with its remote communities and very high proportion of Inuit whose first language is not English or French.

Finally, I think we need to clearly take more time to do this properly, at least in my region where the new territorial government has barely begun consultations.

Canadians must also be provided with facts about cannabis and its effects, this task force recommended. I urge the committee or committees studying this bill to obtain the best information about the health and mental health impacts of marijuana on youth and particularly on Aboriginal people. Thank you.

Hon. Senators: Hear, hear.

Hon. Denise Batters: Would Senator Patterson take a brief question?

Senator Patterson: Yes.

Senator Batters: Thank you. Something that's been very concerning to me, particularly after I hear your speech, is the fact that Bill C-45 will allow every household to be able to grow four plants of unknown size. There could be four huge marijuana plants in every household.

Given the remoteness of your particular territory and the disparate population, can you please tell us about the impact that will have on Nunavut?

The Hon. the Speaker *pro tempore*: Do you require more time, Senator Patterson, to answer Senator Batters' question?

Senator Patterson: I'll answer it as briefly as I can. But yes, please.

Thank you for the question, honourable senator. I guess what I was saying is that I won't pretend that marijuana use is not occurring in Nunavut communities, although I don't think it's as extensive as it is in the cities that have been discussed so far in this bill.

One of the reasons for that is that Nunavut is perhaps, one could say, blessed by remoteness and transportation logistics and the costs, and that has resulted in difficulty in accessing alcohol and illegal drugs.

So the mayors are very concerned and made it very clear. I'm trying to be their voice here in this chamber. They are concerned about the proliferation of what they consider a dangerous substance, especially for youth who aren't going to school, hunters who are not so motivated to get up in the morning and go hunting and people who are working in our growing mineral sector, where there are stringent drug tests that would prevent them from getting jobs.

So they mentioned this business of being able to grow plants and felt that that was yet another way in which easier access, as well as being able to buy online from anywhere, would result in the proliferation of what they consider to be a dangerous substance on top of the alcohol issues they're dealing with, on top of the school attendance issues we're struggling with, on top of the mental health and suicide issues. I have to bring the alarming comments from the mayors to the attention of the Senate because they asked me to be their voice, and they feel nobody is listening.

The Hon. the Speaker *pro tempore*: Senator Joyal would like to ask a question. Senator Patterson, would you accept another question?

Senator Patterson: Yes, if there's time.

Hon. Serge Joyal: I would like to ask you a question, Senator Patterson. You have outlined to this chamber this afternoon my worst fears. That's why, since the beginning of this debate, I have raised the issue of the impact of the legalization on the Aboriginal community. You might have heard me before when I asked questions of the government leader for us to listen to the Minister of Crown-Indigenous Relations and the Minister of Indigenous Services and the other minister. We have a moral responsibility to listen to the Aboriginal people and to those who know their reality, and to share the impact of what we suspect will happen and what we know will happen with the legalization of marijuana.

• (1620)

My major concern is that consultation with Aboriginal people should have taken place and should take place. I say this with the greatest of respect for the government. There should be a special regime and a special way of dealing with the objectives of this bill in relation to Aboriginal people. My opinion is that if we don't do that, we will add to the plight of the Aboriginal people in terms of the social nightmare that you have outlined this afternoon.

My specific question to you is this: When you mentioned in your speech that there was consultation with ITK, could you expand on the kind of consultation that took place? Was it a social gathering and a general discussion over a cup of coffee, or was it real consultation, including the objectives and impacts, the way the plan could be implemented, the police forces, health services and social supports, and the implications of all the changes that will be brought upon the Nunavut community?

The Hon. the Speaker *pro tempore*: Senator Patterson, you have 24 seconds.

Senator Patterson: The President of ITK said —

An Hon. Senator: No. There is no more time granted.

Senator Patterson: Well, I have 24 seconds.

The Hon. the Speaker *pro tempore*: He has 24 seconds left on his five minutes.

Senator Patterson: I have a very quick answer. The President of ITK said they had a few conversations that were not adequate.

The Hon. the Speaker *pro tempore*: Senator Dyck, I'm sorry; there are six seconds left.

Hon. Lillian Eva Dyck: Would the honourable senator ask for more time so I could ask a question? It's an important issue.

The Hon. the Speaker *pro tempore*: Order, please. Senator Dyck is going to ask her question.

Senator Dyck: I want to commend the senator for his speech. I thought he did a very good job of bringing forth to the chamber the reactions from the local people in Nunavut, the mayors, and so on.

I, too, am concerned about the effect of marijuana legislation on Aboriginal youth. When we travelled there, you and I — I remember quite clearly — went into a number of the homes. The homes are very crowded. I don't know whether this came up during the discussions, whether there was fear about normalizing cannabis use. People live in homes where there are two or three families. Let's say it's the parents, as opposed to the teenagers, who are taking it up, and then the whole family sees that as normal behaviour, especially considering the high rates of smoking you mentioned.

Senator Patterson: Indeed, there were several hours of discussion at the mayors' meeting, and I've indicated just some of the highlights. However, a big concern was expressed about having plants in houses — in small, overcrowded houses — and there's no limit on the height of these plants.

There was also concern expressed about being able to regulate smoking the way cigarette smoking is regulated, as the lawyers from Yellowknife said could easily be done. Mayors were very concerned about prohibiting use in homes and about trying to prohibit use in school playgrounds and public spaces.

That's why I believe we should hear from the minister responsible for consultations with Aboriginal people, whoever that might be. It may not be Minister Bennett, I understand. And we should hear from Minister Philpott, who has a responsibility for indigenous peoples, and see how these concerns might be dealt with in this legislation.

Senator Dyck: Could I ask a supplementary question?

The Hon. the Speaker *pro tempore*: I don't think so. I think you are going to be testing the chamber's patience, Senator Dyck. I'm sorry. We've had "no" on this side several times.

(On motion of Senator Petitclerc, debate adjourned.)

[*Translation*]

EXPUNGEMENT OF HISTORICALLY UNJUST CONVICTIONS BILL

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. René Cormier moved second reading of Bill C-66, An Act to establish a procedure for expunging certain historically unjust convictions and to make related amendments to other Acts.

He said: Honourable senators, I know that it is late in the day, but I want to give this important speech to attest to the years of waiting endured by the victims of the historic injustices I will talk to you about. I rise with emotion in this chamber today as the sponsor of Bill C-66, an act to establish a procedure for expunging certain historically unjust convictions.

First of all, allow me to quote French novelist Gilbert Cesbron, whose words precisely capture the deeply felt reasons that led me to sponsor this bill. Gilbert Cesbron stated the following:

That the world is absurd concerns philosophers and humanists; that the world is unjust concerns all of us.

Bill C-66 was introduced in the other place when the Canadian government apologized to the LGBTQ2 community for decades of systematic and systemic oppression and discrimination sanctioned by the state. It passed unanimously in the other place.

Bill C-66 seeks to correct the historical injustice of the criminalization of consensual sexual activity between same-sex adults. It recognizes that the criminalization of such an activity may constitute a historical injustice because, among other things, were it to occur today, it would be inconsistent with the Canadian Charter of Rights and Freedoms.

By implementing such a procedure, this bill gives the Parole Board of Canada the power to expunge convictions deemed to be unjust by permanently destroying and removing the judicial records of those convictions from federal repositories, in other words, all federal databases. As a result, anyone who was wrongly convicted of an offence involving consensual sexual activity between same-sex persons that would be legal today would be deemed to have never been convicted of that offence.

The Canadians who would be affected by this measure are members of the LGBTQ2 community who were unfairly convicted under the provisions of the Criminal Code or the National Defence Act related to the offences of gross indecency, buggery and anal intercourse.

[*English*]

Before I go through the bill in a more detailed manner, please allow me, honourable colleagues, to provide you with a brief contextual history of what brought us to its conception.

First, we must recognize that the discrimination against the LGBTQ2 community takes root in the very foundations of our Canadian legislation. For the last 150 years, the Parliament of Canada has often failed in fulfilling its duty of protection towards our country's sexual minorities.

Despite the passing of Bill C-150, which decriminalized homosexuality in 1969 following the Everett George Klippert case, the last Canadian to have been imprisoned for homosexuality, the LGBTQ2 community kept on being subjected to outrageous discrimination in all spheres of Canadian society.

• (1630)

[*Translation*]

Between the 1950s and the early 1990s, thousands of LGBTQ2 workers in the Canadian public service, including members of the military, members of the diplomatic corps, and members of the Royal Canadian Mounted Police, were targeted, subjected to investigations, and had their careers ruined by a shameful campaign of oppression described by victims as "the purge." Members of the LGBTQ2 community who worked in departments and agencies faced all kinds of sanctions, including dismissals, transfers and demotions. Notes were often added to their service records calling them "deviants" or stating that they were "not advantageously employable."

It was not unusual for individuals who had confessed to being gay or lesbian, or had been forced to do so, to be given the choice of being released from their position or enduring psychiatric treatment. The Canadian government often denied them benefits, severance pay and pensions. Those who managed to stay on in their positions were expressly denied any opportunities for promotion.

Most public servants who were suspected of being homosexuals at the time were subjected to humiliating surveillance and interrogations that included degrading personal questions. Federal government investigators would use a device created by a professor at Carleton University that could allegedly "scientifically" determine whether a person was homosexual. The RCMP dubbed it "The Fruit Machine."

In 1967, a Canadian Forces administrative order, better known as CFAO 19-20, came into force. This infamous order required that members of the military investigate their fellow soldiers who were suspected of being gay, and then put an end to their careers by asking them to be discharged from service. Although some were honourably discharged after these interrogations, many endured dishonourable discharges. This was the case for Martine Roy.

[*English*]

Martine Roy joined the Canadian Armed Forces in 1981 at the age of 19 because she wanted to serve and protect her country.

She completed basic training at Saint-Jean-sur-Richelieu and went on to complete language and medical assistant training at the Canadian Forces base in Borden, Ontario. She was proud, committed and was looking forward to a long and rewarding military career.

One day, while she was participating in field training, an unmarked car approached. Two individuals stepped out and asked her to get in the car. She thought these were civilians who had gotten lost on the base, but they were not. The individuals identified themselves as part of the Special Investigation Unit and told her she was being arrested.

They drove her to a small building at the edge of the base that Martine had not known existed. There, in a small, dimly lit room, Martine was interrogated for nearly five hours about every detail of her sexual history, habits and preferences. Questions included "Who did you sleep with?" and "How often did you have sex?" Martine's interrogators told her that if she confessed to her perversions she could stay in the Canadian Armed Forces. Exhausted, scared and humiliated, she said she was young, experimenting and confused.

Later, she was summoned to the office of a psychologist so he could determine whether she was normal or abnormal. There she attended several humiliating and degrading sessions.

Finally, in December 1984, Martine was ordered to report to the office to the base colonel. She was asked, "Do you know why you're here?" She answered no. Martine was told that she was a deviant and that she was being discharged for homosexuality.

[*Translation*]

Although her superiors were happy with her work, and despite her deep commitment to the institution and her country, Martine Roy was given just nine days to gather her personal effects and leave the base. Only nine days, honourable senators, to say one last goodbye to her dream.

Ms. Roy lived with guilt and shame because she thought that these events were her fault. She was forced to disclose her sexual orientation to strangers without any say in the matter. She couldn't choose the right moment for her to come out. That is what it was like for countless other victims of the purge and these sanctioned persecutions. Martine returned to Quebec where she suffered severe emotional trauma, which still affects her to this day. For years she battled a drug addiction, had to undergo intensive therapy, and had trouble maintaining personal relationships. Unable to be herself, she lived in fear and in a constant state of anxiety, fearing being rejected by her employer or her loved ones.

Honourable colleagues, the Canadian army did not abolish these exclusionary policies until the early 1990s, following legal action by Michelle Douglas. It was not until her case against the Department of National Defence was settled in 1992 that the express policy of institutional discrimination was officially abolished.

Canada has hundreds — thousands — of stories like Martine's. I encourage you to read the November 2017 Globe and Mail article by John Ibbitson, which relates many such stories, including that of former diplomat Orde Morton.

Because of discriminatory laws and federal policies and programs, thousands of innocent citizens like Martine Roy, Orde Morton, and my fellow Acadian Diane Doiron lost their jobs or were rejected by their family and community. Worse still, many, many people lost their dignity.

In the decades that followed, prime ministers such as the Right Honourable Brian Mulroney spoke in Parliament to condemn national security campaigns targeting the LGBTQ2 community. However, no apology or reparation was made to right this terrible historical wrong that affected thousands of Canadians who were accused because of their sexual orientation, gender identity or gender expression.

Honourable colleagues, because of what Canadian governments have either done of failed to do over the years, members of the LGBTQ2 community who were unjustly convicted have suffered irreparable psychological harm. Although they could obtain pardons, there was no way to expunge their convictions even after the laws under which they were convicted were recognized as discriminatory.

It has been a long time coming, but now Bill C-66 wants to make that recourse available to people. This bill stems from protracted battles waged by the LGBTQ2 community as chronicled in Egale Canada's incomparable Just Society Report, which paints an enlightening and moving portrait of the LGBTQ2 community's experience in our society.

[*English*]

Now let's focus more precisely on the bill that is before us today. Honourable colleagues, allow me to offer you a few details concerning some provisions of Bill C-66. Most notably, those touching upon the eligibility criteria, the filing and treatment of applications and admissible convictions.

As I have previously stated in my speech, Bill C-66 clarifies that the Parole Board of Canada will have the power to order or refuse the expungement of unjust convictions made under certain articles of the Criminal Code and the National Defence Act for these acts. Most specifically those pertaining to acts of gross indecency, buggery and anal intercourse.

• (1640)

Expungement will allow their convictions to be fully removed from all federal databases and will be one of the most effective possible actions for those seeking to clear their names.

[*Translation*]

Those who were convicted can file an application for expungement with the Parole Board at no cost. In some cases, the applicant may be filing an application posthumously on behalf of a deceased family member or loved one. The bill offers that possibility by allowing appropriate representatives such as a partner, parent, sibling, child, or personal representative to file an application in their name.

In each case, the applicant will have to provide evidence that the convictions satisfy the following three criteria in clause 25 of the bill: the activity for which the person was convicted was between persons of the same sex; the activity was consensual; and, the persons who participated in the activity were 16 years of age or older at the time the activity occurred or were subject to the close-in-age exception under section 150.1 of the Criminal Code.

In most cases, such evidence would come from the police or court records. That being said, given the historic nature of those records, the government recognizes that, in some cases, it will not always be possible to access the official documents providing evidence that the criteria are satisfied or even to obtain those documents. That is why the bill allows for a sworn statement or solemn declaration to be submitted as proof. In the statement, the applicant will have to explain that every effort was made to obtain the documents to confirm the three aforementioned criteria. The applicants will also have to show that they made every reasonable effort to obtain those documents and that they were no longer available.

The Parole Board will then investigate, and if it finds no evidence to the contrary and no evidence that the activity is currently prohibited under the Criminal Code, it will order expungement. If the applications for expungement are complete and meet all of the criteria, the Parole Board will then order the expungement of the records of conviction and inform the applicants in writing.

The procedure for the destruction of the records will be as follows. First, the Parole Board will inform the RCMP, which will destroy all conviction records in its possession, whether on hard copy or digital format. The Board will also inform any other relevant federal department or agency that might have conviction records and order them to destroy those records.

Furthermore, all relevant tribunals and police forces in other jurisdictions, such as provincial or municipal police forces, will be informed of the same order and asked to destroy all relevant records in their possession. Although they are not subject to the federal legislation, the provincial or municipal police forces and courts usually respect record suspensions. The government therefore expects them to do the same for these expungement orders.

As for the eligible offences, the bill includes said offences in a schedule so as to be very clear regarding the applicant's eligibility. The first two offences listed in the schedule and eligible for expungement under the terms of Bill C-66 are gross indecency and buggery. Those two offences date back to when the Criminal Code of Canada was being drafted in 1892. Because of their ambiguity, they enabled police and law enforcement officials to unfairly target Canada's homosexual and transgender community.

Honourable colleagues, we had to wait almost a century, until 1988 to be more specific, before the offence of gross indecency was removed from the Criminal Code. The term "buggery" was replaced by the expression "anal intercourse" that same year, an offence that is also included in the schedule of eligible offences and is still included in the Criminal Code, even though it is no longer enforced. In fact, esteemed senators, some courts, including some provincial superior courts, such as the Ontario Court of Appeal in 1995, as well as the Federal Court of Canada that same year, ruled that section 159 of the Criminal Code on anal intercourse was unconstitutional. Steps are being taken to repeal that section through Bill C-39 and Bill C-32, which were introduced in the other place.

As I said earlier, this bill, in the eligibility criteria, also takes into account members of the military who may have been convicted for engaging in consensual sexual activity between same-sex persons under the National Defence Act. Honourable senators, those are the eligible offences covered by this bill.

Since it was passed in the other place, many organizations and individuals have spoken out about Bill C-66 and called for the government to clarify and expand the list of offences set out in the schedule of the bill. For example, some are asking that bawdy house offences be included in the list of eligible offences. Police officers have been criminalizing sex trade workers and meeting places for homosexuals since 1968 under the provisions of the Criminal Code related to bawdy houses. Senators will remember the historic raids on various gay bars and bathhouses in the 1970s.

As a member of the LGBTQ2 community, I completely understand why some individuals would want that. On October 21, 1977, I was 21 years old. I was living in Montreal, and that evening, friends invited me to go out for drinks with them in a bar that was safe for us, a place where we could talk, dance and have fun without worrying about anyone bothering or humiliating us. That evening, they decided to introduce me to a bar on Stanley Street. Happy and carefree, we were on our way to the bar when, suddenly, a man came running out, urging us not to go in because the police were in there arresting everyone. That night, October 21, 1977, 147 charges were laid. Men from all walks of life were charged. Because of the media coverage, some were outed without their consent and before they could warn their loved ones. Similar raids happened in Toronto and elsewhere in Canada.

Had I gone into that bar that night, honourable colleagues, I would no doubt have been charged too. I would no doubt have a criminal record, and I might not be here talking to you today, so I can certainly understand why some people want certain offences added to the bill.

That said, I can also understand why those offences were not included in this version of the bill. The main reason cited for not including offences related to bawdy houses is that gross indecency, sodomy and anal sex are offences that most clearly discriminate against same-sex partners, which is a historical injustice. These offences targeted and criminalized behaviours of members of the LGBTQ2 community that would be legal today.

Furthermore, one of the criteria set out in the bill seeks to include only convictions for activities that are no longer considered illegal and for which the related provisions of the Criminal Code are now considered unconstitutional and unenforceable. Offences related to bawdy houses targeted a wider variety of activities that were considered immoral at the time, including certain activities between partners of the opposite sex, activities related to running or visiting brothels, and activities related to the exchange of money for sexual services. Sections 210, 179, and 173 of the Criminal Code, which deal with bawdy houses, indecent acts, gross indecency or an attempt to commit gross indecency, and vagrancy, remain part of the Criminal Code and are not deemed to contravene the Canadian Charter of Rights and Freedoms. That is why this bill does not include this type of offence.

That being said, the government recognizes that other unfair convictions that are not currently included could eventually be added to the schedule of the bill.

• (1650)

[*English*]

This is why Bill C-66 provides for the extension of the expungement annex to other historically unjust condemnations, if it is deemed appropriate to do so.

Clause 23 of the bill provides authority to the Governor-in-Council the power to add other historically unjust offences to the schedule; while clause 24 allows for the Governor-in-Council to establish criteria for a listed offence, if it deems so necessary.

[*Translation*]

Honourable senators, like most bills, Bill C-66 is certainly not perfect. It is not a panacea that will put an end to all the stigmatization, discrimination and prejudice that are a reality for the LGBTQ2 community, but it is an important step forward. It seeks to correct certain historic injustices and offers the possibility of correcting others in the future.

Canada is not the only country that is adopting such measures. In that sense, Bill C-66 is consistent with similar legislation passed elsewhere around the world. A number of jurisdictions in Australia, as well as England, Wales and Germany, have introduced similar expungement processes for convictions involving sexual activity between consenting same-sex partners. In addition, posthumous expungement is possible in all jurisdictions, except the state of South Australia. Germany automatically expunges all eligible records, and England and Wales do so only for posthumous cases. Like Canada, the other jurisdictions require an application.

I would remind the chamber that the Canadian expungement process must be based on requests from victims or their representatives in order to ensure that only eligible convictions are expunged. An automatic process could lead to the destruction of records for acts that are still criminal offences, including non-consensual sexual activity.

Among the jurisdictions mentioned, none of them charges a fee, and most allow applicants to attest to the circumstances of the act. The bill is therefore consistent with most processes already occurring around the world.

[*English*]

The passing of Bill C-66, honourable senators, would be a testament to Canada's commitment to the advancement of sexual minority rights.

This commitment echoes, after 50 years, the ceaseless calls by LGBTQ2 activists for apologies and rehabilitating measures to redress the harms and wrongdoings of the past.

[*Translation*]

This is an important step in the healing process for thousands of Canadians in the LGBTQ2 community.

The great French philosopher, author, and journalist Albert Camus said, and I quote:

I understood that it wasn't enough to speak against injustice. You have to give your life to fight it.

Camus adds:

> Only the truth can confront injustice. Truth or love.

I urge you, honourable senators, to find inspiration in those enlightened thoughts as we engage in this conversation to flesh out this bill and ensure that it is referred swiftly to the Standing Senate Committee on Human Rights so that this chamber may pass it in the very near future.

Thank you for your attention and collaboration.

Hon. Senators: Hear, hear!

(On motion of Senator Campbell, for Senator Pate, debate adjourned.)

THE SENATE

MOTION TO AFFECT QUESTION PERIOD ON FEBRUARY 13, 2018, ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of February 7, 2018, moved:

> That, in order to allow the Senate to receive a Minister of the Crown during Question Period as authorized by the Senate on December 10, 2015, and notwithstanding rule 4-7, when the Senate sits on Tuesday, February 13, 2018, Question Period shall begin at 3:30 p.m., with any proceedings then before the Senate being interrupted until the end of Question Period, which shall last a maximum of 40 minutes;
>
> That, if a standing vote would conflict with the holding of Question Period at 3:30 p.m. on that day, the vote be postponed until immediately after the conclusion of Question Period;
>
> That, if the bells are ringing for a vote at 3:30 p.m. on that day, they be interrupted for Question Period at that time, and resume thereafter for the balance of any time remaining; and
>
> That, if the Senate concludes its business before 3:30 p.m. on that day, the sitting be suspended until that time for the purpose of holding Question Period.

She said: Honourable senators, I move the motion standing in my name.

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

Hon. Senators: Agreed.

(Motion agreed to.)

ADJOURNMENT

MOTION ADOPTED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of February 7, 2018, moved:

> That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, February 13, 2018, at 2 p.m.

She said: Honourable senators, I move the motion standing in my name.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*English*]

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

TWENTY-THIRD REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the twenty-third report of the Standing Committee on Internal Economy, Budgets and Administration (*Committee budget - legislation*), presented in the Senate on January 30, 2018.

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

He said: I move the adoption of the report.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

• (1700)

SOFTWOOD LUMBER CRISIS

INQUIRY—DEBATE CONTINUED

On the Order:

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

Hon. Leo Housakos (Acting Deputy Leader of the Opposition): I would like to move the adjournment of debate in the name of Senator Maltais.

(On motion of Senator Housakos, for Senator Maltais, debate adjourned.)

CRISIS IN CHURCHILL, MANITOBA

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Bovey, calling the attention of the Senate to the crisis in Churchill, Manitoba.

Hon. Serge Joyal: Honourable senators, I would like to move the adjournment of debate in the name of Senator Day.

(On motion of Senator Joyal, for Senator Day, debate adjourned.)

[*Translation*]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

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

On Motions, Order No. 291, by the Honourable Rosa Galvez:

> That the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to meet at 6 p.m. on Tuesday, February 6, 2018, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

Hon. Rosa Galvez: Honourable senators, pursuant to rule 5-10(2), I ask that notice of motion No. 291 be withdrawn.

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

Hon. Senators: Agreed.

(Notice of motion withdrawn.)

(*At 5:02 p.m., the Senate was continued until Tuesday, February 13, 2018, at 2 p.m.*)