



# DEBATES OF THE SENATE

---

1st SESSION



42nd PARLIAMENT



VOLUME 150



NUMBER 180

---

OFFICIAL REPORT  
(HANSARD)

Tuesday, February 13, 2018

The Honourable GEORGE J. FUREY,  
Speaker

## CONTENTS

(Daily index of proceedings appears at back of this issue).

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



## THE SENATE

Tuesday, February 13, 2018

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

Prayers.

### SENATORS' STATEMENTS

#### QUESTION OF PRIVILEGE

##### NOTICE

**Hon. Marilou McPhedran:** Honourable senators, pursuant to rule 13-3(1) of the *Rules of the Senate* and further to written notice given earlier this day, I rise to give oral notice that I shall raise a question of privilege this day, February 13, 2018, regarding communication to the media summarizing some of the content of a letter marked "confidential," sent to me by the clerk of the Standing Senate Committee on Internal Economy Budgets and Administration, received by me on Saturday, February 10.

On the morning of February 10, my office received this email, with a letter addressed to me, marked very clearly "confidential," dated February 9, 2018, sent on behalf of the steering committee of CIBA, requesting additional information for a request for services contract that I submitted on January 31, 2018, and giving their opinion as to what was not parliamentary in my request.

On Monday, February 12, 2018, the first business day on which it was possible to respond to the CIBA letter, I received an email request from CBC to comment on an email initiated by CIBA to CBC, which referred to and summarized some of the content of the confidential letter to me.

Given that this breach of confidentiality occurred yesterday, February 12, the question of privilege is being raised at the earliest opportunity, pursuant to the requirements of rule 13-2(1) (a). Among the parliamentary privileges guaranteed to all parliamentarians is freedom from obstruction or interference in the performance of their parliamentary functions. Should there be a ruling that these actions constitute a *prima facie* breach of privilege, I am prepared to move the appropriate motion.

#### PEREMPTORY CHALLENGE PROCESS

**Hon. Lillian Eva Dyck:** Today, I rise to offer my deepest sympathies to the family of Colten Boushie, a young man from the Red Pheasant First Nation in Saskatchewan. In August 2016, Colten was killed by a bullet fired into the back of his head by Gerald Stanley, a white farmer. Stanley's lawyer argued that the gunshot was accidental and that the gun delivered a hang fire, a rare possibility. Stanley was acquitted on Friday, February 9. The Stanley trial occurred amidst a strong undercurrent of racism against indigenous people in Saskatchewan. This was abundantly evident last year by the racist comments about First Nations people posted on social media after the shooting. They were so

vile and racist that our premier felt the need to step up and urge people to stop doing so. Now, the social media comments from some of the Stanley supporters are truly frightening.

Across Canada, the not guilty verdict reverberated. Many Canadians were shocked at the apparent failure of the justice system. People have been shocked by the virulent racism exhibited by some Saskatchewan citizens. And, yet again, indigenous people have been denied justice by systemic racism.

The day after the verdict, rallies were held in many cities across Canada to support the family and call for justice. In Saskatoon, there were about a thousand or more supporters, indigenous and settler, calling for "Justice for Colten!"

Questions are being raised about the fairness of having an all-white jury under the circumstances. Colleagues, during the jury-selection process, potential jurors who were visibly indigenous were deliberately excluded by peremptory challenge by Stanley's lawyer. As a result, the jury was all white. While this is legally permissible, many have questioned whether it should be, particularly when it is well known that Saskatchewan has a high level of racism towards indigenous people.

Furthermore, the existence of peremptory challenges ignores the 150 years of damage that our colonial system of justice has specifically wreaked upon indigenous people. Decades ago, this practice of peremptory challenge was identified as a major problem for indigenous people in Manitoba.

Furthermore, decades ago, the U.K. enacted legislation to end this practice.

Indigenous and other Canadians want our laws to be fair to all of us. Reconciliation is not possible as long as personal bias and racism are so obviously embedded in our jury system. Challenges to a jury selection should be for justified reasons and not for personal biases or racism against indigenous candidates.

Enough is enough. Canada is delinquent in taking the matter of peremptory challenges seriously. The Minister of Justice, Jody Wilson-Raybould, must move immediately to set in motion real actions to end the current practice of peremptory challenges. We, the indigenous people of Canada, deserve better.

#### SCOTTIES TOURNAMENT OF HEARTS

##### CONGRATULATIONS TO TEAM JONES

**Hon. Donald Neil Plett:** Honourable senators, I rise today to pay tribute to yet another example of superb athleticism demonstrated in my home province of Manitoba. On that note, I would like to put any rumours to rest that we will entertain a campaign by Justin Trudeau to change the name of our province to "Peopletoba."

Colleagues, last week, at the 2018 Scotties Tournament of Hearts, the most prestigious women's curling championship in the world, we had an all-Manitoba final. Team Wild Card, of East St. Paul, skipped by Kerri Einarson, with third Selena Kaatz, second Liz Fyfe and lead Kristin MacCuish, played Jennifer Jones and Team Manitoba in the tournament final. Jones, who curls out of my old curling club, the St. Vital Curling Club, captured the title with her team of third Shannon Birchard, second Jill Officer and lead Dawn McEwan. The team won 8-6 in last Sunday's final, without having to throw their last rock. Jennifer Jones has won the Scotties Tournament of Hearts for the sixth time in her career, tying her with Colleen Jones of Nova Scotia for an all-time record.

Jones previously made Olympic history, becoming the first woman to go through the Olympic curling round robin unbeaten. Last year, Scotties tournament winners, another fantastic Manitoba team, led by Michelle Englot, also came back this year and competed as Team Canada.

• (1410)

Manitobans were proud to have such a strong presence this year with three teams competing in the tournament. In true Manitoba fashion, fans rallied around their athletes and supported them every step of the way. All three teams, with their skill, their determination and their tremendous sportsmanship made Manitobans and Canadians everywhere proud.

Please join me, colleagues, in congratulating Team Manitoba and in fact all Manitoba teams on their success at this year's Scotties Tournament of Hearts. Jennifer Jones is now off to compete at the 2018 Ford World Women's Curling Championship in North Bay, Ontario, while many of our other fine curlers are competing at the Olympic Winter Games.

## 2018 OLYMPIC GAMES

### CONGRATULATIONS TO KAITLYN LAWES AND JOHN MORRIS

**Hon. Donald Neil Plett:** On that note, I would like to congratulate Kaitlyn Lawes, also from the St. Vital Curling Club, and John Morris on winning the Olympic gold medal for mixed doubles curling just this morning.

Colleagues, join me in wishing our tremendous curling teams and all of Team Canada success at the Pyeongchang Olympic Winter Games.

[Translation]

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Sandra Le Couteur, Alyre Robichaud, Carl Philippe Gionet and Jocelyne Kerry. They are the guests of the Honourable Senator Cormier.

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

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

## SANDRA LE COUTEUR

**Hon. René Cormier:** Honourable senators, I want to take advantage of the presence in our gallery of Acadian artist Sandra Le Couteur, to acknowledge her exceptional contribution to preserving, promoting, and energizing our cultural heritage, more specifically, our built heritage.

The value of this built heritage comes from what it can teach us about the lives and history of those who built this country. It comprises learning sites for all Canadians, young and old, recent immigrants to Canada, or long-time residents. It is also a source of tourist revenue for communities and helps to preserve the environment by capitalizing on existing structures.

[English]

At the edge of the Acadian Peninsula on the northeast coast of New Brunswick lies a small island called Miscou. This is a Mi'kmaq word that means lower ground or humid soil and is first mentioned in Samuel de Champlain's 17th century accounts of his travels.

[Translation]

With her famous sense of humour, Ms. Le Couteur, affectionately known back home as "la demoiselle du traversier" or the lady of the ferry, would say that Miscou means the place where birds turn back around, as the island is at the end of the continent.

[English]

Honourable colleagues, it is on this small island that one will find the mythical Miscou Island Lighthouse.

[Translation]

A heritage building recognized by the Federal Heritage Buildings Review Office, the Miscou Island Lighthouse was built in 1856 at the northeastern tip of New Brunswick overlooking Chaleur Bay.

[English]

The Miscou Island Lighthouse is a unique historical site, especially because of its original octagonal-shaped wood tower. Tourists and the local community can also enjoy an on-site restaurant and resting area.

[Translation]

What the many tourists and people in the region who visit every summer do not know is that this lighthouse was almost shuttered for good. After remaining closed for 10 years, it was saved by passionate historians and dedicated volunteers, including the artist Sandra Le Couteur, who gave the lighthouse its light and its voice back. With her dogged determination and the support of her partner and manager, Alyre Robichaud, and while continuing to pursue her musical career in the French-speaking world and beyond, this singer, poet, actress, and storyteller, one of Acadia's most vibrant voices, helped save this lighthouse.

Today, she brings life to this site, which is an integral part of the built heritage of Acadia, New Brunswick, and Canada. Ms. Le Couteur has transformed the Miscou lighthouse into a summer venue for cultural activities where Canadians can see and hear artists from Acadia and the Francophonie. Every year for the past ten years now, under the artistic direction of Ms. Le Couteur, the series of shows “Voir Miscou et mourir” gives artists from Acadia and the Francophonie the opportunity to take in this little lighthouse and to meet with delighted local residents and audience and tourists in this charming location near the Atlantic Ocean.

Thank you, Ms. Le Couteur, for breathing new life into this inspiring historic site and for your invaluable contribution to its conservation and promotion. We are pleased to have awarded to you today the Senate 150<sup>th</sup> Anniversary Medal for your invaluable contribution to keeping the history of Acadia and Canada alive. I thank you.

[English]

### OLYMPIC MEMORIES

**Hon. Nancy Greene Raine:** Honourable senators, of course today I rise to celebrate and to tell you about some of the memories I have of the Olympics. It goes back a long way, more than 50 years, but I have amazing memories, not only of my own time at the Olympics, but more importantly at Vancouver, seeing how Canada came together during those games and seeing Canadians burst out into spontaneous singing of our national anthem walking in the streets.

I know now that Pyeongchang in Korea will be experiencing the same kind of enthusiasm. My thoughts go out to all the people that make it happen; the volunteers who help to put the events on, working with the sports through many years, and the families and coaches who support our athletes all the way up. Now we as Canadians join with the athletes in celebrating not only the victories and the medals that they are starting to win — we’re doing incredibly well — but also the heartbreaks that come with it.

That’s why I always say that sport is the ultimate reality show. There is nothing artificial about what you’re seeing.

I also think that we should be proud in Canada of a program we put in place leading into the Calgary Olympics is still in place: Own the Podium. I am very proud that the program has a co-partner to it called From Playground to Podium, talking about how important it is for children to get out in the playground and then start to dream their dreams. Seeing the Canadians that we have representing us just helps to inspire those dreams.

So thank you for indulging in my memories and good luck to all the Canadians. Go Canada go!

[ Senator Cormier ]

[Translation]

### 2018 OLYMPIC GAMES

**Hon. Chantal Petitclerc:** Honourable senators, I, too, want to talk about the Olympic Games that have been in full swing for five days now. I suspect that most of those who have been following our athletes’ achievements have felt emotional at times, even shed a tear. Rightfully so, because our athletes and others from around the world represent not only elite athleticism, but also the values that we hold dear. Stéphane Laporte said it very well this week in *La Presse*, and I quote:

Although the Olympic empire has its dark side, the main reason we watch the Olympic Games is to understand the human spirit. Understand its strength. Understand its beauty. Understand its victories. Understand its failures.

Like you, I’m proud of the medals we have won so far. Proud of Mikaël Kingsbury, king of the moguls and worthy successor to the moguls-mogul himself, Jean-Luc Brassard, who was Mikaël’s childhood inspiration. I guarantee that there are tons of boys and girls who are begging their parents for skis right now. That is the beauty of the Olympics.

However, I’m not here today to talk about medals.

[English]

There are some things at the Olympic Games that you will not see in the news, but they have great power. This one, I find, is pretty awesome. When you enter the Canada Olympic House in Pyeongchang, a big red wall welcomes you and it says:

Within these walls where those with Olympic hearts come to gather, you are welcomed, accepted and respected.

This is your house no matter who you are or where you come from.

You are at home, regardless of your sex, sexual orientation, race, marital or family status, gender identity or expression, sex characteristics, creed, age, colour, disability, political or religious belief.

All that we ask is that you be respectful of all Olympic competitors, make some noise and cheer loudest for the ones wearing the red and white maple leaf!

Be proud.

Be you.

Be Olympic.

[Translation]

Congratulations to the Canadian Olympic Team for having made a conscious choice to proclaim loud and clear that, to Canadians, diversity is a strength and is never a weakness.

• (1420)

### VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw your attention to the presence in the gallery of Marie-Célie Agnant. She is the guest of the Honourable Senator Mégie.

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

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

### BLACK HISTORY MONTH

**Hon. Marie-Françoise Mégie:** Honourable senators, it being Black History Month, I am rising to draw your attention to the tremendous work of Quebec author Marie-Célie Agnant, who was born in Port-au-Prince, Haiti. She is a writer of poems, novels, novellas and plays and has also published books for young adults and children.

Because of the quality and depth of her writing, Ms. Agnant is often compared to one of her literary influences, the great Quebec author Gabrielle Roy. In her works, which have been translated into a number of languages, Ms. Agnant writes passionately about critically important societal issues. Through her careful choice of words and beautiful writing style, she raises readers' awareness of issues related to the status of women, family, inequality, power relations, marginalization, loneliness, and racism.

Her stories encourage us to think about feminism with a capital "F". She paints a vivid picture of her characters, regardless of their past, present or future. Honourable senators, do you know what term Ms. Agnant uses to describe these women as she gives us a glimpse into their everyday lives? She uses the term "warrior". The fine words that flow so freely from her pen transport the reader directly into the thick of the battles fought by these warriors and condemn the silence that is always imposed upon them. Marie-Célie Agnant had to fight hard to take her place on the literary scene, and her efforts have paved the way for future generations of women. In fact, more and more women are following in her footsteps and entering the world of writing in order to give a voice to the voiceless.

Through her characters' vivid accounts, her writing offers insight into the process of identity construction and she actively participates in the cultural evolution of both newcomers and members of the host society. An ode to intercultural harmony, her writing style reflects the state of Canadian multiculturalism.

Considering everything I have told you about her, you can see why this poet was awarded the prestigious Académie des lettres du Québec prize for her poetry collection, *Femmes des terres brûlées*, in November. This literary prize is awarded to an author of exceptional poetry. In 1993, it was awarded to renowned Quebec author Anne Hébert.

Thank you, Ms. Agnant, for your generous contribution to current and future generations of Canadians.

[English]

## ROUTINE PROCEEDINGS

### INDIGENOUS AND NORTHERN AFFAIRS

AGREEMENT ON CREE NATION GOVERNANCE BETWEEN THE CREES OF EYYOU ISTCHEE AND THE GOVERNMENT OF CANADA—DOCUMENT TABLED

**Hon. Peter Harder (Government Representative in the Senate):** Honourable senators, I have the honour to table, in both official languages, the Agreement on Cree Nation Governance between the Crees of Eeyou Istchee and the Government of Canada.

[Translation]

INDIAN ACT AMENDMENT AND REPLACEMENT ACT—  
2018 ANNUAL REPORT TABLED

**Hon. Peter Harder (Government Representative in the Senate):** Honourable senators, I have the honour to table, in both official languages, the Indian Act Amendment and Replacement Act 2018 Annual Report.

### THE ESTIMATES, 2017-18

SUPPLEMENTARY ESTIMATES (C) TABLED

**Hon. Peter Harder (Government Representative in the Senate):** Honourable senators, I have the honour to table, in both official languages, the Supplementary Estimates (C), 2017-18.

### THE ESTIMATES, 2018-19

INTERIM ESTIMATES TABLED

**Hon. Peter Harder (Government Representative in the Senate):** Honourable senators, I have the honour to table, in both official languages, the Interim Estimates, 2018-19.

[English]

### BAN ON SHARK FIN IMPORTATION BILL

BILL TO AMEND—NINTH REPORT OF FISHERIES AND OCEANS COMMITTEE PRESENTED

**Hon. Fabian Manning,** Chair of the Standing Senate Committee on Fisheries and Oceans, presented the following report:

Tuesday, February 13, 2018

The Standing Senate Committee on Fisheries and Oceans has the honour to present its

#### NINTH REPORT

Your committee, to which was referred Bill S-238, An Act to amend the Fisheries Act and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (importation of shark fins), has, in obedience to the order of reference of November 23, 2017, examined the said bill and now reports the same with the following amendments:

1. *Long title, page 1:* Replace the long title with the following:  

“An Act to amend the Fisheries Act and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (importation and exportation of shark fins)”.
2. *Clause 1, page 1:* Replace line 21 with the following:  

“*tation and Exportation Act.*”.
3. *Clause 3, page 2:* Replace lines 12 and 13 with the following:  

“port or export, or attempt to import or export, into or from Canada shark fins or parts of shark fins that are not attached to a shark carcass, or any derivatives of shark fins.”.
4. *Clause 4, page 2:*
  - (a) Replace lines 18 and 19 with the following:  

“permit authorizing the importation or exportation of shark fins or parts of shark fins that are not attached to a shark carcass, or any derivatives of shark fins, if the Minister is of the”; and
  - (b) replace line 21 with the following:  

“(a) the importation or exportation is for the purpose of scientific re-”.

Respectfully submitted,

FABIAN MANNING  
*Chair*

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

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

[ Senator Manning ]

#### CRIMINAL CODE

BILL TO AMEND—TWENTIETH REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE PRESENTED

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

Tuesday, February 13, 2018

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

#### TWENTIETH REPORT

Your committee, to which was referred Bill S-237, An Act to amend the Criminal Code (criminal interest rate), has, in obedience to the order of reference of November 23, 2017, examined the said bill and now reports the same with the following amendments:

1. *Clause 1, page 1:* Replace line 15 with the following:  

“plus forty-five per cent on the credit advanced under an”.
2. *New Clause 1.1, page 2:* Add the following after line 14:  

“1.1 (1) Every three years beginning on the day on which this Act comes into force, a committee of the Senate, of the House of Commons, or of both Houses of Parliament that may be designated or established for that purpose, shall review the criminal rate.  
 (2) The committee shall submit a report on the review to Parliament that includes a statement of any changes to the criminal rate that the committee recommends.”.

Respectfully submitted,

DOUGLAS BLACK  
*Chair*

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

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

[Translation]

#### CANNABIS BILL

NOTICE OF MOTION TO AUTHORIZE CERTAIN COMMITTEES TO STUDY SUBJECT MATTER

**Hon. Peter Harder (Government Representative in the Senate):** Honourable senators, I give notice that, at the next sitting of the Senate, I will move:



That, notwithstanding any provisions of the Rules, usual practice or previous order, in relation to Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts:

1. without affecting the progress of any proceedings relating to Bill C-45:
  - 1.1. the Standing Senate Committee on Legal and Constitutional Affairs be authorized to study the subject matter of those elements contained in Parts 1, 2, 8, 9 and 14 of the bill;
  - 1.2. the Standing Senate Committee on Aboriginal Peoples be authorized to study the subject matter of the bill insofar as it relates to the Indigenous peoples of Canada; and
  - 1.3. each of the above committees submit its report to the Senate pursuant to this order no later than April 19, 2018; and
2. if Bill C-45 is read a second time, it be referred to the Standing Senate Committee on Social Affairs, Science and Technology, in which case that committee be authorized to take any reports tabled under point 1 of this order into consideration during its study of the bill.

[English]

#### KINDNESS WEEK BILL

##### FIRST READING

**Hon. Jim Munson** introduced Bill S-244, An Act respecting Kindness Week.

(Bill read first time.)

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

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

• (1430)

[Translation]

#### OFFICIAL LANGUAGES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO DEPOSIT REPORT ON STUDY OF CANADIANS' VIEWS ABOUT MODERNIZING THE OFFICIAL LANGUAGES ACT WITH CLERK DURING ADJOURNMENT OF THE SENATE

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

That the Standing Senate Committee on Official Languages be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate, no later than February 28, 2018, an interim report relating to its study on Modernizing the Official Languages Act: the views of young Canadians, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Chamber.

#### CHALLENGES OF LITERACY AND ESSENTIAL SKILLS FOR THE TWENTY-FIRST CENTURY

##### NOTICE OF INQUIRY

**Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate):** Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to the challenges of literacy and essential skills for the 21st century in Canada, the provinces and the territories.

[English]

#### BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, pursuant to the motion adopted in this chamber on Thursday, February 8, 2018, Question Period will take place at 3:30 p.m.

---

#### ORDERS OF THE DAY

##### BUSINESS OF THE SENATE

**Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate):** Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that as we proceed with Government Business, the Senate will address the items in the following order: second reading of Bill C-45, followed by all remaining items in the order in which they appear on the Order Paper.

[Translation]

#### CANNABIS BILL

##### BILL TO AMEND—SECOND READING—DEBATE

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. Peter Harder (Government Representative in the Senate):** Honourable senators, I am pleased to rise today to take part in the debate on Bill C-45. This bill will address a serious public health issue by legalizing and regulating cannabis in Canada. Bill C-45 will also strictly limit access to cannabis.

First, I would like to thank the senators who participated in the debate so far. Their analysis will help guide the committee as it studies this important legislation from a public health and safety perspective. I know that it will be a thoughtful and forward-looking study.

[English]

In particular, I would like to thank Senator Dean for his dedicated and innovative approach as sponsor of Bill C-45, and for his eloquent and informative remarks commencing second reading in late November of last year. As Senator Dean told us, cannabis prohibition has not deterred a significant number of Canadians from consuming cannabis, especially young Canadians who face a greater risk of harms when cannabis is used frequently and intensively.

It has resulted in the criminalization of tens of thousands of Canadians for simple possession.

It has funded a vast illegal market with no safety or product quality standards, and it has provided billions in profits to criminals and organized crime.

Most importantly, cannabis prohibition has led directly to the situation we face today, where Canadian youth are using cannabis at rates that are amongst the highest in the world.

In response to high rates of youth consumption in Canada, Bill C-45 proposes a remedy — a new approach of strict cannabis control and public education — to address the health and safety problems that exist in Canada right now, and to take the market out of the hands of organized crime.

[Translation]

In my speech today, I will not try to match Senator Dean's observations on the principle of the Cannabis Act and the urgent need for this bill form a public health standpoint. In the interest of transparency for the public and the Senate, I would instead like to talk about three important aspects of the Senate's study of Bill C-45.

[English]

First, I would like to share some information regarding the government's consultations with indigenous partners with respect to legalization, as I know many senators have a good deal of interest on this important matter.

Second, flowing from the input and advice of many senators, I will propose a potential structure for a collaborative study of Bill C-45 that would leverage the expertise of three Senate committees.

Third, I will share my view regarding the potential timing of a vote on second reading and the commencement of committee proceedings on Bill C-45.

Specifically, for reasons I will explain, I would propose that this chamber make a decision on second reading of Bill C-45 on or before Thursday, March 1. For the public's information, this date would afford senators an additional two weeks of second reading debate on top of the four we've already had, with opportunities for all senators to contribute. The other significance of March 1 is that date falls before a planned two-week recess in the Senate's sitting schedule. A decision on or before March 1 would enable Senate committees to use those two weeks' time to organize for their hearings —

POINT OF ORDER

**Hon. Yonah Martin (Deputy Leader of the Opposition):** On a point of order, Your Honour.

I'm wondering whether you are speaking to the principle of the bill or the motion of just talking about timelines. I was a little confused.

**Hon. Peter Harder (Government Representative in the Senate):** Senators, as I indicated in my opening comments, I intend on speaking on the bill as well as how the Senate is considering the legislative matter before us, and in a transparent way speaking to how I believe we can accomplish what we've all set out to do with this legislation in a cooperative fashion. I am not speaking to any motion that I have proposed. As I indicated on the motion I gave notice of earlier, I will move that motion tomorrow. With respect to all of the other material I will be speaking to, it is to ensure, in a transparent way, all senators are aware of the state of play on this important bill.

**The Hon. the Speaker:** Honourable senators, as you know, when senators rise to speak on a matter on debate, we generally allow a fair amount of leeway when it pertains to a bill.

So continue, Senator Harder.

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

In discussing the upcoming Senate process openly and on the record, we can offer Canadians greater accessibility and understanding with respect to the Senate's process for Bill C-45. We can also offer stakeholders greater transparency as to the pace of our deliberations and the likely timing of implementation. As you know, this information is of great practical and financial importance to provincial, territorial, indigenous and municipal partners, to investors, business and the labour market, to law enforcement, regulators and those facing the prospects of criminal records for possession and, most importantly, to all Canadians who have now been expecting implementation for several years as a result of a major policy commitment in the 2015 federal election.

[Translation]

Getting back to the first point that I made, I know that senators are very interested in the current government's commitment to indigenous partners regarding the impact of cannabis legalization on their communities. The government welcomes their interest, and since the Senate believes this to be an important aspect of the legalization process, I would like to provide some additional information that might be helpful.

• (1440)

[English]

**The Hon. the Speaker:** We appear to be having a problem with the translation.

**Senator Harder:** Let me continue.

I can indicate the government has pursued extensive outreach and engagement with indigenous experts, representative organizations, governments, youth and elders to ensure the specific needs and interests of indigenous communities are carefully considered throughout the legislative process of Bill C-45 and the consequent implementation process.

Looking as far back as the early engagement undertaken by the task force, indigenous representatives from across the country participated in a variety of engagement activities, including via expert round tables, bilateral meetings and an indigenous people's round table. This engagement provided the task force with valuable information and perspectives, and a better understanding of the early interests of First Nations, Inuit and Metis partners as the foundation for the task force's advice to government.

Following the work of the task force, the government has continued to engage indigenous governments and organizations at the most senior levels.

I can indicate to senators that federal, provincial and territorial Ministers of Health met with indigenous leaders to discuss cannabis as part of the Ministers of Health Meeting in Edmonton in October of last year. The Minister of Health has personally reached out to the Assembly of First Nations, Inuit Tapiriit Kanatami and Métis National Council representatives to seek their active participation in public consultations on the proposed regulatory approach.

Federal officials continue to meet regularly and engage through bilateral meetings with First Nations, Inuit and Metis representatives as well as through broader engagement meetings with indigenous organizations and communities. In fact, over the past several months alone, federal officials have attended and presented at nearly 30 meetings with indigenous communities and organizations throughout the country. As you will recall, I shared the details of many such meetings with senators in November prior to second reading of Bill C-45.

And perhaps of particular interest to Senator Patterson, on January 31, the Minister of Health met with the Honourable Pat Angnakak, Nunavut Minister of Health. As well, Parliamentary

Secretary Bill Blair met with Pauktuutit Inuit Women of Canada on February 5, and with Nunavut Tunngavik Incorporated and Iqaluit Mayor Madeleine Redfern on February 1.

Indigenous communities have identified public health as a top priority. In response, the government is working with indigenous organizations and experts to develop and deliver culturally appropriate education and communication material and, where possible, to support indigenous groups to lead some of these public education and engagement efforts. For example, the government is providing funding for the Assembly of First Nations cannabis task force.

In addition, the government has invested in programs relating to public and mental health in indigenous communities, including programs that speak to the concerns raised appropriately by Senator Patterson in the context of northern communities.

The government provides over \$350 million each year to support the mental wellness needs of First Nations and Inuit communities. This funding supports mental wellness promotion; addictions and suicide prevention; crisis response services; treatment and aftercare; and supports for eligible former students of Indian residential schools and their families.

In addition, the National Aboriginal Youth Suicide Prevention Strategy has provided funding for over a decade for diverse community-based suicide prevention projects that focus on increasing protective factors such as resilience and reducing risk factors through prevention, outreach, education and crisis response.

I anticipate senators will explore the details of this public health approach to cannabis in indigenous communities in the upcoming potential subject matter study at the Senate's Aboriginal Peoples Committee. As I have indicated to this chamber, the government welcomes such a study, and I will have more to say on this point shortly.

In addition to public health, indigenous communities have also identified public safety as a priority. Most recently, in January 2018, the government announced a federal investment of up to \$291.2 million over five years for policing in First Nations and Inuit communities. This funding will be dedicated to communities currently served under the First Nations Policing Program.

As regards economic development opportunities, as of January 25, there were 4 existing licensed producers of cannabis and 10 current applicants having self-identified as having indigenous affiliations.

Looking ahead to legalization, the government is now offering an indigenous applicant navigator service to help guide applicants through the licensing process. Upon application, a licensing professional will reach out to the applicant and be their guide throughout the process.

[Translation]

Honourable senators, the information I shared with you today is not comprehensive. The government will continue to share information with senators to help them do their due diligence.

Last Tuesday, the Honourable Ginette Petitpas Taylor, Minister of Health and minister responsible for consultations with indigenous partners, joined the Senate in committee of the whole. She answered questions on Bill C-45, including on the involvement of indigenous peoples in the process. I can tell you that Minister Petitpas Taylor is pleased with senators' interest in this matter and all other public health aspects of cannabis legalization.

[English]

I will now turn to the Senate's upcoming committee study of Bill C-45. Having had the benefit of the input and ideas of many in this chamber, I would like to offer some thoughts on how the Senate may collaboratively and innovatively structure its upcoming Bill C-45 committee study. The objective would be to leverage the subject-matter expertise of the Aboriginal Peoples Committee on indigenous consultations; of the Legal and Constitutional Affairs Committee on the criminal measures in Bill C-45; and the Social Affairs, Science and Technology Committee on the legalization framework in its entirety, and with particular attention to Bill C-45's central focus on public health and harm reduction.

I have tabled today a government motion for senators' consideration that seeks to reflect and balance the input and ideas I have received from senators.

The motion proposes that, following the Senate's decision on the principle of Bill C-45 at second reading, the Senate refer the subject matter of Bill C-45 insofar as it relates to indigenous persons to the Aboriginal Peoples Committee for study. The motion would also provide for that committee to report to the Senate by Thursday, April 19. The intention of the motion is to formally express government support for the excellent proposal Senator Dyck has already brought forward. The intention of the motion is also to suggest a timeline that would allow the Social Affairs Committee ample time to consider the findings of the Aboriginal Peoples Committee in conducting its hearings and prior to making its report on Bill C-45.

For greater clarity, the April 19 date I am suggesting would allow third reading debate of Bill C-45 to commence in early May. I would also note that the Aboriginal Peoples Committee's study will hopefully commence well in advance of Bill C-45's potential referral to committee by an independent motion and with government support. That prospect would afford the committee over two months to study this subject matter until the proposed reporting date.

However, since there is understandable curiosity about the potential date of legalization, I will be transparent with Canadians that under this timeline of study at committee, implementation is possible this summer. As the ministers responsible for Bill C-45 indicated to the Senate last week, the

actual lifting of the prohibition on cannabis would follow an eight- to twelve-week regulatory period commencing after Royal Assent.

Honourable senators, I will return to the content of the motion in a moment. In regards to its deliberations, I would be the first to note —

#### POINT OF ORDER

**Hon. Yonah Martin (Deputy Leader of the Opposition):** Your Honour, I rise on a point of order. I apologize for my second intervention. The leader just mentioned the content of the motion.

Are you referring to the bill, senator, or the motion that we only saw or heard about today? We haven't looked at the actual content of the motion. This is at second reading of the bill. It is a very large bill and Senator Harder is the seventh speaker. I am trying to understand where we are going with this debate. I thought it was on second reading, not the motion that you gave notice of today, senator, which we haven't yet debated either. I'm rising on that point of order.

• (1450)

**Hon. Peter Harder (Government Representative in the Senate):** With respect, Your Honour, I think this is the same point of order. Out of transparency, I think it is important for all senators to have a perspective from the government on how we might proceed with consideration of this important matter.

I will return to the content —

**Senator Martin:** On that point, should we not do that on the actual motion that we have been given notice of, and not at this time, at second reading? I thought we were looking at the principle of the bill itself. We would be very much interested in hearing what the leader has to say, not on the content of the motion, which we will be getting to tomorrow.

**Senator Harder:** With respect, Your Honour, I will continue with my presentation.

**The Hon. the Speaker:** Did you want to speak, Senator Tkachuk?

**Hon. David Tkachuk:** Our house leader said what I was going to say. No problem.

**The Hon. the Speaker:** Normally we do not debate a motion until after it has been moved. However, what I understood Senator Harder to be saying, and what I understood from listening to him, is that he wasn't getting into the nuts and bolts of the motion itself but talking about how he wanted to proceed with debate on Bill C-45.

So we will give you some leeway there, Senator Harder, but Senator Martin raises a good point in that we're not debating the motion.

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

[ Senator Harder ]

I would urge this chamber to factor in the approximate timetable that I referenced in our deliberations on second reading, as the many stakeholders involved in the cannabis legislation will reasonably want to prepare for implementation in an organized and deliberate fashion.

For example, the Senate may consider that important investments have been made in critical areas to allow for an orderly and responsible transition, including \$161 million to train and equip law enforcement to detect and deter drug-impaired driving; an initial investment of \$46 million to increase public education and awareness on drug-impaired driving and health risks, particularly to young people; \$526 million to implement and enforce the federal framework; and the government has invested \$1.4 million in 14 research projects across the country to assess the impacts of legalizing and regulating cannabis in Canada.

As well, in December 2017, the federal government reached an important agreement with provincial and territorial counterparts to coordinate a cannabis tax framework. The agreement is designed to keep prices low enough to put criminals out of business, while offsetting the costs of public education, administration and enforcement.

The motion I have tabled today provides for reference of the subject matter of Parts 1, 2, 8, 9 and 14 of Bill C-45 to the Legal and Constitutional Affairs Committee for study, given the committee's expertise in criminal law.

Again, for background, Part 1 sets out the main criminal prohibitions, obligations and offences relating to cannabis going forward.

Part 2 — and we have debated this in the context of second reading — provides for a ticketing scheme for certain offences under the cannabis act.

Part 8 deals with search warrants to allow police officers to conduct cannabis-related searches and seizures.

Part 9 sets out requirements for the control and management of cannabis, chemicals and other property seized, found or otherwise acquired.

Part 14 introduces changes to the Criminal Code to align references to provisions to the cannabis act.

With respect to the Legal Committee's subject-matter study, the motion is also proposing a reporting date of April 19.

For the public's information, these subject-matter studies at the Aboriginal and Legal Committees would replicate the approach this chamber has generally taken to budget legislation — albeit in pre-study — of referring parts of major bills to different committees to leverage particular expertise and provide thorough scrutiny. So this motion — though these studies would occur contemporaneously and not in pre-study — has precedent in this chamber, and is in keeping with the Senate's best traditions of policy focus and collaboration.

Under the motion, these two reports would come back to the Senate and would be taken into account by the Social Affairs Committee in conducting its more comprehensive study of Bill C-45 in its entirety, and through a public health lens, and in conducting clause-by-clause review.

The Social Affairs Committee would not be bound by a deadline, but, as with the Legal and Aboriginal Committees, I would anticipate senators on all three committees would stay in constructive communication regarding their respective timelines going forward, and they would no doubt share ongoing findings and perhaps attend each other's hearings.

As I said, I have placed this motion on the Notice Paper, and debate will commence tomorrow, with a decision, I hope, following soon.

I turn now to the question of timing for a vote on Bill C-45 at second reading so that in-depth committee proceedings can commence. As I indicated today, I am proposing that this vote take place on or before Thursday, March 1, prior to the Senate's planned two-week recess, so that committees can use that time to schedule witnesses and hearings.

In suggesting this date for a vote, I would briefly review the Senate process that has occurred to date and why I think an additional two sitting weeks —

#### POINT OF ORDER

**Hon. Yonah Martin (Deputy Leader of the Opposition):** On a point of order, Your Honour.

**The Hon. the Speaker:** Senator Harder, Senator Martin raised a point already with respect to debate on the motion. Discussion on the timelines and discussion with respect to its relation to the bill are fine; however, if you get into debate on the actual motion, you're crossing that line that we said cannot be crossed in debate. So I just caution you not to do that, please.

**Hon. Peter Harder (Government Representative in the Senate):** Thank you, Your Honour. I will ensure that I'm reflecting on the conduct of second reading.

As you know, honourable colleagues, second reading commenced on November 30 of last year. To date, and with the benefit of the winter break to prepare, senators have had four sitting weeks of second reading debate on Bill C-45. Before the last of the two weeks of second reading debate I am proposing, there would be one additional week of recess to prepare for any final remarks. I am also very much open to sitting on Fridays and Mondays prior to March 1 to afford senators additional time for debate.

Of course, over the past months, this formal process of debate has also been complemented by extensive briefings organized by Senator Dean and other offices. Senator Dean has done an absolutely astounding job in terms of making resources available and being a tireless conduit of information.

For example, on November 1, Senators Dean and Boniface — who is, of course, the sponsor of Bill C-46 on impaired driving — hosted a briefing for all senators with the Honourable Anne McLellan and Dr. Mark Ware, who headed the Task Force on Cannabis Legalization and Regulation.

On November 30, Senator Dean hosted an information session, for all senators, with government officials responsible for Bill C-45.

On December 13, Senator Dean hosted researchers from the Canadian Centre on Substance Abuse, who presented to all senators on nationwide youth perceptions relating to cannabis.

On January 30, Senator Oh organized a presentation with the Paediatric Chairs of Canada on the effects of cannabis on youth.

On February 6, for two hours on television, senators asked questions on Bill C-45 of the Ministers of Justice, Health, and Public Safety and Emergency Preparedness, along with the Parliamentary Secretary to the Minister of Justice and Attorney General of Canada and to the Minister of Health.

Yesterday, with an additional date of February 26, Senator Dean has organized tours for senators of Canopy Growth, the cannabis production facility in Smiths Falls.

So it is in this context of very thorough and long-running preparations that I suggest that two additional weeks of second reading debate are sufficient for the commencement of committee stage.

However, senators, I do frankly have some concerns that partisan politics could affect our proceedings. Let us consider the facts. I am concerned, for example, that the leader of the national Conservative caucus has publicly indicated a desire to delay Senate proceedings on Bill C-45. While I certainly agree that we need to take our time to do our job of sober second thought —

#### POINT OF ORDER

**Hon. Yonah Martin (Deputy Leader of the Opposition):** Your Honour, on a point of order.

There was a little bit of latitude as you were talking about the work that Senator Dean and others have done and looking at the substance of the bill.

However, Your Honour, I believe that now we're getting into another territory, which I could call a different point of order. I feel like we're still on the same debate, or Senator Harder is giving the same speech as he started with — actually speaking more to the motion that he gave notice of rather than the substance of the bill itself on second reading.

I could question his suggestion that certain committees study parts of the bill. Maybe other committees should be studying other parts of the bill. There is a lot more to debate on the motion, which we only received notice of today.

• (1500)

Your Honour, I know you intervened previously, but I don't see Senator Harder making adjustments to his speech. He is still reading from the same text. I don't know what instruction you would give or what you would say to this fourth point of order, because I do not see a difference in what Senator Harder is saying during his speech at this time.

**The Hon. the Speaker:** Thank you, Senator Martin. As you indicated, I did caution Senator Harder about straying into debate on the motion. I think he has moved away from that. The last thing I've been hearing is the actual debate on Bill C-45. I have not heard him debate the motion since then, so I'm going to allow him to continue.

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

While I certainly agree we need to take time to do our job of sober second thought in second reading, any potential delay for the sake of delay does a disservice to Canadians and the culture here in this chamber. We need to be vigilant as a chamber that we are using our time wisely, and that means ensuring there is appropriate committee consideration.

My fear, quite frankly, is that March 1 would come, and we may see some sort of procedural obstruction like we have seen from some senators in this Parliament on multiple items of government and non-government business. To explain a bit more, I do not want to end up with repeated motions of adjournment with one-hour standing bells for the apparent purpose of avoiding a timely decision at second reading, and being faced with a two-week recess and the potential loss of that time for committee preparations. I would not want to see our deliberations on a matter of such immense consequence reduced to a procedural back-and-forth.

Honourable senators, this chamber should treat all legislation in a fair and timely manner. Having indicated concern about a potential delay, I want to be clear that I am proceeding transparently and in good faith with all groups in the Senate. In that spirit, I have raised with all leadership groups that I am asking for their agreement on a motion to hold a vote on or before March 1 on second reading.

I am optimistic we will reach such an agreement soon, as I think this is a reasonable approach. However, should that agreement prove beyond reach, I can indicate that I will seek this chamber's support to explore a procedural mechanism known to some as temporal apportionment and known to others as time allocation.

So that the government and public understand the procedure, under the *Rules of the Senate*, the government leader in the Senate has the power to ask a majority of the chamber to eventually limit a stage of debate and hold a vote. When used responsibly, time allocation balances the need for debate with the competing need to move things along in a reasonable time frame for reasons of good governance.

As Government Representative in the Senate, I have never moved time allocation. By contrast, the previous government leader in the Senate used time allocation over 20 times —

**The Hon. the Speaker:** Senator Harder, excuse me.

Senator Stewart Olsen on a point of order.

POINT OF ORDER

**Hon. Carolyn Stewart Olsen:** I was looking forward to your speech today, because I would like to hear the government's position on this bill — perhaps the position of a rationale of why we're rushing it through. I really was looking forward to your particular insights and persuasions as to how we should vote. But your speech is concentrating on your motion and on the deliberations of moving this forward quickly, without answering our questions or presenting us with firm arguments as to why this is a good piece of legislation.

Your Honour, I would have preferred to hear the meat of the bill discussed rather than why we must proceed quickly and the threat of time allocation. I would like to discuss the motion tomorrow, and I would like to hear why you think it's imperative that we move this bill quickly and the direction of this bill.

**The Hon. the Speaker:** The substance of the motion of which notice was given earlier today is not being discussed now. There is also no time allocation motion before us. If the Government Representative wants to talk about Bill C-45 in terms of what he thinks is an appropriate time frame, that is quite in order. If there were notice of a motion for time allocation, it would not be in order to speak to it until it has been moved. I continue to say that should Senator Harder stray into a debate on the motion for which notice was given earlier today, it will be out of order, but at the moment he can continue.

**Senator Harder:** I would like to ensure all senators are aware that I am prepared, albeit with reluctance, to seek this chamber's support for time allocation to send Bill C-45 to committee on or prior to March 1. In this case, I would move a motion in the future, seeking the support of a majority of the chamber along the timeline I have proposed, so that the Senate's deliberations can proceed to committee stage, where the most in-depth sober second thought can take place.

However, I very much hope time allocation will not be necessary. But this is not up to me. I would vastly prefer to proceed by agreement.

Colleagues, it is not at all surprising that a common theme has arisen through discussions on legalization in the other place, the public sphere and in the Senate: the time frame associated with implementation. Whether it is a provincial or territorial government that is, today, making critical decisions regarding the details and nature of the retail and distribution networks, investing in infrastructure, hiring and training staff, or procuring product, all in anticipation of implementation this summer; or whether it is the industry moving to build inventories, expanding capacity, and making decisions about product forms, packaging and labels, everyone is keenly interested in understanding the time frame associated with implementation.

Many of these details will be contained in federal regulations, which, as I outlined earlier in my remarks, cannot be finalized and published officially until Bill C-45 receives Royal Assent. It

stands, then, that a sufficient period of time between Royal Assent and coming-into-force must exist to allow for the practical realities of implementation.

Put simply, a period of transition is necessary to allow for the publication of regulations and the shipment of cannabis products from federally licensed producers to provincially or territorially authorized distributors and retailers.

I can share some details with senators concerning this regulatory process. Between November and January, Health Canada conducted a comprehensive consultation with Canadians regarding the design and details of the new regulatory system. Valuable feedback provided by thousands of individuals, as well as industry and governments, will inform the design of the final regulations. These regulations must be published prior to the coming-into-force of the legislation.

In many cases, Health Canada is proposing to build upon the world-class system of regulations that has long been in place for current producers of cannabis for medical purposes or industrial hemp. Enacting many of the same strict regulatory controls for production under the proposed cannabis act would allow for legally and quality-controlled products to be available by the summer of 2018, and it would immediately begin to address the public health and safety risks posed by illegally produced cannabis.

We are seeing positive signs in all regions of the country that the legal, federally licensed cannabis industry is preparing, including significant capital investments in production capacity.

Just as the federal government has made considerable progress readying itself for implementation, likewise, provincial and territorial governments have also made considerable progress. Over the past six months, provincial and territorial governments have completed public consultations, introduced legislation or announced key features of systems governing distribution, sales and other important aspects of their forthcoming regimes. For example, Ontario has now passed legislation that will take effect July 1, 2018. From the earliest opportunity, the Federation of Canadian Municipalities has been clear that municipalities are ready and capable partners in fulfilling this federal government commitment to Canadians.

[Translation]

This transition period is important to ensuring that Canadians can get sufficient information about the new legislation and law enforcement agencies are properly informed, trained and ready to enforce the new rules. We need to examine these issues and continue the discussion, and the government is determined to take part in —

[English]

**The Hon. the Speaker:** Are we getting translation?

Please continue, Senator Harder.

**Senator Harder:** Senators, it is with this understanding of the need to ensure appropriate and regularized, predictable implementation, and it is in that context in which we do our work, that I say I am confident this chamber will rise to the task of reviewing this legislation in a timely manner, with a view to promoting an orderly and smooth transition in the best interest of Canadians, particularly our young people. I would urge that we reflect on how best we can ensure that second reading debate ends on or before March 1.

• (1510)

[Translation]

**The Hon. the Speaker:** Senator Moncion, do you have a question?

**Hon. Lucie Moncion:** Senator Harder, at the beginning of your speech you said that the price of cannabis would be low enough to offset the black market. Cannabis sold legally will cost about \$10 per gram, I believe, while it sells on the black market for \$5 to \$7. Knowing that Canadians young and old are thrifty, how do you think you are in a position to offset the price of cannabis on the black market by proposing a higher price?

I think that people who currently buy cannabis on the black market for \$5 to \$7 will continue to do so, instead of paying \$10 plus tax. I'd like to hear your thoughts on setting the price of cannabis per gram.

[English]

**Senator Harder:** I thank the senator for her question. It is an important question that she is asking and one that the regulators are seeking to ensure the appropriate balance on. Surely one of the significant advantages of legalization is to ensure the appropriate oversight and product safety that will assure Canadians participating in the recreational market that they have the quality of control that the present medical market has the benefit of. My point in the discussion was to share with honourable senators the considerations that are being taken, on the one hand, to ensure that the price adequately provides some offset to the enforcement and the implementation costs of legalization, while at the same time to ensure that it is not one that will encourage the now deep-seated illegal market that is the purview of criminal elements.

[Translation]

**Senator Moncion:** Why legalize marijuana, then? Is it truly for those who have access to the black market, or for those who do not but who want to try a quality product?

[English]

**Senator Harder:** The government's view is that legalization is the appropriate public policy choice to deal with the reality of today's situation. The reality is that we have a very large

cannabis demand, particularly among youth. I mentioned the youth participation rates in cannabis consumption. That consumption is increasingly of a quality that causes parents to be concerned. At the same time, that product is in the hands of criminal elements and ought to be addressed.

To address the dilemma, it's not just good enough to decriminalize because that doesn't change the market. We actually have to change the market to ensure that we are criminalizing or we are moving the criminalized elements out of the marketplace, that we are putting that distribution in the hands of the choices that provinces are making with respect to distribution and that the product itself has a certain regulatory control attached to it so that it is a market that is responsible and meets public health concerns.

This is also a strong signal to youth to not participate in the market, particularly young youth, or to better understand the costs or potential risks of such participation. It's a challenge that the government is facing, particularly one that has been allowed to run uncontrolled for so many years.

I would remind honourable senators that Pierre Claude Nolin — and I knew him as a friend but not as a senator — gave a report to the Senate many years ago which predicted the choices that the government has now made. I think it's that work that should inspire us to further second reading debate.

**Hon. Vernon White:** Would the senator take a question, please?

**Senator Harder:** Certainly.

**Senator White:** You do realize that 100 per cent of the marijuana sold to youth in this country, if this legislation passes, will be black market marijuana? Any suggestion that it's going to be cleaner and that it will be controlled is actually not true. I repeat: 100 per cent of the marijuana sold, if this bill passes as it's written today, will be black market marijuana. Does the honourable senator realize that?

**Senator Harder:** I would respectfully disagree.

**Senator White:** Then I want to know this: Is the government going to get involved in trafficking marijuana to people under the age of 18 as well? I don't know how it will not be black market marijuana. "Black market" means it's illegal. That is, 100 per cent will be sold illegally. It's a crime in this legislation to do so. So it will be black market.

**Senator Harder:** Senator, you're accepting the notion that under the legislation there are prohibitions on selling to youth of a certain age. That will, of course, continue. In that narrow sense, the objective of the legislation is to have robust enforcement of the distribution at the same time as ensuring that there is a robust education program so that young people are made aware of the risks — particularly those under the age of 18, who, in the government's view, run greater risks because of the development of their mental faculties.



**Senator White:** If I may, you stated that the marijuana being sold to youth would be legal, not sold through a black market. You just actually defined what a black market looks like. A black market is something sold illegally. It doesn't matter where it came from. It's not going to come from Tweed or from other legal producers. They are not allowed to sell it to people under the age of 18. It's going to come from the black market.

The second piece is that already Canadian youth under the age of 18 are the number one users in the world. This legislation, the minister stated last week — and it was wrong then and it's wrong today — will do nothing to stop the black market trafficking of marijuana to children under the age of 18; nothing.

**Senator Harder:** I would welcome your participation in debate.

**Hon. Nancy Greene Raine:** Will the senator take another question?

**Senator Harder:** Of course.

**Senator Raine:** I'm very concerned about what is being done for the education right now of young people. I see numbers bandied around like \$46 million for education. Is this happening right now? When I go out there and look for marketing programs to young people about the dangers of marijuana, I do not see them. Even when I went on the government's website about cannabis, there is a link — interestingly enough — to Drug Free Kids Canada. When I click on that link on the government's website, while sitting here in the Senate, it says, "Forbidden. You don't have permission to access."

That is a private sector, voluntary-driven organization that it appears the government is using to educate children, and yet here, in the chamber, we can't access that site. What good is that?

How are you going to advertise and promote to young people? If the Prime Minister put this in his campaign platform, we should have been starting that education the minute he was elected. Right now we see a prime minister who is proud of the fact that marijuana is okay. That message is going down to the kids. They think it's okay. They have no idea of the harms that can be done.

How is our government going to turn on that promotion now and not wait? It seems like you're waiting forever.

**Senator Harder:** Let me respond by saying this: First, the Prime Minister has been clear from day one that the purpose of this legislation is to ensure appropriate control, appropriate regulatory framework and appropriate programming targeting those who ought not participate in the recreational market because of their age.

• (1520)

As to why that should not take place, the development of those materials is under way. Ministers spoke about that when they appeared here, and they are working with targeted groups. Parliamentary Secretary Blair spoke of the work he had undertaken with Aboriginal communities to ensure that the materials that are being developed are culturally sensitive, and in appropriate languages. However, until the legislation has

received Royal Assent, it would be difficult to spend and distribute large materials that provide the context for the implementation strategy that the government will be undertaking.

Let's have a more fulsome debate on what further educational programs might be contemplated, but it is very much at the heart of the government's implementation strategy to ensure that Canadians are well informed, that partnership with the provinces, municipalities and, depending on the jurisdiction, the distribution networks are all part and parcel of ensuring appropriate regulatory framework for this product.

**Senator Raine:** Senator Harder, when I look at the amount of money, there wasn't any in the last budget. I don't understand how you can say that we can't spend money on educating our children on the dangers of marijuana because we haven't passed legislation to legalize it. We know that they are already succumbing to the pushers and using marijuana.

Why are we waiting? Why has that not happened already? What is in this coming budget to attack this issue, this educational need, as much as possible? Are we just going to leave it up to the voluntary sector to do it? It doesn't make sense to me. What is in the budget for next year?

**Senator Harder:** It is not for me to indicate what the upcoming budget will contain, but I certainly encourage the honourable senator to participate in the debate.

**Hon. Larry W. Smith (Leader of the Opposition):** I have a quick question. When the health minister was here last week, I asked the question, "What have you done to educate the kids, the public?" She said, "We have been working on discussing things for the last year." I said, "Well, that's the same thing that Minister Morneau told us about the tax changes. How much do you have in your budget for education?" She said there was \$46 million. I said, "Have you started your educational program?" She said, "Well, it's going to take at least three months to roll it out."

How much have you spent to date? Zero. When are you going to implement? March 1. If it takes three months, if we compare to Colorado and Washington State, it was 12 and 18 months before they allowed the rollout of the sale.

I just did a TV interview with CTV in Halifax. They said that the government says the Conservatives are obstructionist. We are not obstructionist; we want to make sure we thoroughly analyze the information. When we hear feedback from a minister who says, "We are going to educate the kids," and you ask the question, "Have you started?" she says no. Have you spent any money? No. When are you going to start? March 1.

That implies that the integration process is loose. There are gaps in the integration process. It doesn't take a rocket scientist to figure this out. All we're asking is whether this going to be properly implemented.

**Senator Harder:** Of course it will be properly implemented.

With respect to the position that the honourable senator and his caucus is taking regarding this debate, I welcome their participation. Part of their role is to participate in the debate, and I hope that over the coming weeks we can hear from them.

[Translation]

**Hon. Claude Carignan:** Senator Harder, you mentioned the report prepared in 2002 by the late Senator Nolin, for whom I have the greatest respect. Today, we know that the science is clear on the harmful effects that cannabis consumption has on health, especially for people under 25. In all other respects, there are many unknowns, including with regard to health.

Senator Nolin's report is from 2002. Now it is 2018. When you cite this report, I feel like you are saying that the science was more advanced back then than it is today. Why are you referencing a report from 2002 when we know that even today, science faces many unknowns?

[English]

**Senator Harder:** I thank the honourable senator for his question. I reference the work of Senator Nolin because it was an early opportunity where this chamber took a deep study of this important subject matter, and raised public awareness and consideration of a path forward that he and his committee recommended Canada undertake.

We have lost those years in the interim. We have had a number of changes. One is the development of the medical marijuana marketplace. But we have also had the added entrenchment of criminal elements in the cannabis business, and it is this government which has come to the conclusion — and has stated so in its platform and now in its legislation — that we ought to legalize and heavily regulate the control and distribution of cannabis to protect our kids.

[Translation]

**Senator Carignan:** Do you know how long the Special Senate Committee on Illegal Drugs chaired by Senator Nolin spent studying this issue? Check how many months their study took and then explain to us why your notice of motion calls for us to spend a mere three weeks studying this issue.

[English]

**Senator Harder:** You will know better than I, senator, how long this study of Senator Nolin took. I can tell you, and you will be well aware, that this place received Bill C-45 on November 28. On November 30, second reading started with the sponsor of the bill, Senator Dean.

Since November, we have had a number of speeches from Independent Senators Group members. We had the first speech by a Conservative senator last Thursday. I am saying that it is

entirely reasonable to me that we would continue with and encourage broader debate and participation by senators this week, and the week that we're back, to ensure that this bill be appropriately considered for second reading, but that it does advance to committee. That, of course, is in the hands of the Senate.

[Translation]

**Senator Carignan:** Thank you. You mentioned that the goal was to obtain a quality product in order to avoid ending up with lower-quality products like those sold on the black market. Normally, when a product is brought to market, recalls are a possibility, so products are designed to be easily identifiable and traceable.

Can you tell us what kind of system the government intends to set up to track cannabis production from seed to consumer?

[English]

**Senator Harder:** Senator, I would encourage you to participate in the tour of the Canopy facility. In Canada, we have the benefit of the experience of medical marijuana and the tracking for that purpose, and it is the basis on which we would proceed. Clearly, you're making a very good case for a committee to appropriately study the questions you are raising. We are now on second reading, which is the debate on the principle of the bill. As critic of the official opposition, I would welcome your participation in the debate.

**Hon. Fabian Manning:** Thank you for your comments today. I have concerns with the bill, as I'm sure others do. When you look at information coming out of Colorado, as an example, legalization has doubled the number of drivers involved in fatal crashes who tested positive for marijuana; and in high school, the drug violations have increased by 71 per cent.

• (1530)

I'm just concerned, as I try to gather information on the bill, about what seems to be the lack of science that has been reported out there in relation to how we deal with impaired drivers. We all know about the fatalities and casualties of impaired drivers related to alcohol.

I'm concerned — again, I stand to be corrected — when a police officer now comes up to the window of a vehicle, is it going to be a visual check for how he determines the person behind the wheel is impaired? We're hearing of a lot of lawsuits being launched in the United States based on this visual activity.

I'm wondering how the government plans to address the impaired driving situations with people under the influence of marijuana.

**The Hon. the Speaker:** Honourable senators, it's 3:30 p.m., and normally we would begin Question Period now. But I understand that Minister LeBlanc has been delayed, so as previously agreed, we will continue with the business of the house until the minister arrives.

**Senator Harder:** Senator, you're raising the question surrounding the enforcement of impaired driving, both drug- and alcohol-related. That, of course, is the subject matter of Bill C-46, which is now before committee. I would encourage you to participate in those committee debates where witnesses are coming forward and looking at how the bill is strengthening the regime based on what the science is telling us and what engineering is able to accomplish in terms of providing the capacity in the enforcement community for enhanced impaired driving enforcement, both for drugs and for cannabis. It is an important companion piece to this legislation, but it's not the subject matter of Bill C-45.

**Senator Manning:** Thank you, Senator Harder. I recently heard in the news comments made by the ministers in relation to the implementation after the bill becomes law; they said that right now, the July 1 deadline is pushed out somewhat to maybe 8 to 10 weeks of implementation after the fact.

I'm wondering today, with the plans you have put forward, including the possibility of time allocation, is it the government's plan to try to have the piece of legislation passed into law earlier so that it can be implemented by July 1? Or does that seem to be part of the plan here today?

**Senator Harder:** Thank you, senator. Let me be very clear. What I am suggesting is that we have appropriate continued second reading debate, that we have about two months of time allocated for committee consideration, and when the bill comes back here, we'll have to see how third reading progresses.

But the view of the government, which was restated last week with ministers — and let me repeat — is that the implementation of this legislation, this important initiative, will take place after Royal Assent. It's a process of implementation that doesn't just turn on the switch one day, but it provides a series of events that will require from 6 to 12 weeks of implementation, and it is the objective of the government to ensure that implementation takes place during the course of the summer.

[Translation]

**Hon. Ghislain Maltais:** Senator Harder, you replied to my colleague, Senator Carignan, about the quality of the product. In Canada, we have a very rigorous policy regarding traceability and food safety. It is impossible to tell whether or not a herd of cows is healthy just by looking at it; you must often examine the cows one at a time. Similarly, it is impossible to determine whether or not a field of cannabis is of good or poor quality just by its appearance; you have to test it.

At present, in light of the number of production licences, the number of cannabis plants that there will be in Canada, including the four plants in each of the hundreds of thousands of apartments in Canada, does the government have a system to determine whether every product does not pose a health risk, as it does in the food sector?

[English]

**Senator Harder:** Again, I thank the honourable senator for his question. In fact, the existing medical marijuana regime has exactly that kind of control and oversight to ensure appropriate vigilance over the quality of the product.

[Translation]

**Senator Carignan:** I would like to go back to Senator Nolin's report. Has Senator Harder read Senator Nolin's open letter that appeared in the August 30, 2010, edition of *Le Devoir*? In it, he states the following:

First of all, we do not approve of the recreational use of drugs. We would prefer to live in a drug free society, just as we would like to see peace on earth.

A little further in his letter, the senator states that the committee recommended that the legal age of consumption be 16 years of age:

The committee recommended that the legal age for consumption under no circumstances be under 16 years of age because scientific research has shown that, by that time, the human brain is sufficiently developed and will not be adversely affected by the consumption of cannabis.

Nowadays, all of the medical experts and medical associations are saying the opposite.

I will ask Senator Harder the question again. When the report was released in 2002, scientific research was still ongoing, and in fact it likely still is today. Does the senator agree that science may be evolving still, and that we must exercise caution when quoting from a 2002 report?

[English]

**Senator Harder:** Thank you, senator, for the question. It gives me the opportunity to repeat that I was not, in referencing Senator Nolin's report, suggesting that it be the basis on which the regime for recreational cannabis is implemented. I was simply pointing out that the debate in the Senate of Canada those many years ago was one of the component pieces of the public dialogue on this.

The second point I would make to the senator is that the existing state of concern for the use of cannabis amongst our youth is obvious. We have a crisis on our hands. This bill doesn't invent the recreational use of cannabis by young people; it seeks to regulate and limit the use of cannabis by young people under a certain age.

The objective of this bill is to deal with the historic reality that the government inherited and to move forward in a fashion that moves beyond simply "just say no" and prohibition to one that is a more modern and contemporary approach.

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

**Senator Harder:** Yes.

**Senator Joyal:** Thank you, Senator Harder. My preoccupation is on the impact of the bill, or as one would say, the law of unintended consequence. I understand the general objective of the bill, but, senator, you have to recognize that once you legalize something that is forbidden, prohibited by law, the person could incur a criminal record affecting his or her career for the rest of his or her life, not being able to cross the border or to fly in many countries around the world. I'm sure the government should have thought about the impact on the increase of consumption. To me, this bill will not reduce consumption.

I was reading an article about the army. Twenty per cent of soldiers consume cannabis, so once it's legal, one would expect an additional number in proportion will add to that consumption.

Did the government do any study of the impact of the bill on the increase of the level of consumption, especially with youth and the group of consumers who are at risk? As Senator Carignan mentioned, the mental condition of youth is in the process of achieving stability. We all know that. No one would question that today. It was certainly not, as you will remember — I don't know your exact age, Senator Harder, but if you were aware of the flower power era in the 1960s, everybody thought that by smoking a joint, you would attain nirvana and all your problems would be solved. In fact, you were creating your own problems.

To me, the impact of this bill is very important to measure if the government wants to be realistic about the control of this situation instead of unleashing a flow of consumers whereby the risk will be magnified.

• (1540)

**Senator Harder:** Well, senator, you ask about my age. Let me simply say that I might have grown up in the age of flower power, but it eluded me. I am probably unique in many respects in that I never saw or smelled marijuana. I don't raise that as a point of pride on my part, just as a sign of how a little Mennonite boy in rural Canada grows up. There wasn't a lot of that available.

Let me contribute a little more seriously to your comments by adding a couple of comments. One is that ministers have referenced the jurisdictions where, in fact, the consumption rate has gone down with legalization, but that one can't predict that that will happen in Canada. You raise quite properly the law of unintended consequences and how you take that into account.

What we do know is that the existing regime of illegal consumption of cannabis is detrimental to our youth, that consumption of marijuana is highest in our youth and is growing, that we have to intend, through public policy, a regime change, which this law contemplates.

What I can assure the honourable senator is that the government, with its programs of enforcement and public education, will target young people in particular to understand the consequences of consumption below the legal age, and with respect to the legal age and consumption, to ensure that there is public awareness for appropriate risk.

The other objective, of course, is to ensure that there is vigilant enforcement, which is why Bill C-46, which is before a very prominent Canadian Senate, is a companion to this legislation—to ensure better tools for our enforcement community on all drug- and alcohol-related crimes, because we do have better information today.

**Senator Joyal:** Senator Harder, as you know, there are nine American states where there has been a legal market. Has the Department of Justice or the health department gone through an analysis of the comparative figures of increase or, as you mentioned, decrease of marijuana, so that we can have an objective picture of what the impact of the bill might be on the basis of the experience of others, so that we have a better, more reliable picture of the impact of this bill?

**Senator Harder:** Senator, I think you're raising a very important dimension of the debate, and I hope that in committee senators can meet with the officials and get greater details further to the comments made by ministers in the Senate last week so that that material is available during the Senate's deliberations.

**Hon. Ratna Omidvar:** Thank you, Your Honour, for recognizing me. I've been waiting very patiently to ask my question.

I was one of the senators who went yesterday on the tour of Canopy Growth, I believe it's called, and it gave me a sense of confidence that, if the bill is going to pass and we're going to legalize cannabis consumption, there are production facilities with such a high degree of sophistication, control, regulation and security.

Mr. Bruce Linton, who is the CEO of Canopy Growth, did, however, point our attention to a part of the legislation that leaves him with some concern. It's not an aspect of the legislation that has been talked about a great deal. I haven't been able to find it, but I'm sure you know about this. The legislation will enable the growth of cannabis in open fields under certain circumstances for individuals and companies that have certain licences — not in greenhouses and not in controlled facilities, but in open fields. He pointed out that his concern would be that it's an open field, accessible by drones—now, I hadn't thought about that—and that drones could fly in, and that could create another expression of criminalization.

I wonder if you have a point of view on that and whether this should be looked at in committee as well.

**Senator Harder:** I will be brief, because I see the minister is here.

That is exactly the kind of question that I would expect to be appropriate for committee, to hear from those involved in the existing medical market, their experience and what concerns that might raise.

We are now in the period of second reading debate, which is the agreement in principle, and I would hope that we can have broad participation over the coming days to ensure that this house has an active interest in and discussion around Bill C-45.

## QUESTION PERIOD

### BUSINESS OF THE SENATE

*Pursuant to the order adopted by the Senate on December 10, 2015, to receive a Minister of the Crown, the Honourable Dominic LeBlanc, Minister of Fisheries, Oceans and Canadian Coast Guard, appeared before honourable senators during Question Period.*

**The Hon. the Speaker:** Honourable senators, we will now proceed to Question Period. I would ask the minister to take his seat, please.

Honourable senators, we have with us today for Question Period the Honourable Dominic LeBlanc, P.C., M.P., Minister of Fisheries, Oceans and the Canadian Coast Guard.

On behalf of all senators, minister, welcome.

### MINISTRY OF FISHERIES, OCEANS AND THE CANADIAN COAST GUARD

#### PHOENIX PAY SYSTEM

**Hon. Larry W. Smith (Leader of the Opposition):** I'll stand to welcome back the minister. Minister, welcome back to the Senate Question Period. I know I speak for all honourable senators in saying that we're glad to see you here today and wish you all the best as you continue on your road back to recovery.

**Hon. Dominic LeBlanc, P.C., M.P., Minister of Fisheries, Oceans and the Canadian Coast Guard:** Thank you.

**Senator Smith:** I had some of my confreres on this side say to me, "My goodness, Larry, don't be too hard on the minister," and I said, "Never."

My question concerns your duties as the minister responsible for the Canadian Coast Guard. The ongoing Phoenix pay system disaster has hit the Coast Guard hard, with many members reporting too little pay, too much pay or no pay at all.

In December, Wade Spurrell, Assistant Commissioner for the Coast Guard in the Atlantic region, stated in an interview:

There have been periods back in the summer where we were unable to have ships at sea or provide services in that way. We have had cases where people decided to leave the Canadian Coast Guard because of the uncertainty in their pay.

Vessels tied to the dock, Coast Guard members leaving their jobs—all because the government cannot pay for them properly.

Minister, is this situation acceptable to you, and what are you doing to ensure members of the Canadian Coast Guard receive the pay to which they are entitled?

**Mr. LeBlanc:** Senator Smith, thank you for your kind comments at the beginning. I want to report to you and your colleagues that I'm feeling well. I look forward to continuing my work, and your generous comments mean a lot to me, so thank you for that.

I also, Senator Smith, share entirely the premise of your question in terms of what the Phoenix pay system has meant to the remarkable women and men who serve in Canada's Coast Guard. Assistant Commissioner Spurrell is someone I have had a chance to work with in Newfoundland and Labrador and in Nova Scotia. We have gone over in our department, with the senior management of the Coast Guard, a number of very painful scenarios where, in fact, almost 100 per cent now of the seagoing personnel have been affected by the unacceptable circumstance of Phoenix.

So your question, senator, as to whether this is acceptable, it is far from acceptable. It's appalling. It's a circumstance that I know has caused immense hardship to the women and men of the Coast Guard. You're right; we're losing some very talented, skilled, experienced people who are taking jobs at Marine Atlantic, with private marine service companies because simply the circumstance is unacceptable and that has a cascading effect on the ability of the Coast Guard to offer the services that Canadians rightfully expect and that the Coast Guard wants to offer.

We are at the department working with Public Services and Procurement Canada on an urgent basis. We have a number of pilot initiatives suited directly for the Coast Guard because of the extent to which they have been hard hit, and I am going to continue to insist that we improve that every day and every hour and get that right for the women and men of the Coast Guard.

**Senator Smith:** Thank you for that answer, minister.

The problem has existed for more than two years. CBC reported in December that the system's problems have meant that search and rescue operations have had to rely on vessels that were supposed to be working on buoy maintenance. You mentioned that you're looking at and evaluating the situation. Where are you in that evaluation in time frame? What are you estimating as the time required to fix the problem or at least show a positive increase in moving people back into a more balanced situation with the pay issues?

• (1550)

**Mr. LeBlanc:** Thank you, Senator Smith. I think you'll understand my reluctance to give — I certainly appreciate the question. It is a question that the 5,000-plus women and men of the Coast Guard and their families probably ask themselves every day. What is the time frame to have this mess sorted out?

I think one of the challenges has been that, at various times, we have offered a time frame where we thought there could be incremental progress. Then, for a bunch of reasons, some related, some not, those time frames have slid. So every day and every week that this is not sorted out has negative effects not only on the staff of the Coast Guard. It can cascade, as I said, into the services that Canadians rightfully expect us to deliver.

I can tell you it is a subject of concern that comes up when I meet with the officials of my department, when I talk to my cabinet colleagues. Repeatedly. It is a weekly, daily discussion, certainly, in our department. We will simply continue to do the work necessary, with our partners, to ensure that the most urgent cases are obviously dealt with on a priority basis but that we get to a point where there are no affected people who are serving in institutions right across the Government of Canada. I'm speaking as minister responsible for the Coast Guard, but this circumstance, unfortunately, is shared by Canada's public servants right across the board.

**Senator Smith:** I have a very simple question to conclude our discussion. Have you had a chance to personally convey that message to your members, and, if so, have you set up a program to give that constant feedback to them? At least they know that you really care where their situation is at.

**Mr. LeBlanc:** Senator Smith, the answer is yes. I have the privilege of visiting Coast Guard bases, big and small, across the country. It's one of the great things about having the job that I'm lucky enough to have. On every one of those occasions, from the Canadian Coast Guard College in Sydney, Nova Scotia, to the smallest search and rescue lifeboat station, the Coast Guard staff bring it up. They bring it up with me. I invite them to bring it up because I want to hear from them, but I want them to know that the government and all Canadians are deeply upset by this. It's a circumstance that, frankly, merits the most urgent attention, and I convey that to them and will continue to do so until it is rectified.

#### FISHING QUOTAS

**Hon. Norman E. Doyle:** Minister, I wanted to ask you a question on the Arctic surf clam, a resource currently being used by the people of Grand Bank on the Burin Peninsula, a community that has been producing seafood product there for 27 years. The government recently took back 25 per cent of that quota. It's a decision, I'm told, that's unprecedented.

The problem here has to do with the fact that the Arctic surf clam resource was just starting to give some economic stability to the Grand Bank region of Newfoundland. It was a business started and built by the investment and enterprise of Clearwater. The three vessels alone used by Clearwater to harvest that resource are valued at \$200 million. So it's an important employment opportunity for the people of Grand Bank.

Now, there is legitimate fear in these communities, according to Mayor Rex Matthews of Grand Bank, that this 25 per cent cut to Clearwater's quota of surf clams will drastically reduce employment, with the loss of middle class full-time jobs. It's going to impact the whole economy of the Burin Peninsula. Could the minister indicate why it was necessary for government to remove 25 per cent of that quota from the people of the Burin Peninsula, some of whom will now be unemployed?

[ Mr. LeBlanc ]

**Hon. Dominic LeBlanc, P.C., M.P., Minister of Fisheries, Oceans and the Canadian Coast Guard:** Thank you, Senator Doyle, for your question. As you will know, the issue of Arctic surf clams is one that has occupied not only our government but the previous Conservative government. My predecessor in this job, the Honourable Gail Shea, had started a process, in fact, where there was an RFP or a sort of public process for submissions to be a new entrant into the surf clam fishery. That process began under the previous government. It was not concluded. A number of companies, I'm told, from Newfoundland and Labrador and other parts of the country had submitted proposals. I just know because they talk to me about it when I see them at airports around Atlantic Canada and at the Boston seafood show.

Senator Doyle, you're right to say that our government began a public process at the end of the summer, in early September, where we asked indigenous communities to come together, to partner with companies with experience in the offshore fisheries, and to submit a proposal to the government as to how the economic benefit might accrue to indigenous communities and to other communities dependent on some of these resources.

I can say that we've received a number of proposals. I have not made a decision with respect to that 25 per cent.

I want to be careful not to correct you, senator, but it's not entirely accurate to say that we withheld 25 per cent from that particular business. What I did is I began the fishery with 75 per cent of the total allowable catch because I have not yet made a decision with respect to that new entrant.

I can say that we have a number of proposals, including from the province of Newfoundland and Labrador. I'm continuing to look at the proposals and hope to make a decision in the not-too-distant future.

But I also want you to know, senator, because this is very important for your province, that I am very sensitive to the employment circumstance in Grand Bank. My colleague, recently elected Churence Rogers, has spoken to me about it on a number of occasions. I have had a chance to meet with the mayor as well. I understand the importance of that facility and the good jobs it has provided to the community of Grand Bank. I don't want you to think that I'm insensitive to that at all or wouldn't continue to work to ensure that the economic benefits to the people of Grand Bank continue.

#### NORTH ATLANTIC RIGHT WHALES—SNOW CRAB INDUSTRY

**Hon. Joseph A. Day (Leader of the Senate Liberals):** Minister, welcome. My question today relates to the tragic losses of the North Atlantic right whale. There is not a senator in this chamber that doesn't have a horrible image of the carcasses of dead right whales floating this summer in the Baie-des-Chaleurs.

The question that I have relates to your announcement in late January of the changes to the snow crab fishery in the southern Gulf of St. Lawrence, including reducing the amount of rope floating on the surface of the ocean, the colour coding of rope and the mandatory reporting of all lost gear. All are aimed at reducing the risk of whales becoming entangled in the fishing gear being used. These changes are not insubstantial. In fact, they are quite significant to the fishery.

The season starts in April, as I understand it. Has there been a good response from fishers? Can you explain to us if this initiative is likely to be successful?

**Hon. Dominic LeBlanc, P.C., M.P., Minister of Fisheries, Oceans and the Canadian Coast Guard:** Thank you, Senator Day, for your question. And thank you for expressing a concern that I've certainly heard, in every corner of the country, from Canadians about the tragic circumstance of the North Atlantic right whale.

The unprecedented 12 deaths between June and September in and around the Gulf of St. Lawrence and the Baie-des-Chaleurs, as you correctly identified, have led to a huge effort globally, certainly on the part of our department but with American partners. NOAA in the United States has been one of the global leaders in research but also in protection and measures to ensure the long-term survival of this very endangered species.

I can say to you, senator, that I am extremely encouraged by the response of the commercial fishing industry and the marine transport industry in terms of what they can do to partner with us to reduce the chance of impact or mortality between these majestic creatures and human activity.

The necropsies that were performed by scientists on seven of the dead whales indicated that the two most important factors are entanglement with fishing gear and contact with ships. My colleague the Minister of Transport and I have come up with a series of measures.

The changes to the snow crab fishing gear, Senator Day, are, I think, but a start, and a good start, of what we can do to reduce the amount of rope floating on the surface. These whales go along the surface to feed. They get entangled in rope that's floating between the different buoys, and, tragically, they sometimes drag that crab gear for kilometres and kilometres — sometimes, scientists tell us, hundreds of kilometres — and ultimately end up perishing.

• (1600)

The fishing industry wants to be a partner. We are looking at new technologies as well. I'm hoping to announce measures where we have rope-less traps. I'm told the fishing industry is anxious to pilot or try this technology where you would have a trap at the bottom of the ocean that you could remotely detect and bring to the surface without needing a rope. There are all kinds of exciting ideas.

We are going to continue to do what we have to do to ensure that every possible effort is made to minimize the tragic circumstances of last summer. I'm very happy by the desire of provinces and the industry to partner with us.

**Senator Day:** Minister, there is another initiative that you referenced during your news conference in Moncton; that is, the use of the Coast Guard to help move the ice away so the season for snow crab fishing can start sooner, and therefore, migrating whales and the snow crab industry are less likely to collide with one another. Can you update us on that?

**Mr. LeBlanc:** Thank you, Senator Day. You're right. The industry itself suggested that as a measure. I have had a number of discussions with the Commissioner of the Coast Guard and other officers. Obviously, the capacity to send icebreakers to open certain key ports in northern New Brunswick or in Quebec, for example, may allow us to start the season earlier than in typical years. Scientists say there is no reason why we couldn't start the season at the end of March or early April. It's often a function of ice floes and ice patterns and the ability of the fishing fleets to get to the crab grounds. If we have a way to open these critical ports, the Coast Guard is certainly preparing operational plans that might allow us to do that.

As you would know from your work with the navy and Coast Guard league, senator, necessarily the priority is around safe marine transportation, search and rescue. You can imagine the circumstances around Newfoundland and Labrador or the St. Lawrence Seaway. The availability of the icebreakers will only become a reality as we get closer to that point, but the Coast Guard tells me they are confident we can use that as an option.

Last year the whales came to the outer bank of the Gulf of St. Lawrence in June. My hope is if we can start the season earlier, the quota will likely be less than it was last year. It was a historic quota, which means that the fishing at least on the outer part of the bank where the whales arrived first last year may be concluded and the gear could be moved closer to shore. That's certainly something that we will prioritize.

#### PROTECTED MARINE AREAS

**Hon. Patricia Bovey:** Minister, welcome; it's nice to have you back for this second Question Period.

I would like to ask a question on the bill that is currently before the other house, the Oceans Act. It's my understanding that this chamber might take possession of the bill sometime this spring. Honourable senators will know that I have agreed to sponsor this piece of government legislation once it arrives in this place.

I would like to acknowledge the minister's efforts to protect marine areas, and I understand that Canada now protects 7.75 per cent of its oceans.

One of the issues that has been raised by stakeholders, and indeed members of the other house during committee proceedings and elsewhere, focused on the activities permissible in marine-protected areas. For instance, will fishing be allowed? Will oil and gas be permitted? No specific references seem to be included as to what would be permissible or prohibited in the proposed legislation.

What measures or actions are you taking or contemplating to address the concerns expressed about activities for existing and future marine-protected areas?

**Hon. Dominic LeBlanc, P.C., M.P., Minister of Fisheries, Oceans and the Canadian Coast Guard:** Thank you, honourable senator, for that question. Thank you for agreeing to help us introduce what we think is important legislation in terms of strengthening the Oceans Act in this chamber. I look forward to working with you and your colleagues in this chamber and certainly the members of your Senate committee. I said in the other place, and I'll say it here, if colleagues have suggestions of amendments that can strengthen or improve this legislation, by all means, we're all ears. We look forward to working with you.

With respect to the specific issue around minimum standards, as they are colloquially known, I hear about it at Ocean Conferences globally and from environmental groups and industry, who have a legitimate concern if we are going to say that we will protect, and I think Canadians are deeply attached to the idea of more protection for our ocean territory. It's something that we committed to Canadians in the election, and it's a target that we intend to meet or exceed.

The issue is this: What are the appropriate practices and what do scientists tell us are the appropriate practices around core conservation objectives?

One thing I am committed to doing is bringing together a small group, probably seven people, with experience in this area, to provide advice to the government and to Canadians on minimum standards. For this to be credible, we can't have a patchwork quilt where a certain marine-protected area in one part of the country has these protections and there is a different set of minimum protections in another part of the country. If we are going to be coherent and capture the imagination of younger Canadians, they have to see that this is serious, but that it's also responsible and doesn't represent a circumstance where economic activities that are not harmful to the core conservation objectives are necessarily affected in a negative way.

We are going to ask seven Canadians from across the country — I hope to announce the names in the coming days — representatives of scientists, industry, indigenous people. We'll, I hope, be able to come up with recommendations that we could incorporate into regulations where we would say that the marine-protected areas in Canada have a core set of minimum standards.

I am pleased to tell you, senator, that this sentiment is shared by a number of other countries. At lunch I had the privilege of spending time with the U.K. minister responsible for these issues. She and her government are also wrestling with this exact issue. I think we will help build a global consensus if we do this properly.

#### PULP MILL EFFLUENT

**Hon. Diane F. Griffin:** Welcome, minister. In January, the Premier of Prince Edward Island had written to the Minister of Environment and Climate Change about Northern Pulp's plans for a new effluent treatment facility in Pictou County, Nova Scotia. Premier MacLauchlan expressed concerns that an outflow pipe placed in Northumberland Strait could have unintended consequences for our commercial fishery and aquaculture industries.

As Minister of Fisheries and Oceans, addressing this issue should be a high priority. What is the government doing to address the situation of effluent discharge from the Pictou pulp mill? Have you and the Minister of Environment and Climate Change heard the concerns of the P.E.I. government and fishermen?

**Hon. Dominic LeBlanc, P.C., M.P., Minister of Fisheries, Oceans and the Canadian Coast Guard:** Thank you, Senator Griffin, for the question. I have certainly heard clearly from Premier MacLauchlan at a ceremony that I was at with him a few weeks ago. We talked about that very issue. He has, as you noted correctly, written to the Government of Nova Scotia with respect to this high concern. I can also say to you that my colleague in the House of Commons from Pictou County has raised it with me as well.

This issue, I think, speaks to the importance of strengthening the Fisheries Act regarding elements that can threaten fish and fish habitat so important to the harvesters in your province and mine, the economy of Prince Edward Island, of New Brunswick, of Atlantic Canada. We can go around the country and find examples where there is an economic dependence. These communities often don't have many other economic opportunities. Something that would threaten something as important as their economic livelihood is obviously of huge concern to our government.

As you will properly know, the Province of Nova Scotia is doing an environmental review of this issue. My colleague the Minister of Environment and Climate Change, with whom I have had a conversation on a number of occasions regarding this issue, and I are committed to working with the Government of Nova Scotia. Environment and climate change under the Fisheries Act has legislative authority with respect to these effluents.

The Government of Nova Scotia has indicated to us that they may want us to assist them with scientific work. I have said to both Premier McNeil and to Premier MacLauchlan, whom I frankly thanked for bringing up this issue and for raising public attention, if we can offer any support as the Government of Canada to that process or bring greater transparency and reassurance to the fish harvesters that I know you speak to, it would be a privilege for me to do so.

• (1610)

[Translation]

#### PROTECTION OF ATLANTIC SALMON

**Hon. Percy Mockler:** The senators from New Brunswick certainly welcome you to the Senate as well, and I'm happy to see you in good health.

Minister, as you know, the Miramichi River has a problem. The numbers show an abundance of striped bass in its waters, which causes environmental problems and puts enormous pressure on wild Atlantic salmon. This ongoing problem has huge economic consequences for the people of the Miramichi. According to the Atlantic Salmon Federation and the Miramichi Salmon Association, this is an alarming situation that requires immediate action.



Minister, I know that you're aware of this phenomenon. Can you share your position? Does the department have a strategic management plan to fix this imbalance and to help protect the Atlantic salmon, the king of our rivers? Sport fishing is a big industry across Canada, and especially in the Miramichi. We look forward to hearing from you.

**Hon. Dominic LeBlanc, P.C., M.P., Minister of Fisheries, Oceans and the Canadian Coast Guard:** Thank you for your question, Senator Mockler. As I said the last time I had the privilege of being in this chamber with you, I remember canoeing with you on the Restigouche River to fish for salmon many years ago. I haven't had the chance to fish in the Miramichi River with you. If we do, it won't be in a canoe.

You raise an important question. We need to not only protect Atlantic salmon, a species vital to the economy of our province and of Atlantic Canada, but also increase its population. We need to look into conservation methods, with international partners if need be. For example, I discussed this issue with the minister from Greenland when he was visiting Shediac. We have a lot of work to do to protect Atlantic salmon. That being said, I am not denying the importance of this issue or the fact that everyone in our region and across the country wants to do this.

As for striped bass, you are right: they are abundant. I see that on the docks not far from where I live, and I hear my cousins talking about the presence of striped bass, especially in the Miramichi River. When I became minister, I was appalled to learn that the scientific information we were using was several years old. In the last little while, we've made decisions on the recreational striped bass fishery and on the possibility of opening a commercial striped bass fishery for indigenous groups, among other things. We made many of these decisions based on obsolete scientific data, whereas the reality on the ground — or should I say, in the water — was telling us something else entirely different.

I will shortly be making decisions that will open up the recreational striped bass fishery — significantly, I hope — and these decisions will be based on new scientific data. I am going to do everything I can based on the data that will be provided to me, but at least it'll be much more valuable and current and will reflect the reality we are seeing in the water. Very soon, I hope to announce measures that will — as you so aptly put it, Senator Mockler — restore balance to the striped bass population and reduce its impact on Atlantic salmon. I intend to see if we can meet with the First Nations in the Miramichi River watershed to discuss the possibility of opening a limited commercial striped bass fishery, provided that this does not go against the scientific opinions that I haven't formally received yet. That would be one important way to achieve that balance. I have not yet received the document that will allow me to make these decisions, but I have reason to believe I'll be getting it soon.

[English]

#### PROTECTION OF CETACEANS

**Hon. Donald Neil Plett:** Minister, let me echo my leader's comments. Congratulations to you on your recovery, and thank you for being here with us today.

Minister, your proposed legislation, Bill C-68, bans the wild capture of cetaceans, save for some circumstances surrounding injury and rehabilitation. You have suggested in media interviews that Canadians massively support that principle.

Now, I have once or twice disagreed with Liberal policy, but this happens not to be one of those times. I agree with you on this one, minister. Clearly, we are moving in the right direction and I believe, on this provision, the government has struck the right balance.

However, there are those, including American activists and, quite frankly, closer to home here, Green Party leader Elizabeth May, who believe this measure should go much further, including preventing cetaceans from breeding while in human care, and preventing reputable, state-of-the-art aquaria from ever displaying cetaceans.

On the flip side, we heard from acclaimed veterinarian scientists and marine biologists who have said that there is no danger to allowing these social mammals to interact and to breed, nor is there any concern with allowing humans to view properly cared for cetaceans, as it has the ability to connect them with the cetaceans in such a profound way.

Minister, I do agree, but could you tell me whether you believe that the government has struck the right balance and how you came upon the decision to go in this direction?

**Hon. Dominic LeBlanc, P.C., M.P., Minister of Fisheries, Oceans and the Canadian Coast Guard:** Thank you, Your Honour, and thank you Senator Plett. Thank you for your comments with respect to supporting what I think is a balance that we have tried to strike with respect to amendments we introduced last week to the Fisheries Act.

I have taken note of the discussion in this place. Former Senator Moore and a number of other senators have, for some time, certainly captured the attention of our government with Bill S-203. It captured the attention of my predecessor as Minister of Fisheries and Oceans. I have talked to colleagues both from this place and from our house about how we get to that right balance.

Since we were presenting amendments to strengthen and modernize the Fisheries Act, I thought one of the things we could do, certainly, is to put the intention of what Bill S-203 was seeking to achieve into the Fisheries Act.

So we have done and allowed that. When the suggested amendments that will be studied in this place and in our house come before you, I would obviously welcome the insight and comments and experience that senators would have.

We thought we should leave an opportunity for a minister to authorize the taking of a cetacean in the case where the animal would be injured or in need of assistance or could be offered a chance to recover, so that would be a circumstance where an exception could be made.

But we think that the practice of taking cetaceans for the sole purpose of being kept in captivity should be ended. That's what we're seeking to do with respect to the Fisheries Act.

A number of provinces — mainly the Province of Ontario, of course, with respect to Marineland — have jurisdiction with respect to some of the practices that take place there. I am conscious not to impede on provincial jurisdiction around animals that may currently be held at facilities like that.

I was in British Columbia last week and I have taken note of the decision of the Vancouver Board of Parks and Recreation with respect to the Vancouver Aquarium.

My hope is that we can find the right balance. Should Bill S-203 come to our house, we would obviously welcome a chance to debate that as well in our place, but I would look forward to the suggestions and comments of senators when — and, I hope, soon — the Fisheries Act can be before you, and you can help us find that right balance.

#### IN-SHORE FISHERY

**Hon. Jane Cordy:** Minister, I would like to echo the comments made earlier. It's great to have you back on the Hill. I certainly wish you good health. Welcome to the Senate, again.

I want to acknowledge, minister, the recently introduced bill in the other place to amend the Fisheries Act. I am certain that our former colleague, Senator Moore, read the amendments with great delight and that he will be very pleased that it will now be illegal to capture whales, dolphins and porpoises in Canadian waters and keep them in captivity.

• (1620)

I want to ask you about owner-operator licences as they relate to the in-shore fishery in Atlantic Canada. As I understand it, the Department of Fisheries and Oceans has existing policies in place that require licence-holders in the in-shore fishery to actually operate the licence they are issued, so they will be obligated to be present on the fishing vessel. The thinking there being that the social and economic benefits of the in-shore fishery are to remain in the community where the licence has been issued.

Given that the policies already exist, why did you feel, minister, that it was necessary to bring forward the legislative authority to entrench these policies into law?

**Hon. Dominic LeBlanc, P.C., M.P., Minister of Fisheries, Oceans and the Canadian Coast Guard:** Thank you, Senator Cordy, for your question. With respect the owner-operator fleet separation policies, you're right: They have been a cornerstone of the successful economic independence of in-shore and mid-shore fish harvesters in Atlantic Canada and Quebec. These policies have existed for probably 40 years.

Our view is that, at various times, various governments of all political stripes haven't been as rigorous in applying and enforcing these policies as consistently as perhaps they could have been. There are a series of reasons why different corporate interests or different fish harvesters themselves at various times probably found themselves in what are commonly known as controlling agreements or trust agreements. That would say that the directing mind of the fishing enterprise is not the individual

woman or man who is the licence-holder but that it's indirectly driven by a fish-processing company or some other corporate interest.

I represent a series of small coastal communities with hundreds of in-shore lobster and snow crab fishers. There is no doubt that if you allowed one or two companies to own all of those licences, over time, the economic impact in those communities that depend on those harvesters would be significantly eroded.

We thought there was an opportunity to say that clearly in the legislation — and we look forward to the views of parliamentarians on this — that the minister can take into account social, economic and cultural factors when making decisions around licensing and allocations. It's existed since the Fisheries Act was first passed one year after Confederation — the first Fisheries Act was passed in 1868. Those factors have always motivated ministers of all political parties who have had the chance to hold the job I have. We thought we should be clear in saying that is a purpose of the legislation, and that the Governor-in-Council can make regulations following that purpose in the legislation to strengthen the application and the enforcement of these principles.

Senator Cordy, this has been something that representatives of the 72,000 people who earn their living directly or indirectly from fish harvesting have asked governments to do for many years. When I spoke in the other place earlier this morning on the Fisheries Act, many of the elected representatives of these harvesters were sitting in the gallery.

I think this measure is something that is long overdue. We can tell the women and men who depend economically on these resources that we're taking steps to strengthen their independence and to ensure that their sons and daughters will also be able to benefit from those public resources the way that perhaps they, their parents and grandparents have as well.

#### MI'KMAQ FISHING RIGHTS

**Hon. Dan Christmas:** It's good to see you in good health, Minister LeBlanc.

Minister, as you know, for the past 18 years, there has been a simmering dispute around Mi'kmaq fishing rights in Nova Scotia, particularly regarding the lobster fishery. Despite such rights having been affirmed by the Supreme Court of Canada in 1999 in the *Marshall* decision, at that time, the court affirmed Mi'kmaq rights to obtain "moderate livelihood," the modern equivalent of trading for necessities in respect of the fishery harvest.

Mr. Minister, can you please share with the chamber the status of the negotiations undertaken by your representative since his appointment last fall? Can you also indicate the nature and the outcome of discussions he has had with both the negotiating table in Nova Scotia and with the Assembly of Nova Scotia Mi'kmaq Chiefs?

**Hon. Dominic LeBlanc, P.C., M.P., Minister of Fisheries, Oceans and the Canadian Coast Guard:** Thank you, Senator Christmas, for your question. You have highlighted an issue that is of huge importance to me personally but also to all Canadians:

the respect of indigenous rights. The governments — and I say governments, plural, because in my case, it will be the respect of the Mi'kmaq Maliseet and Passamaquoddy fishing rights on our coast — but Canadians expect governments across the country to begin by recognizing indigenous rights guaranteed in the Constitution and working in good faith with indigenous peoples to make these rights meaningful.

One of the things that is hugely important is to work with the Mi'kmaq of Nova Scotia but with Atlantic Canada as well in making the *Marshall* fishing rights the Supreme Court correctly identified almost 20 years ago real for the people whose livelihoods depend on it.

We have had considerable success, Senator Christmas. Previous governments, Conservative and Liberal, have achieved some success over that period. In our view, it's not enough. We aren't where we need to be. I have shared that with the Nova Scotia chiefs. With Jim Jones, whom I appointed as lead federal negotiator, I had a remarkable two- or three-hour session in Truro with the Assembly of Nova Scotia Mi'kmaq Chiefs, where we discussed very openly practical ways we can make quick and meaningful progress for their communities.

The lead federal negotiator, Jim Jones, has had a number of meetings. I'm seeing him again at the end of next week for an update. I am personally staying involved with him. He has met a number of indigenous communities.

Basically, what we're saying, senator, is "Tell us what your community wishes to achieve in terms of access to commercial fisheries: What is the preferred method you want to use? How do you want to bring together different vessels and different fleets?" It's a totally flexible approach, where we can say to different communities that want to focus on different species, "How can we partner with you, acquire commercial access that will in fact augment the economic benefits to those communities and also work with you on other economic opportunities that will benefit the Mi'kmaq nations of your province and around Atlantic Canada?" It's marketing and the processing of many of these species.

I am always reassured by the success stories I hear of indigenous communities deciding to participate constructively and positively in the commercial fishery. I just think I need to do everything I can as minister to make sure the national government accompanies these people on this important journey.

[Translation]

**The Hon. the Speaker:** Senator Forest, there are two minutes remaining in Question Period.

#### MARINE INFRASTRUCTURE

**Hon. Éric Forest:** I am going to talk quickly, like a true native of the Gaspé. Minister, I am very happy to welcome you here. According to the 2016-17 public accounts for the small craft harbours program, which includes the small craft port divestiture program, your department spent \$296.2 million of the \$313 million allocated. That leaves \$17 million in unused credits. Yesterday, we saw that the funds allocated to infrastructure in the Supplementary Estimates (C) 2017-18 were cut.

Minister, how can you reconcile those two situations? On one hand, you clearly said during your visit to the BioMarine conference in Rimouski — which was very appreciated by the way — that projects such as the Rimouski and Matane ports were priorities and that you were waiting for the necessary credits to be allocated so that they could be carried out. On the other hand, we can see that your department did not use all of the credits it was allocated. I believe that this is a matter of efficiency and credibility. The department has unused credits and there are very important projects waiting to be carried out.

**Hon. Dominic LeBlanc, P.C., M.P., Minister of Fisheries, Oceans and the Canadian Coast Guard:** Thank you, senator, for your question. You are right. We had an opportunity to discuss this when we were both in Rimouski. I also had the opportunity to talk about it with your colleagues in that beautiful region of Quebec, with my House of Commons colleagues, and with the provincial minister. Minister Lessard, Minister D'Amour and I have also talked many times about the importance of investing in the projects that you just mentioned. There is no doubt that large budget allocations have been made at certain points over the years. With regard to the federal budget, the money was allocated two years ago. No significant additional investments were made last year. As a result, the credits that we spent over the past fiscal year were those that, in some cases, were allocated in previous years, which includes, I have to admit, the period when the former Conservative government was making rather significant and reassuring investments in ports and infrastructure. That is a tradition, Senator, that I intend to continue. Approximately one hour ago, during question period in the House of Commons, we announced that the next federal budget will be introduced in two weeks. I want to continue our investments, including those in the port project that I discussed with you and my counterparts in Quebec. I hope to have good news in the coming weeks and months.

• (1630)

With your indulgence, Mr. Speaker, I believe that was the last question. You indicated that Question Period was coming to a close, but there is still something that I want to tell you, Mr. Speaker.

[English]

When I had the chance to join the cabinet after the election of 2015, the Prime Minister asked me to be the government house leader. One of the things I quickly did was meet with the leadership of the Senate and discuss how we could creatively come up with ideas where the government could be present in your chamber to offer views on policies and answer questions from senators on policies, legislation and expenditures. I had the privilege of working with your then leadership in what was an experiment to have elected ministers invited to be on the floor of your chamber to answer questions from senators.

This is the second time I've had the privilege of doing this. It is an enormous privilege. I don't pretend to speak for all of my colleagues, but I haven't heard one of my cabinet colleagues say that it wasn't an interesting and positive experience.

I want to say to some of the senators who are here and who worked on this project with me two years ago that I'm proud of the small role I played on bringing elected ministers to your chamber. I hope, Your Honour, that you and your colleagues continue this tradition. It's certainly something that my cabinet colleagues enjoy. Maybe I'll be invited back sometime.

[Translation]

#### BUSINESS OF THE SENATE

**The Hon. the Speaker:** Honourable senators, the time for Question Period has expired. Thank you very much, Minister.

[English]

### ORDERS OF THE DAY

#### FISHERIES AND OCEANS

##### COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to proceed to Motions, Order No. 296:

**Hon. Fabian Manning,** pursuant to notice of February 6, 2018, moved:

That the Standing Senate Committee on Fisheries and Oceans have the power to meet on Tuesday, February 13, 2018, at 5 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

He said: Basically, I asked for this because it's 4:33 p.m. and we're a few minutes away from the possible start of the committee meeting.

Quickly — now that it's 27 minutes away from what I'm asking for — the purpose of our meeting this evening is to continue the committee's comprehensive study on maritime search and rescue. The meeting is particularly important because it will be the first committee hearing devoted to the provision of maritime search and rescue in the Canadian Arctic, a vast, remote region where there are no dedicated search and rescue assets operated by the Canadian Coast Guard or the Canadian Air Force to respond to distress at sea.

Two expert witnesses have been invited to participate at this meeting. One is a professor of political science at the University of British Columbia with expertise on Arctic sovereignty, climate change and the Law of the Sea. He will appear through video conference.

The other witness is a researcher from the Toronto area with expertise in climate change and its impact on search and rescue incidents in Canada's Arctic. He has travelled here today and is in Ottawa this evening, prepared to meet with the committee in a very short period of time.

[ Mr. LeBlanc ]

I understand this is a bit out of the ordinary, honourable senators, but I ask for permission to do so.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

#### AGRICULTURE AND FORESTRY

##### COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

**Hon. Diane F. Griffin:** Honourable senators, with leave of the Senate and notwithstanding rule 5-5(a), I move:

That the Standing Senate Committee on Agriculture and Forestry have the power to meet on Tuesday, February 13, 2018, at 5 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

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

**Hon. Senators:** Agreed.

**Senator Griffin:** Honourable senators, this particular meeting involves out-of-province witnesses — two from out of province and one from an Ontario university. The other two are from prairie universities. We have these three scientists that we've already postponed once, and we're ready to hear them this evening. This is regarding our study on climate change that we're trying to wrap up in the very near future.

It's a difficult time to have meetings at 5 p.m. on Tuesdays, but we have the unfortunate circumstance of being one of those committees. I request your patience in terms of granting us this permission so we can get on with this work.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

#### 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.

**The Hon. the Speaker:** We are now returning to debate on Bill C-45.

Senator Omidvar, were you finished your question? You asked a question when we left debate.

**Hon. Ratna Omidvar:** Yes, thank you.

Other than when I left the facility, Senator Harder, I had a terrible headache because of the fragrance in the facility, which was kind of overpowering, but it was a very instructive visit.

**Hon. Paul E. McIntyre:** Honourable senators, I rise today to speak briefly on second reading of Bill C-45. My speech today will focus on two issues. The first issue will focus on Canada's international treaties obligation relating to marijuana, and the second on tobacco versus marijuana-related health effects and health care costs.

First, the fate of Canada's participation in three international drug control treaties. Specifically, the legalization of marijuana in Canada would put our country in contravention of three United Nations treaties to which we are currently a party: the 1961 Single Convention on Narcotic Drugs, the 1971 Convention on Psychotropic Substances, and the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

It is important for our country to respect our international commitments in regard to combating climate change and in the context of our international human rights obligations. However, in the context of marijuana legalization, we simply do not know how the current government intends to reconcile Canada's participation in these drug control treaties with the legalization of marijuana.

[Translation]

Bill C-45 was tabled in the other place last April. In the meantime, the government could have laid the groundwork for our participation in three United Nations treaties, and yet, after all this time, we still do not know how the government plans to address Canada's imminent violation of these three international treaties.

[English]

We know that the government is certainly aware of this situation. During separate appearances in Senate Question Period in March 2017, both the Minister of Foreign Affairs and the former Minister of Health confirmed to all honourable senators that the government's plan to legalize marijuana will put Canada in violation of these treaties.

• (1640)

Both ministers also confirmed that they had discussed this very matter. However, almost a year later, we still do not know what the government's plans are in this regard.

Will Canada pull out of these treaties completely? Will Canada end its participation in them, and then somehow try to negotiate a re-entry, if possible? Will Canada do nothing and remain a member of these treaties while knowingly breaking them? Again,

we do not know. The current government has provided no insight to either Canadians or our international partners as to what it will do.

What the government is signalling is clear, however. It will abide by international legal norms until it is no longer deemed fashionable to do so.

[Translation]

Honourable senators have heard in the media and elsewhere that the federal government wants to legalize marijuana by July 1. I would point out that Health Canada's consultation paper on regulations arising from Bill C-45, which was published in November, states the following:

Subject to the approval of Parliament, the Government of Canada intends to bring the proposed Cannabis Act into force no later than July 2018.

[English]

Canada could withdraw from these three treaties without violating international law by first providing advance notice of its intention. Under Article 46 of the International Drug Control Conventions, if a notice to withdraw from a treaty is received by July 1 in any given year, it takes effect on January 1 of the following year. If a notice is received after July 1, it takes effect as if it had been received on or before the first day of July in the succeeding year.

To my knowledge, the Government of Canada did not provide any such a notice in 2017, either before or after July 1. Therefore, Canada will be in violation of these three international treaties when Bill C-45 passes this year, and our country's integrity on the world stage will therefore be compromised.

[Translation]

The International Narcotics Control Board, the INCB, has commented on the federal government's marijuana legalization process with respect to our country's international obligations. In its 2016 annual report chapter on Canada, the INCB indicated that the non-medical use of cannabis is inconsistent with United Nations conventions limiting the use of narcotics to medical and scientific purposes.

[English]

With respect to Canada, page 31 of the International Narcotics Control Board's 2016 annual report goes on to state:

The limitation of the use of drugs to medical and scientific purposes is a fundamental principle that lies at the heart of the international drug control framework to which no exception is possible and which gives no room for flexibility. The Board urges the Government to pursue its stated objectives — namely the promotion of health, the protection of young people and the decriminalization of minor, non-violent offences — within the existing drug control system of the Conventions.

Honourable senators, I look forward to how the government intends to address the matter of our international obligations, along with all of the other outstanding issues surrounding the legalization of marijuana.

The next issue I wish to focus on regarding Bill C-45 concerns public health as it relates to cannabis and tobacco, but is more specifically directed at health care costs.

First of all, we all understand the harmful health effects, both in the short and long term, of cannabis and tobacco. In 2005, Health Canada estimated that tobacco-related conditions cost the Canadian health care system \$4 billion a year. The year was 2005; I'm confident the costs are much higher on today's date, 13 years later.

[Translation]

According to a Conference Board of Canada report prepared last year for Health Canada's Tobacco Control Directorate, direct health care costs attributable to smoking in Canada were more than \$6.5 billion in 2012. The report also states that an estimated 45,400 deaths are attributable to smoking in Canada every year and costs of tobacco use were \$16.2 billion in 2012. The shortfall resulting from smoking-related morbidity and premature death is estimated to be \$9.5 billion, and the cost of a short or long term disability has risen to \$7 billion. These troubling figures illustrate the harsh reality of the negative impact of tobacco on human health.

[English]

The biggest civil legal settlement in U.S. history was the 1998 Tobacco Master Settlement Agreement, or MSA, with the U.S. tobacco giants, by which the companies agreed to pay \$206 billion to 46 state governments and four U.S. territories, the Commonwealth of Puerto Rico and the District of Columbia over 25 years. In addition, the tobacco industry was forced to make other concessions regarding how cigarette advertising and other products were targeted at youths, which was meant to decrease smoking nationwide.

In Canada, on the one hand, the federal government intends to legalize marijuana, and on the other hand, every province and territory has launched lawsuits against a number of tobacco companies to recover health care costs related to tobacco products, and are seeking to recover billions of dollars in damages. The lawsuits are ongoing.

As we are told by the federal government, the purpose of the Cannabis Bill is to protect public health and public safety, particularly for our youth. Where is the logic? Who is going to pay for the long-term effects of marijuana? Will every province and territory, as is the case with tobacco companies, launch a series of lawsuits to recover health care costs?

Granted, on July 29, 2011, the Supreme Court ruled that the federal government cannot be held liable in lawsuits directed at recovering smoking-related health costs from tobacco companies. However, by legalizing marijuana, this could change the lawsuit scenario concerning health care effects and health care costs.

[ Senator McIntyre ]

On Tuesday of last week, before the Committee of the Whole, Senator Carignan raised this issue with three cabinet ministers, asking them if they had obtained any legal opinion regarding the risk of class action lawsuits against the federal government, which ultimately will be held responsible for the legalization of marijuana, and against other shareholders responsible for its production and distribution.

The cabinet ministers didn't give a direct answer to Senator Carignan's question, preferring to fall back on the government's compliance with the act and assuring all senators that there are warnings and appropriate packaging about the health risks, along with public education and communication campaigns.

Honourable senators, it is never too late on the part of the federal government to seek expert legal opinion on this matter as the risks of class action lawsuits against the federal government and other parties concerned are real. Particularly given the rushed timeline of the proposed legalization and the coming into force, said by the Minister of Health to be eight to twelve weeks later, the government should ensure it has thoroughly examined the legal risk of Bill C-45.

(On motion of Senator Martin, debate adjourned.)

• (1650)

## STRENGTHENING MOTOR VEHICLE SAFETY FOR CANADIANS BILL

BILL TO AMEND—AMENDMENTS FROM COMMONS  
CONCURRED IN

On the Order:

Resuming debate on the motion of the Honourable Senator Harder, P.C., seconded by the Honourable Senator Ringuette:

That the Senate concur in the amendments made by the House of Commons to Bill S-2, An Act to amend the Motor Vehicle Safety Act and to make a consequential amendment to another Act; and

That a message be sent to the House of Commons to acquaint that house accordingly.

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

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

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

On the Order:

Resuming debate on the motion of the Honourable Senator Wetston, seconded by the Honourable Senator Cormier, for the 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.

And on the motion in amendment of the Honourable Senator Massicotte, seconded by the Honourable Senator Christinas:

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. André Pratte:** Honourable senators, this amendment was not tabled in a spirit of confrontation with the government. As Senator Harder stated in his speech last Thursday, the government and the promoters of the amendment share the same goals. I acknowledge, without any hesitation at all, that the government has listened to us, that there has been dialogue and that we worked together in good faith to try to find common ground. Unfortunately, we were not able to bridge the gap.

It is not impatience that leads us to disagree with the government on this point. It is not that we believe their approach will be too slow to produce results; we think it will not get us there at all. For I ask you to reflect on the countless times in history when groups facing discrimination were asked to be patient, to wait a few years until time, the natural course of events, would set things right. Generations have waited in vain.

Senator Harder invited senators to consider whether amending Bill C-25, as Senator Massicotte proposes, goes beyond the circumspect approach that should be that of the Senate, being a complementary chamber to the House of Commons. The Government Representative said:

... I question whether this amendment to Bill C-25 reflects a measured and judicious approach to our relationship with the other place.

Senator Harder does raise a very important question, one that will be or should be at the centre of our discussions on Senate modernization: What is the role of the upper chamber, in its new composition, as regards government legislation?

I will obviously not attempt to answer this question today, but I have given some thought to how it applies to the bill before us. What is our role as senators? Should we try to amend every detail of every bill that we believe can be perfected? To substitute our policy choices for the government's every time we believe a

minister is on the wrong track? Of course not. The Senate is not appointed to govern. The people in the other place have a mandate from Canadians to do that.

However, one of our duties as senators is to protect Canadians' fundamental rights, particularly minority rights. In my view, this goes beyond simply ensuring that a bill conforms to the Charter. And this is where, I believe, we have a role to play with Bill C-25.

Business corporations have for decades ignored the rights of women, indigenous people, persons with disabilities and members of visible minority groups. For decades they have shut boardroom doors to these people and locked them out of executive offices.

Twenty-two per cent of Canadians belong to a visible minority, yet a mere 4 per cent of FP500 companies' board members are visible minority persons. Visible minorities constitute half of Toronto's population. Only 7 per cent of senior leadership positions in Toronto's private sector companies are occupied by persons belonging to a visible minority.

Senator Wetston is right when he says that there has been some progress regarding the representation of women. Last year, as he mentioned, 26 per cent of the persons appointed to boards of TSX issuers were women. However, I am not sure we should get excited about this because it means that at a time when corporations are supposed to do their utmost to appoint women to their boards, they chose men 74 per cent of the time.

As for the place of women in executive positions, recent progress has been glacial. In 2015, 40 per cent of TSX issuers had no women in an executive position. In 2017, that percentage had gone down only 2 percentage points, to 38 per cent.

Innovation Minister Navdeep Bains often points to the experience of the U.K. as proof that the "comply or explain" model is working:

In the U.K., when they brought it in 2010, they had about 12.5 per cent of women sitting on boards, and that number went up to 26 per cent in 2015.

That's true, but let's look beyond the headlines. After a few years of rapid progress, things have now slowed down in the U.K. In 2017, the percentage of women on boards of the FTSE 100 companies was 27.7 per cent, an increase of less than 2 percentage points in two years. And if women are somewhat more present on U.K. corporations' boards, they remain a very small minority in executive positions. For instance, six years ago, five of the FTSE 100 companies were led by women. Last year, that number had grown to six.

Bill C-25 fails underrepresented Canadians because it adopts an approach that has been proven not to work, in the case of women, and opts for the same unsuccessful approach for other discriminated-against groups.

Colleagues, this bill is not only "a technical piece of legislation," as Senators Carignan and Harder would have it. Bill C-25 involves the fundamental rights of thousands of Canadian women, indigenous groups, visible minorities and persons with

disabilities who pursue careers in business. They have been discriminated against at the top tier of Canadian corporations for decades. There is an injustice to redress, and unfortunately, the government has adopted a laissez-faire policy. The Senate of Canada is perfectly within its rights to intervene. As a matter of fact, it is its duty to do so.

[Translation]

When the fundamental rights of Canadians are at stake, the Senate is compelled to act. Such is the case here. The rights of women, indigenous people, people with a disability and members of visible minorities, which are all under-represented on corporate boards, have been denied for decades. It is time to fix that. Bill C-25 is woefully inadequate. In light of this, not only does it fall within the purview of the Senate to intervene, it is in fact the Senate's duty to do so.

As Senator Harder explained, one of the tenets of the comply-or-explain model is to "let the market decide whether a set of standards is appropriate for individual companies." I am a great believer in the virtues of free enterprise when it comes to economic development and innovation. However, history has clearly shown that, when it is a matter of social justice, we cannot count on the free market.

It is true that several studies have shown that greater diversity within senior management improves a company's financial performance, which is why many people believe that if the state were to leave businesses alone, which is what the government wants us to do, they would diversify their boards on their own for the simple reason that it is good for business. However, considering the recent results of the comply-or-explain policy in Canada and the United Kingdom, neither bosses nor shareholders really believe that such a causal link exists between diversity and profitability, or they don't believe strongly enough to overcome their prejudices.

[English]

During the discussion on the amendment last week, Senator Stewart Olsen asked very relevant questions about the corporations' reporting obligations under the Massicotte amendment: Will anyone actually look at the results? Who will report and to whom? If they don't meet their targets, what happens?

This brings me to the other important feature of Senator Massicotte's amendment: the reporting mechanism.

• (1700)

Of course, corporations will first report on their numerical goals and on their progress to their shareholders. Companies will send the same information to the relevant department. These reporting obligations are the same as what is required by the current version of Bill C-25. The argument that Senator Massicotte's amendment would impose a considerable administrative burden on corporations is not valid.



The government believes that reporting to shareholders is sufficient, that, as Senator Wetston said, shareholders:

... can and they should encourage a change in culture that is both meaningful and sustainable.

Unfortunately, this is not what we have witnessed up until now. Truth be told, shareholders are rarely agents of social progress, but public opinion can be. This is why the amendment that we have before us adds a step to the reporting regime. The act would require the department to compile the data received from corporations and, each year, publish a report on the progress achieved. I underline that there would be no additional burden on the corporations' shoulders; this additional step only concerns government.

Senator Stewart Olsen was worried that this may mean more bureaucracy. Let me reassure you all: There are only 700 publicly traded corporations covered by the Canada Business Corporations Act. Compiling this data will not be an overwhelming task.

However, this simple annual report will serve to alert public opinion on the state of diversity at the top of publicly traded corporations in the country. If diversity targets set by the corporate sector are too low, or if progress is too slow, Canadians will urge companies to do better.

Also — and this point is crucial — nothing will be dictated. Companies will remain absolutely free to appoint whom they wish to their boards and to executive positions and to have 10 per cent, 33 per cent, 50 per cent or 0 per cent of persons of the designated groups as part of their senior leadership.

Honourable senators, the government has let us know that they are not favourable to this amendment. They want us to conclude that amending the bill is futile, that if we send the amended bill to the other place, the House will reject the amendment and send the bill back. So why waste our time?

But think about this for a minute. Are we to sit on our hands each time the government signals that it will not budge from its position? Are we to amend the legislation only when the government authorizes us to do so?

I think not. If we believe that the government has failed in its duty to protect and promote the fundamental rights of Canadians, we must stand up and say so. Not because we want to defy or embarrass the government, not because this new Senate is keen to assert its power, but because it is — it has always been — the Senate's role and obligation. If we don't do it in cases where minority rights are at play, I ask you: When will we?

When I arrived in this chamber nearly two years ago, the moment that impressed me the most was my first standing vote. Shortly after that, when we voted on proposed amendments and then at third reading on Bill C-14, the medically assisted dying bill, I realized the extraordinary responsibility that comes with being a legislator and with each vote. When you decide to stand or to stay put, you sometimes literally decide the fate of thousands of Canadians. At this exact moment, whatever the details of the bill before you and the work you have done to

understand its intricacies, you are guided by your values and your fundamental principles, by your answer to the questions: What is my purpose in the Senate? Why am I here?

My answers to these questions, like yours, I am sure, is multifaceted. But, first and foremost, I came here hoping to contribute to the protection and the promotion of Canadians' fundamental rights, especially those of minorities and under-represented groups. This is the lens through which I examine each and every piece of legislation that comes before us.

After weighing the pros and the cons of Senator Massicotte's amendment, it comes down to these fundamental questions: What is the Senate's *raison d'être*? Is it for the government to decide when the Senate should or should not amend the bill? If the Senate stays silent when the right to equality of thousands of Canadians is at stake, why are we here?

[Translation]

Just like each and every one of you, I have felt quite conflicted when faced with a number of votes like the ones we will be called to make later today and in the next few days: on the one hand, there is the government's legitimate agenda, and on the other, the role of the Senate according to the Constitution, conventions, and Canadians' expectations. There is also the question of our role in the Senate. Why are we here? The Prime Minister certainly did not appoint us simply to blindly pass government legislation. One thing is for certain, the Senate has a duty today as it always has to protect the fundamental rights of Canadians. That is the main reason I answered Mr. Trudeau's call. If I were to support Bill C-25 as is without trying to improve it to better protect the right to equality of women, indigenous peoples, the disabled, and visible minority Canadians who work in the business world, I would be betraying my purpose for being here among you.

[English]

Friends, either later today or in the next few days, when the Speaker calls the vote on Senator Massicotte's amendment, at this moment when we will all reflect whether we stand with the yeas or with the nays, I think we must ask ourselves: Why are we here?

**Hon. Elizabeth Marshall:** Would Senator Pratte take a question?

[Translation]

**The Hon. the Speaker pro tempore:** Senator Pratte, would you like five more minutes?

**Senator Pratte:** Yes, five more minutes please.

[English]

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

**Hon. Senators:** Agreed.

**Senator Marshall:** While you were speaking Senator Pratte, I was looking at the amendment again, and it references numerical goals in terms of quotas. I noticed that some of the phrases you were using were things like protecting fundamental rights and minority rights. How do you reconcile that with the rights of shareholders?

You mentioned publicly traded companies. Shareholders have invested significant amounts of money in this company to operate it. Why shouldn't they be the ones to choose who should serve on the board of directors? Why should governments step in with an amendment like this and say, "Okay, you've got to have quotas now to have people from the designated groups?"

I thought that Senator Dyck had a very interesting question last week when she talked about an Aboriginal company and they wanted all Aboriginals on it. They didn't want to go with the four groups. How do you reconcile these rights of the four designated groups with the rights of shareholders who own the company? These are the owners of the company. Why should these quotas overrule the rights of shareholders?

**Senator Pratte:** That's a very important question.

These are not quotas. What we require from these companies is that they determine a numerical goal for these four under-represented groups, but they are free to determine what the goal is. In the case of Senator Dyck's question, they could decide, if they want all members of the board to be indigenous, that it would be zero for other visible minorities, for instance, because the circumstances of that particular company require that they are all Aboriginals.

So the companies would be free, depending on their circumstances, to determine their numerical goals for these four groups.

What is important is that they set numerical goals because it has been demonstrated that when companies determine numerical goals, they perform much better. If they say, for instance, "In three years, we will have 33 per cent of women on our board," companies that do that have better success in having more women on their boards than when they have a general policy of saying, "We will have more women on our boards."

When you have targets, you achieve better results, but we leave companies totally free to determine those targets. It could be zero, depending on the circumstances of the companies.

• (1710)

**Senator Marshall:** But the fact is that once you establish the goals, they are, in effect, quotas. With the very fact that there is a goal set, there is an expectation that the company has to achieve that goal. It is very unrealistic to think they are going to set a goal of zero; there is going to be an actual number that company has to work toward and then report back on.

I just find this amendment to be very intrusive into the operation of a company. If I had a significant amount of money invested in a company and then the government told me who I have to put on the board, because basically that's what is happening, I would find that to be very intrusive. This is being

put forward as though it's good for business, as though there will be better business results. I think the shareholders should be the individuals who come to that conclusion. I have been at shareholders' meetings where shareholders have actually gotten up and said, "Where are the women? Where are the women who should be on this board?"

I just find this is very intrusive, and I don't think you can reconcile what you're saying with regard to the goals. They don't have to reach the goals; they just have to have goals. I find that's sort of glossing over.

This is very intrusive into publicly traded companies, and you haven't convinced me to support it, so I must say I have a problem with this.

**Senator Pratte:** What you're saying actually goes directly to our point. Companies will determine their own goals. The reason they would feel obligated to have, let's say, a goal higher than zero in many cases is because, socially, it would be unacceptable for a company to say our goal is 10 per cent of women in five years, because they know that's unacceptable, right?

[Translation]

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

[English]

Are there any other questions? Senator Lankin, on debate.

**Hon. Frances Lankin:** Honourable senators, I rise today to speak in favour of Senator Massicotte's amendment.

Before I begin my remarks, I want to pay tribute to Senator Wetston and the work he has done as sponsor. More important, though, is the work he did in his leadership on the issue contained within this amendment of diversity when he was Chair of the Ontario Securities Commission. It was leading-edge work to bring the "comply or explain" policy forward at that point in time. Other provincial jurisdictions have come since. That was a remarkable first step. It was groundbreaking, and it was important. So I pay tribute to the work that he has done.

I want to speak today on a couple of issues. First, I want to start with what this amendment does. With great respect, Senator Marshall, I couldn't disagree with you more. Too many people in this chamber and outside it are using words like "quotas" and "legislated targets." That implies government telling boards of directors who they must have on their board. A "comply or explain" approach says, "You must have a policy on diversity that includes targets for gender and for broader diversity groups, as set out in the Employment Equity Act, and you must report on it so that we can look at progress along the way."

Already in this legislation, corporations will be compelled to report on their diversity policy or explain, if they don't have it. But they have to report on that in their annual reports to their shareholders. Those reports would have to be submitted to a place in government for tabulation.

There is nothing in this that tells a corporation how many women they have to have on their board or how many members from any diversity group they have to have on their boards. To suggest that it does is simply wrong; this isn't a disputable point.

I hope that we will actually have the debate and a vote on the actual impact of this amendment.

If a board doesn't have a diversity policy, even if they are currently falling under the policy guidelines and rules of the Ontario Securities Commission, some have not gone so far as to put a policy in place. It is not something you can see, across the board, as having been successful. Where it has been quite successful is with the larger companies. That's really good. It has been successful there, not just in and of itself, but because our attention, knowledge and understanding of the importance of diversity in decision making has come so far along the road, and it has become much more accepted in the corporate sector.

I want to give you an example. I am on a publicly traded board and a Crown corporation board in the province of Ontario. They have established a quota that you have to get to: 40 per cent or more women. That's just on gender diversity. That's the public sector. That's not a situation where, as Senator Marshall points out very importantly, you have responsibilities to shareholders. It is not a circumstance where it takes into account what the market sector is, the geographic considerations or the community makeup. That's just a blanket approach.

The public sector has tended to go in that direction, and it works.

We're talking about publicly traded corporations here. We're not suggesting that approach would work. We're not suggesting giving a quota or setting a number, and we are not suggesting one approach for all corporations. We are suggesting that each corporation needs to take this seriously, needs to have a policy and needs to look at their own market sector, geography and community makeup, and respond to that.

I mentioned I'm on a publicly traded board. On that board, which is one of the largest utilities in the energy sector in transmission and distribution, we have a diversity policy. It may interest you to know that in that diversity policy, we have a target for gender representation on our board. That target is 40 per cent. Some of you may know about the 30 per cent group, where corporations have been signing up one after another to become part of a group that has committed itself to 30 per cent gender representation on their boards. We joined that; we belong to that. But we surpassed that. Our goal is 40 per cent, and, by the way, we have more than 40 per cent women on our board.

That's a very large corporation. You'll find that in some of the other large corporate sectors as well.

When we take a look at these issues with respect to other groups, our corporation, for example, would take a look at indigenous peoples as a very important constituency. Many of our holdings and ownings cross indigenous lands, and there are relationships that need to be developed. Understanding and having that perspective at our board table strengthens our deliberations.

That would be an important focus for us in terms of the communities and stakeholders we serve.

A mining company has very different realities to face than something like an energy company, a bank or an insurance company, for example.

One of the things I was interested to see in this past week in the board book for that particular corporation was an update on hot issues in governance. We do this all the time so that our board members are apprised of the latest debates, discussions or determinations around various issues. On this particular issue, they referred to advancements on diversity policies that have happened. There is an analysis of whether it would have an effect on our board.

Senator Wetston spoke to this, but I want to speak to it as well, because in light of the discussion we're having, this needs to be understood. If we're talking about shareholders' rights, shareholders often look to advisers on their investments. These organizations are quite powerful.

I want to speak to two of them. One is the Institutional Shareholder Services, ISS. They describe themselves as the global leader in corporate governance and responsible investment.

• (1720)

As Senator Wetston pointed out, starting in February 2019, ISS will recommend a withhold vote against the chair of a nominating committee where a company has not disclosed a formal written gender diversity policy and there are zero female directors on the board. That's the investor community advising shareholders not to vote for the chair of a nomination committee if there isn't a diversity policy that has been disclosed and if there are no women on the board.

I also want to make reference to the second example that Senator Wetston raised, and that was Glass Lewis. They purport to be a leading independent provider of global governance services helping institutional investors. They have teams in the U.S., Canada, Europe and Asia-Pacific. It's a global company. They have policy advice and clients in multiple countries around the world.

I would like to read from their own policy statements and circulars. This is with respect to diversity. They say:

In 2018, we will not make voting recommendations solely on the basis of the diversity of the board; rather, it will be one of many considerations we make when evaluating companies' oversight structures. Beginning in 2019, however, Glass Lewis will generally recommend voting against the nominating committee chair of a board that has no female members, or that has not adopted a formal written gender diversity policy. Depending on other factors, including the size of the company, the industry in which the company operates and the governance profile of the company, we may extend this recommendation to vote against other nominating committee members.

I am a member of the nominating committee on the board I'm on, so I pay attention to that. Will that have an impact on our board and our analysis? Absolutely not, because we already surpass a 40 per cent number. We have a diversity policy which the board reviews and renews every year. It's an annual commitment to reviewing and renewing that policy.

Companies are moving in this direction already. Institutional investment and shareholder investment advisers are making it clear that there must be a policy and there must be progress, and, if not, they will take steps.

I don't think what is being recommended is radical. I don't think it's intrusive because it does allow for every corporation to make their own decision. And even as Glass Lewis says, they will look at each company and understand the market and the geography they are in. They will take those things into consideration.

Now we're saying corporations can take that into consideration, can modify and maybe downgrade, where necessary, representation from certain groups if that's not appropriate in their market.

Glass Lewis is actually saying the opposite. They will look at that. If they think they should be tougher, they may recommend against the election of more than just the chair of the nominating committee, but members of the nominating committee.

It's not just these organizations when we see all of the research that is done that says diversity brings strength to corporations and to decision-making, cognitive diversity and other kinds of diversity. If you have ever been to an ICD meeting — every two years they have a meeting — you will know this has been talked about over and over, there and in governance conferences around the world.

When the OSC was contemplating the measure that Senator Wetston and his leadership team and board brought at that point in time, many people were asked to weigh in. I was on the board of the Institute of Corporate Directors at that time. That's a voluntary board. ICD, as many of you will know, provides board director education. I'm a graduate of the Rotman/ICD program in director education. They also do policy work and advise on governance policy.

ICD took a look at the proposal being made at the time, and there were consultations on it. Eventually, it became a recommendation of a policy which you have heard of, the "comply or explain." But at that point in time, the question was with respect to gender diversity. The ICD board pushed back very strongly and said, "Well, we don't want quotas." Of course that's not what was being suggested. But even then, it was misunderstood and it was being talked about that these are quotas and will lead to forcing one standard on all corporations. That wasn't the case.

ICD said, "But we also don't want you to just deal with gender. We want to see broader diversity included, so this needs to be broader than just talking about women on boards."

Let me speak to another reputable organization that holds a similar view. That's CCGG, Canadian Coalition for Good Governance. This is made up by members of primarily all the large institutional investors, so pension plans, et cetera. CCGG has spoken for years about diversity. They have spoken very clearly about gender diversity, and they have also spoken very clearly about broader categories of diversity based on ethnicity and other factors as recognized in human rights and employment equity legislation, which again is what the government is contemplating here in terms of a definition of diversity.

I met with CCGG last year to speak about this bill. In that discussion — I want to be careful on this — with respect to gender diversity, they told me very clearly they would accept a policy such as what is contained in Senator Massicotte's amendment. They are fine with the way it is, but if it were brought forward through this process, they would support a policy which required each board to have a diversity policy, to set a target and to report out against it for gender diversity. They have spoken for years about the need for broader diversity. They just haven't had that discussion.

I called today, because I wanted to make sure before I spoke that I wasn't misunderstanding what they said. I spoke with them and was told very clearly that they are actually intending to have the conversation about broader diversity targets and diversity groups at their next board meeting, as this has come up as an amendment to this bill. In no uncertain terms, they made it clear that they had not even contemplated this with respect to other than gender diversity, but that for years they were talking about moving forward on this. They support the basic structure of what we're talking about for gender diversity, and companies will have to figure out what it means for others.

I don't think it's any different. If you're given the flexibility to look to your market and understand your market, if you're a mining company versus a bank, or if you are located in one area that has an over-representation of population from certain groups, you would want to see that reflected on the board.

**The Hon. the Speaker *pro tempore*:** Senator, do you require five more minutes?

**Senator Lankin:** I do, if I may.

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

**Senator Plett:** Five minutes.

**Senator Lankin:** Thank you very much.

The bottom line is just to say this is not a huge leap forward, and it is not a huge surprise to those who look at good board governance in the corporate world.

I want to lastly speak to Senator Harder's comments. When he raises the concern about whether this is just a dispute about policy and are we supplanting our view of good policy for bad that the government has brought forward, I listened to that very carefully because I actually am quite sensitive to that question. I think we must always look and not bring forward a "Senator Lankin thinks that this is a good policy; I'm going to bring it

forward and amend this bill,” when it wasn’t in the government’s direction or contemplation. That’s not our job. Our job is to review, to provide the second sober thought and measured input to improve the bill, and to ensure that the bill is compliant with our aspirational goals and our legal obligations around Charter rights, representation and broadening that representation.

As a corporate director, if I thought that this was imposing something that our corporation wouldn’t be able to meet, I would stand up and say that. If I thought that other corporations, who perhaps have less experience or exposure to issues of diversity than the corporation that I sit on the board of, I would say that. But given that every situation can be tailored, I do not believe that’s the case. I do not believe, Senator Harder, that this is imposing a will of an entirely different policy direction, which was what you suggested in your comments.

One of the things you said is that it’s a strong view of the government that “comply or explain” represents an appropriate balance going forward. It represents a broad consensus among stakeholders as well as members of Parliament.

• (1730)

I want to point out that, as you said, and as Senator Carignan has said at second reading, this goes back over the course of two governments to 2014.

In 2013-14, Senator Wetston was bringing forward this “comply or explain” policy at the OSC. We’ve come a few years since then. I would say much has changed in the world in terms of our need to address and respond to equality issues and our aspirations as a country with respect to this. So I would argue that this is entirely within order and is not in competition with the House of Commons.

Lastly, I just want to quote Senator Wetston as he was closing his third reading remarks. He said:

... 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 the federal-provincial system of government into consideration, then I believe that is the approach we should accept.

That question begs a subjective answer. In my view, this amendment meets all those criteria that Senator Wetston put forward, so I will be voting in favour of Senator Massicotte’s motion. Thank you very much.

**Hon. Pamela Wallin:** I do have a few comments on the call for amendments to Bill C-25. I’d like to also comment, I think, on the concerns that many of us have that it is not the role of government to decide who sits in a boardroom.

We have heard here today that senators have the right — in some cases, an obligation — to amend or change legislation, but amending legislation is not the only way to exercise our duties or responsibilities. Our job is also to assess government policy and

to decide whether it is moving in the right direction and support it if we think it is, and I believe so strongly that this is legitimate behaviour for a senator.

First, in this whole debate about Bill C-25 and the role of government and these proposed amendments, I believe very strongly that merit must matter above all else; and second, that the government’s proposed “comply or explain” model is a workable approach.

It’s certainly much more than just a tap on the corporate shoulder or a laissez-faire approach. It imposes transparency, which I think is the most effective tool to promote change. Transparency can be messy and it may not provide the quick fix that we all want, but it is fundamentally democratic and it allows for a balanced approach to change.

Quotas — or an expectation of quotas — are a blunt instrument and can lead to unintended consequences.

It has been said many times in this chamber, and I think we all believe it. Several major studies show a clear correlation between improved corporate financial performance and the presence of women in senior positions. My own experience tells me that is true.

But there are other things to consider. We must not create unrealistic expectations for women on boards, or for men. One woman or one man, for that matter, can’t change the price of oil or canola or stop a massive market correction, so the impact of women on the bottom line is also subject to market and economic realities as well as experience and competence.

It’s interesting to note that in the U.K. and Australia, where “comply or explain” rules are in place, change is occurring. We don’t know for sure that this is the result of government policy or changing demographic realities in the world of work or some combination of them both. I’m pretty sure it’s the latter. But change is under way.

The power of changing demographics is driving diversity in Parliament, in workplaces and in Canada’s boardrooms, and this will continue to happen with or without government fiat. This is why I hope government will be true to its intention to be persuasive rather than prescriptive. It is a public policy choice.

The “comply or explain” model is the approach that has been adopted by provincial securities regulators, as well as the TSX, London’s FTSE and Australia. Companies will be required to disclose annually to shareholders their diversity policies, including the representation of women on corporate boards and in senior management.

If they don’t, they must explain why such policies are not in place. This gives the shareholders that crucial opportunity to hold leadership accountable for how they promote or deny diversity in their ranks. If there is no improvement, shareholders and — probably more importantly — consumers and the public will react.

And the government has already said it’s prepared to review this legislation and enact tougher measures if this first approach doesn’t work.

But nowhere is there a better example of the law of unintended consequences than when government tries to legislate change, particularly in areas where it may lack expertise or knowledge. Unrealistic deadlines or rules imposing candidates in key decision-making capacities, who may or may not have the requisite knowledge of the business imperatives, or without regard to people's expertise, independence or interests, will surely lead to bad decisions — or worse. They might actually even create resentments that will blow back on women everywhere, the very people that everyone, including the government, thought it was helping.

But the core issue for me remains this: Quotas, or any variation on that theme, contradict the principle of equality of opportunity.

Women can and should succeed based on merit and competence, as should men. Access is opening up because, as was mentioned, there is a business case, and there are bottom-line benefits when women are present. And demographic change is enabling corporate culture change. More bluntly, men are aging out, so there is increasing room.

My reluctance to embrace the concept of quotas is also about constraining the potential effectiveness and success of a woman who may be the right person for the job for a lot of reasons other than her gender — her brains, her experience or her ability — but who might now be categorized as a gender hire. Are you being hired or promoted because you are there to represent women but not men, or not the shareholders unless they are women? Does a quota become a ceiling rather than a floor?

Quotas merely require that a certain number of women be present, and that distorts the intent and purpose of promoting women and pursuing diversity and equity.

A study of businesses in Nordic countries shows, not surprisingly, that women improve corporate performance when they bring experience and expertise to the table. But if they are selected to fill a mandate without requisite experience, of course, the benefits aren't there.

So we can see that this kind of enforced approach can have a neutral or, more often, a negative result for both women's advancement and company performance in areas that are supposed to benefit.

More troubling still is that, when a target becomes a quota and it becomes mandatory for all companies, the companies then react. When this happened in the Nordic countries in 2006, of the 500 companies affected, about 100 made difficult but legal changes in corporate structure to actually circumvent the legislation. Public companies went private and went back behind closed doors. And this, of course, is not helpful if you believe that transparency is what leads to change.

This bill gives us leadership accountability. Of course we need ongoing education about unconscious bias, and we need other elements to come into play, such as gender coaching, male sponsorship and board succession planning.

[ Senator Wallin ]

We've been telling men for so long to ignore gender, but now we tell them to ignore it at their peril. So as the world and the workplace adjust and morph, let's encourage companies to seek out the very best people to sit on their boards and to lead them, rather than compel them to play a numbers game.

Thank you.

[Translation]

**Hon. Renée Dupuis:** Would Senator Wallin take a question?

[English]

**Senator Wallin:** Yes, I will.

• (1740)

[Translation]

**Senator Dupuis:** Thank you, Senator Wallin. I heard you mention quotas. That's something I have heard about a lot for some time now in the context of the Bill C-25 debate in this place. My question is as follows. How can anyone reconcile a fear of quotas in 2018 with a legal concept established in 1987 by the Supreme Court of Canada in *Action travail des femmes v. Canadian National Railway*? I would like to quote the Supreme Court of Canada on this matter:

[English]

— Tribunal's order setting employment goal and fixing hiring quota —

[Translation]

This expression used by the Supreme Court means that there has been a well-defined legal concept for the past 31 years. That is why I have a problem with the bill's solution.

Can you help me understand how we are supposed to reconcile this narrative of a purported fear of quotas with a concept that has been very clearly defined in the employment sector, at the federal level, by the Supreme Court of Canada?

[English]

**Senator Wallin:** Thank you for your comments. I will return to the core of what I'm saying here. Many of us here have worked in this world and participated on boards or in private companies, and you see how change happens. I believe that the intent of the bill is to expose the decision-making process in companies, and the decisions that they come to, to the shareholders and through them to the public is how you actually move that forward.

There were examples I used. If you use the hammer, people will find ways around it. They will go private, or they will make decisions that I think are counterproductive, which is that they will declare, perhaps, that zero is their goal and there will be a fight about that rather than the actual concept of let's reflect what our country looks like, let's reflect what the demographics are telling us, and let's really push that along by putting that decision-making process in a spotlight so people can see it. That's where I think we're going.

I have a real tug and pull here. Of course it would be preferable for a lot of people to see this move faster. I know that the progress has been slow, but when people come to real change because it's their experience and they're willing to do it as opposed to being forced to do it in some way, then you have real change. Then it actually works.

I know we have legal concepts on the books and then we have the real world where this has to happen. I think that when we see people be persuaded by rational legislation and a rational approach to this, which gives them time to adjust and make real changes in their hiring policies and decisions about who sits where, then this is going to be for real, and I guess that's what I'm hoping for.

**Hon. Paul J. Massicotte:** Would the honourable senator accept another question?

**Senator Wallin:** Absolutely.

**Senator Massicotte:** I'm just trying to understand your comments. You make significant points. Here are the principles I hear: You don't like interference into corporate enterprise. You talk about quotas, which I would clarify is not the case. And you are somewhat happy with the "comply or explain" approach currently being proposed.

If you look at what's happening with the "comply or explain" experience we have in the Toronto Stock Exchange, you notice approximately half the companies are satisfying that "comply or explain," and they develop a strategy on how to obtain diversity. Half don't so complete and don't basically comply with it and explain why. They say that they don't believe in it and want to be merit-based, of course.

But if you look at the companies that do satisfy that requirement and go through the exercise of fixing objectives on "comply or explain," they achieve much better results.

I'm trying to square off your objection that the proposed amendments would cause a burden upon these companies, which I think is basically the same thing as "comply or explain" for those who so wish to undertake the exercise. You see the very significant positive impact of those companies undertaking "comply or explain" when they set goals. What's the problem in motivating those other 50 per cent who don't undertake any diversity policies? Why should they be encouraged to achieve the very positive results for a society from application of diversity policies?

**Senator Wallin:** I guess my concern is not about burden. It's not that I believe that somehow this will be more paperwork and that that will be the downside of this.

Others will be able to confirm this, but I think 61 per cent of Canadian companies have at least one female board member, and that's up from 49 per cent in the last three years. I think we're seeing an activity level, and some of this comes from what has happened already in the provinces through the security regulators on the TSX. Because there is exposure and because light is being shed and their policies and their decisions are exposed, we are seeing change happen.

**The Hon. the Speaker *pro tempore*:** Senator, your time is up. Do you require more time?

**Senator Wallin:** I will just take 30 seconds.

I believe that a measured approach, which is what I think this bill accomplishes, is something we can afford to do, that we can actually see. The government has already said that if this isn't working, if there are all sorts of complaints about this, then we'll move and we'll go further and harder and we will put the numbers on them and we will make this happen. I don't like that approach on behalf of government in terms of its interference in the corporate world and making those decisions that should best be left.

**The Hon. the Speaker *pro tempore*:** Your 30 seconds is up, senator.

**Hon. Serge Joyal:** Honourable senators, looking at the hour, I would prefer to move the adjournment of the debate and speak on it tomorrow.

(On motion of Senator Joyal, debate adjourned.)

## EXPUNGEMENT OF HISTORICALLY UNJUST CONVICTIONS BILL

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cormier, seconded by the Honourable Senator Petitcher, for the 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.

**Hon. Kim Pate:** Honourable senators, I rise today to speak in support of Bill C-66, the proposed expungement of historically unjust convictions act.

Bill C-66 acknowledges the injustices experienced by individuals expressly targeted and criminalized by Canada's historically homophobic laws. It offers a process for erasing criminal records for 9,000 Canadians who, because of their sexual orientation, experienced travesties of police surveillance and violent raids, public outing and humiliation, criminal trials and jail time, and the lingering burden and stigma of criminal records.

It follows from the apology that the Prime Minister offered to Canadians who have lived with the fear and reality of private details regarding consensual same-sex activities being sought out and used to take away their livelihood, their dignity, their safety, their very identity and for far too many resulting in the loss of their lives.

One facet of this ongoing discriminatory treatment has to do with criminal records. Criminal records impose significant barriers to employment, volunteer work, education and, increasingly, even access to such requirements as basic rental accommodations.

• (1750)

Canada's record suspension system — more so the pardon system that preceded it — was meant to remove the barriers related to criminal records for individuals who have paid their debt to society and are working to establish their lives in the community.

Bill C-66's expungement system will offer increased accessibility in some important ways for those convicted of consensual same-sex activities. Notably, Bill C-66's system is free. Under the current record suspension system, the application fee of \$631 is prohibitive to most, all the more so when other administrative fees are added on.

Bill C-66 provides for the removal rather than just the suspension of a record.

The importance of this distinction was emphasized in Public Safety Canada's 2017 public consultations on record suspensions, where 64 per cent of respondents raised concerns about the concept of record suspension. In the words of one respondent, a record suspension "implies a continuing distrust of a character that is still considered delinquent and untrustworthy," which would be at odds with the system's aim of recognizing the value of rehabilitation and the importance of expunging records.

While we may applaud the lack of fees, we decry the ongoing requirement of Bill C-66 that individuals make applications for expungement with the obligation of providing evidence and statements relating to convictions that may have occurred decades and decades ago.

Public Safety Canada's consultations found that 74 per cent of respondents thought that the process of applying for a record suspension was "hard" or "very hard." They cited difficulties and costs related to obtaining record checks, completing complex forms, and the lack of a streamlined process. Eighty-three per cent of respondents stated that pardons or record suspensions should occur automatically without the need for an application process or a fee collection regime. An application process is not necessary and should, in fact, be eliminated to avoid repeating the mistakes of the record suspension system, particularly with respect to accessibility.

As legislators reflect on the unjust criminalization of lesbian, gay, bisexual, transgendered, queer and two-spirited individuals, we must face the reality that these injustices are securely rooted in this very place. In 1892, this chamber passed a bill creating the crime of gross indecency to expand so-called buggery laws

imported from England. The bill was enacted at a time in our history, honourable colleagues, when 50 or more of those of us currently here in this place — that's more than half of us — would have been denied the right to express our political will by voting in federal elections, let alone the privilege of sitting in this chamber simply, because of our gender, our race, and if we are out, our sexual orientation.

This bill, honourable colleagues, was Canada's first Criminal Code. I raise this point not because I think our criminal law is the same as it was in 1892. I acknowledge, of course, that the Criminal Code has been amended in many ways since then. But, particularly in light of the verdict of the Stanley trial in Saskatchewan this past weekend, I want to underscore the staying power of discriminatory assumptions and biases that indelibly impact legal actions and court decisions. I want to particularly emphasize the difficulty of eradicating and moving past ideas belonging to another time when they have been normalized and ingrained in the minds and laws of a nation.

The provisions that are the focus of Bill C-66 are relatively easy ones to root out of the law. They are the criminal law provisions that can be easily identified as discriminatory on their face, with language expressly targeting consensual same-sex activities. But this is only one way in which LGBTQ2S individuals have been systemically oppressed and marginalized by Canada's criminal laws.

For example, the Criminal Code provision regarding indecent acts has historically been used by police to justify surveillance and arrests for consensual same-sex activities. I thank Senator Cormier for his most personal and impassioned and insightful identification of these issues via the description of his own experience as a young man. We know that these situations happened elsewhere. For instance, there were as many as 369 arrests in Toronto alone between July 1982 and April 1983.

Other examples are the obscenity provisions, which have criminalized individuals and bookstores for selling publications, including children's books such as *Belinda's Bouquet*, one of my son's favourites when he was a child. Thirty years ago, it was the only children's book about body size and shape. It was outlawed simply because one of the children in the book had two mommies.

Unjust convictions under those sorts of provisions cannot be traced back to any discriminatory words in a statute. Instead, we must consider how the provisions applied in a context of historical targeting of LGBTQ2S individuals, based on fear and prejudice. As documented by human rights advocate Michelle Douglas, state policies built on the premise of heterosexual moral superiority consistently also labelled individuals as threats to national security. Though simply removing the resulting criminal records will never be enough, those criminalized for consensual same-sex activities under provisions related to indecent acts, obscenity and vagrancy should be equally entitled to expungement of their criminal records. I encourage the committee that studies this bill to consider the inclusion of these provisions in Bill C-66.



Bill C-66 contemplates expanding the types of convictions eligible for expungement by adding other Criminal Code provisions that are sources of unjust convictions to a list in the bill's schedule. The process of doing so raises several concerns, however, as the process is to be done solely by the Governor-in-Council. The schedule is also restricted to provisions that are contrary to the Charter and no longer crimes — criteria that fail to capture many sources of unjust convictions and other decriminalized acts.

We must not forget the cases of marginalized, victimized and impoverished women, as well as the men and youth, convicted under now-defunct prostitution provisions. In addition, as Bill C-45 is being debated in this place, we must also consider what will likely soon be historical convictions related to marijuana use. How many lives might have been saved from criminal justice ensnarement but for such convictions? These records also need to be expunged.

As we contemplate what constitutes an unjust conviction, we must push and challenge ourselves, our experiences and our assumptions. Returning to considerations in this place of Canada's first Criminal Code, I cannot help but think of all those not adequately represented in this or the other place at the time, including indigenous peoples, racialized and ethnocultural groups, women, poor people, and individuals who are open or out with respect to their non-heterosexual orientation. Too many of these inequalities in the criminal law are still affecting these groups, more than 125 years later, in ways that too often result in unfair and discriminatory treatment and unjust convictions.

I cannot help but think of Colten Boushie and how Canada's criminal law system has so utterly failed to do justice for him, his family and so many others. Much of the commentary surrounding the Stanley case this week has blamed these failings on the lack of indigenous representation on Mr. Stanley's jury. Jury selection processes are indeed a problem, but compared to the systemic racism that indigenous peoples have experienced and continue to experience in Canada in the justice system and in all facets of their lives, reforming jury selection is simply one cog in the massive machine that is our criminal justice system.

We must do better for Colten Boushie and for all those who are victimized, as well as those who are unjustly criminalized in large part because of the discriminatory convictions and principles steeped in racism, misogyny, impoverishment and more — attitudes that allow decisions too often to be snuck past us and then to find themselves embedded in our justice system.

The overrepresentation of indigenous women in prisons in Canada is increasing, with indigenous women representing between 36 and 39 per cent in federal prisons. Ninety-one per cent of these women have experienced physical or sexual abuse, and many have disabling mental health issues. These same issues that result in indigenous women going missing and murdered contribute to them being jailed at alarming rates. All evidence indicates that indigenous women and men are being victimized and criminalized because our laws and our policy are failing at a systemic level to provide them with support and safety and equality.

In 1892, Parliament enacted the legislation that has led to unjust convictions for LGBTQ2S individuals. In 2018, I am honoured and humbled to be here in Parliament as we acknowledge and work to remedy some of these historical wrongs through Bill C-66. In the intervening 125 — almost 126 — years, Canada has learned much about the values of diversity, equality and justice. It is my sincere hope that Bill C-66 is only the beginning of ongoing efforts to put an end to —

• (1800)

**The Hon. the Speaker *pro tempore*:** Senator, excuse me. I don't mean to interrupt you, but it is now 6 o'clock. Pursuant to rule 3-3, I'm obliged to leave the chair until 8 o'clock, when we will resume, unless it is your wish, honourable senators, not to see the clock.

**Senator Mockler:** Not to see the clock.

**The Hon. the Speaker *pro tempore*:** Is it agreed not to see the clock?

**Hon. Senators:** Agreed.

**The Hon. the Speaker *pro tempore*:** Please continue, senator.

**Senator Pate:** Thank you.

To conclude, Canada has learned much about the values of diversity, equality and justice. It is my sincere hope that Bill C-66 is only the beginning of ongoing efforts to put an end to and to remedy all forms of discrimination, most particularly when they result in unfair criminalization and other forms of injustice. .

**Hon. René Cormier:** Would Senator Pate take a question, please?

**Senator Pate:** Yes, of course.

**Senator Cormier:** I wish to thank you for this engaging and interesting speech.

In light of the issues you have just highlighted, it appears that you have greater concerns on the state and nature of the Canadian pardon system rather than on those addressed in Bill C-66. As such, would you suggest a broader review of the pardon process currently in place in Canada? Could you please expand on that?

**Senator Pate:** Yes.

How very astute of you. In fact, there are many issues around the pardon process, not the least of which is the application fee, which becomes exorbitant and many people can't afford. As well, many people are then precluded from continuing their reintegration into the community. There are many reasons I think we should be looking at the pardon process overall. I think the steps in Bill C-66 provide a really wonderful opportunity, ones that we can improve upon to move forward with this process. Thank you for the question.

(On motion of Senator Omidvar, for Senator Griffin, debate adjourned.)

## HOLIDAYS ACT

### BILL TO AMEND—THIRD READING

**Hon. Joseph A. Day (Leader of the Senate Liberals)** moved third reading of Bill C-311, An Act to amend the Holidays Act (Remembrance Day).

He said: Honourable senators, I have a few remarks with respect to this particular bill, Bill C-311, which I am sponsoring. I am sponsoring on behalf of a member of the House of Commons, Colin Fraser.

As we have heard throughout our debate on this particular bill, it would amend what is named the Holidays Act, to change the wording and status of Remembrance Day to that of a "legal holiday" under that particular act.

As senators will recall from second reading, while Canada Day and Victoria Day are already designated as legal holidays under the Holidays Act, the same is not true of Remembrance Day.

So we have three different days of the year — Canada Day, Victoria Day and Remembrance Day — referred to in this rather short act, but one of these, Remembrance Day, is just referred to by the designation "holiday," whereas the other two are designated as "legal holidays." I thank the sponsor of the bill for bringing this to our attention. It is one of those little idiosyncrasies of the law that may not be brought to our attention, but when it is, it clearly calls out for rectification.

The proponent of the bill is Mr. Colin Fraser, Member of Parliament for West Nova. We had no way of knowing when looking at this bill if this was a drafting difference between Remembrance Day and the other holidays, Victoria Day and Canada Day, an oversight, or if it was the intention of the framers to give Remembrance Day a lesser recognition. If it's possible that people reading this legislation would give Remembrance Day a lesser recognition by virtue of the different designation, not being a legal holiday, then I think we can all agree that it's time we make a statement to our veterans and give Remembrance Day the same standing as the other two designated days in the Holidays Act.

Mr. Fraser, who brought forward this bill in the other place, from inception has worked hard to hear concerns from all sides and to address them. He recently appeared before the Standing

Senate Committee on Social Affairs, Science and Technology, where he ably explained his intent and ultimate goal to honourable senators. He described the bill's purpose as follows:

It also affirms Parliament's commitment that November 11 is a very important day in Canada, one of solemn remembrance and reflection for those who have sacrificed for our country. I believe it shines a light on this important day, and any chance we can do that as parliamentarians is an important endeavour.

Any change we can make to rectify possible misinterpretation of the act is something we should be looking into.

While they were not in attendance at the committee hearings, The Army, Navy and Air Force Veterans, also known as ANAVETS, submitted a brief to committee members. The brief noted that they originally resisted any change in the designation for Remembrance Day, but at their meeting in 2016, their membership unanimously passed a resolution to support what this bill will achieve, so long as the observance of the holiday would always be on November 11. The implication there is they would not want to see it moved to a Monday. They would like it always to remain on November 11 because that was the day of signing of the armistice in the First World War.

Deanna Fimrite, who is the Dominion Secretary-Treasurer, explained the rationale for ANAVETS as follows:

For the membership the important distinction is while we want as many Canadians as possible to have the opportunity for remembrance, reflection and to honour those fellow Canadians that have given their lives, and those willing to do so, that we may live in peace and democracy but not to diminish the significance of the day on which we stop to give that Remembrance.

• (1810)

Some concerns were expressed by the Royal Canadian Legion when they appeared at the Senate committee hearing. They were represented by their Secretary-Treasurer of Dominion Command. Their concern lies mainly in the prospect that the legislation will lead to treating Remembrance Day as a statutory holiday, something they oppose. They are concerned that making the day a statutory holiday will dilute its impact, and that Canadians will treat the day as just another day off or an opportunity to create another long weekend by moving the day to a Monday.

First, with all due respect, this bill will have no impact on making Remembrance Day a statutory holiday. Statutory holidays are exclusively provincial in jurisdiction. It's up to each individual province to decide whether Remembrance Day should be a statutory holiday. That reality will remain the same whether this bill is passed or not. It is simply not in the federal government's power to create a national statutory holiday across all of Canada.

The fact of the matter is that Remembrance Day is already a statutory holiday in a large part of Canada. It is treated as a statutory holiday in all but two provinces, Ontario and Quebec. This legislation will not change that fact, .

As I said in my remarks at second reading, Remembrance Day being a statutory holiday in my home province of New Brunswick has certainly not hindered people's solemn commemoration of that day. Indeed, it provides New Brunswickers and Canadians from coast to coast to coast with the opportunity to participate in ceremonies in their own communities.

I myself lay a wreath on November 11 at the cenotaph in Hampton, New Brunswick. I know other senators participate in ceremonies in their hometowns and home communities or in regional remembrances.

Senator Plett, in his remarks at second reading, provided what I consider to be an apt description of what could be a ceremony in any town across our country. Senator Plett stated:

Remembrance Day in Canada is unlike any other day, and the feeling of standing at a local cenotaph or monument surrounded by your community brings about a feeling that is unlike any other. We feel sadness as we recall those who have made the ultimate sacrifice, and pride as we observe the unity demonstrated by the diverse crowds who gather together in a moment of silence to honour those who have fought valiantly for our freedoms.

Colleagues, the concern of the Royal Canadian Legion is not well founded. I think they understand it, but they come to the meetings, and when we ask for their support, they write that they just don't want it to be a statutory holiday and moved so that it will result in a long weekend. They don't want the date changed each year to fit into a long weekend scenario. ANAVETS, the other veterans group, had the same position: They don't want it moved. November 11 is November 11.

This bill does not change that. This bill merely says that if for some reason in the past Remembrance Day was considered a lesser day than Victoria Day or Canada Day, then this is a chance to rectify it by making this change.

Colleagues, November 11 is the day of solemn remembrance for Canadians. Surely now is the time to give it the same respect that we give other holidays under this obscure piece of legislation entitled the Holidays Act.

I urge all senators to support the passage of Bill C-311.

**The Hon. the Speaker *pro tempore*:** Senator Plett, on debate.

**Hon. Donald Neil Plett:** I will be very brief. I spoke to this on second reading. At that time, I said that I, in principle, supported this bill. I am not sure the bill does a whole lot other than that we are certainly recognizing the veterans who need recognition.

I won't elaborate, as Senator Day has done a good job of putting out the reasons. I would simply encourage all senators to vote for this bill. I would suggest we call the question.

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

**Hon. Senators:** Question.

**The Hon. the Speaker *pro tempore*:** It was moved by the Honourable Senator Day, seconded by the Honourable Senator Joyal, that the bill be read now a third time.

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

**Hon. Senators:** Agreed.

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

## CANADA REVENUE AGENCY ACT

### BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Downe, seconded by the Honourable Senator Eggleton, P.C., for the second reading of Bill S-243, An Act to amend the Canada Revenue Agency Act (reporting on unpaid income tax).

**Hon. Yonah Martin (Deputy Leader of the Opposition):** This item is at day 14 on the Order Paper. I would like to move the adjournment for the balance of my time.

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

**Hon. Senators:** Agreed.

(On motion of Senator Martin, debate adjourned.)

## SENATE MODERNIZATION

### FIRST REPORT OF SPECIAL COMMITTEE—DEBATE CONTINUED

On the Order:

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

**Hon. Ratna Omidvar:** I would like to reset the clock on this item.

**The Hon. the Speaker *pro tempore*:** Are you adjourning it for the balance of your time?

**Senator Omidvar:** Yes, I am; thank you.

**The Hon. the Speaker *pro tempore*:** It is moved by the Honourable Senator Omidvar, seconded by the Honourable Senator Day, that further debate be adjourned to the next sitting of the Senate.

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

**Hon. Senators:** Agreed.

(On motion of Senator Omidvar, debate adjourned.)

• (1820)

**STUDY ON THE MINISTER OF FINANCE'S PROPOSED  
CHANGES TO THE INCOME TAX ACT RESPECTING THE  
TAXATION OF PRIVATE CORPORATIONS AND THE TAX  
PLANNING STRATEGIES INVOLVED**

TWENTY-FOURTH REPORT OF NATIONAL FINANCE COMMITTEE  
AND REQUEST FOR GOVERNMENT RESPONSE—  
DEBATE ADJOURNED

The Senate proceeded to consideration of the twenty-fourth report of the Standing Senate Committee on National Finance, entitled *Fair, Simple and Competitive Taxation: The Way Forward for Canada*, deposited with the Clerk of the Senate on December 13, 2017.

**Hon. Percy Mockler** moved:

That the twenty-fourth report of the Standing Senate Committee on National Finance, entitled *Fair, Simple and Competitive Taxation: The way forward for Canada*, deposited with the Clerk of the Senate on December 13, 2017, be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the government, with the Minister of Finance being identified as minister responsible for responding to the report.

He said: In September July of 2017, the National Finance Committee embarked on an order of reference that touched a lot of Canadians from coast to coast to coast, namely, taxation.

[Translation]

In July 2017, the Minister of Finance announced consultations on the proposed changes to the Income Tax Act relating to private corporations. For such an important issue affecting the personal finances of hundreds of thousands of Canadians, the process around these changes moved at breakneck speed. The strong reaction from our communities, especially Canada's small businesses, convinced the Standing Senate Committee on National Finance to meet with Canadians as part of an in-depth study into these proposed changes. When they returned to Ottawa in the fall, committee members worked very hard to organize meetings in Ottawa, the Atlantic Provinces, and western Canada.

[English]

Indeed, the Minister of Finance himself, by letter dated September 18, 2017, to the Honourable Senator Doug Black, stated: "I would welcome a Senate study on the subject."

On September 26, 2017, with Minister Morneau's backing and encouragement, the Senate of Canada authorized the National Finance Committee to study the government's proposed changes to the Income Tax Act respecting the taxation of private corporations and the tax planning strategies involved.

Honourable senators, over the course of 30 meetings across Canada with 138 witnesses and 32 written submissions, our committee heard from government officials, academics, tax specialists, think tanks, organizations that represent tens of thousands of Canadians, small businesses, workers, union representatives, farmers and physicians.

Our committee is greatly appreciative of the many Canadians from coast to coast to coast who took the time and effort to appear before us or to submit written briefs. Through this information, we learned more about the complex tax issues related to each proposal, as well as their potential ramifications on the fairness of the tax system, the economy, small businesses, farmers and physicians.

We also heard numerous poignant personal stories of some of those who were going to be affected and who are affected.

We are all obliged, I believe, as parliamentarians to restore the bond of trust that has been shaken by the Minister of Finance and his government in respect to the changes to the Income Tax Act, respecting the taxation of private corporations.

The federal budget, we have been informed today, honourable senators, will be presented on February 27 — yes, I hope, we hope, and Canadians are awaiting clarification — and hopefully the next budget, 2018-19, will answer many concerns from Canadians because we do feel that it has an impact on the economy of Canada regardless of where we live.

Honourable senators, this report summarizes the various perspectives and concerns we heard and presents our view of how the government should move forward in order to ensure that our tax system is fair, equitable and conducive to economic growth in each region of Canada.

[Translation]

Honourable senators, many witnesses expressed their concern that the proposed changes would hamper Canada's competitiveness and result in lost investment and lost jobs. At the very least, the proposed changes caused a great deal of uncertainty in the business community, and investment decisions in Canada have been on hold since July 2017.

[English]

Honourable senators, witnesses described in concrete terms the extent to which some changes would be harmful to them. It is factual. Proposed restrictions on passive investments, for instance, would discourage business owners from saving for capital investments, economic downturns or even parental leave and retirement. For these reasons, most witnesses told our committee that the proposed changes should be withdrawn in their entirety.

Honourable senators, the majority of the members of the Standing Senate Committee on National Finance are inclined to agree. We are not convinced that the government has made a good case for its proposals. This is why we recommend that the Minister of Finance withdraw his proposed changes to the Income Tax Act related to private corporations.

We also believe that we need an independent, comprehensive review of our tax system to ensure that it — Senator Cools, you are absolutely right; you are the dean also of our Parliament — is not overly complex, maintains our economic competitiveness, and is fair to all Canadians regardless where we live.

The world is changing, no doubt. For example, the United States, the United Kingdom and France have all embarked on significant tax reforms. Canada needs a strategy to ensure our tax system encourages rather than inhibits or restrains innovation, entrepreneurship and economic growth.

Honourable senators, we realize that the government has moved forward with its proposed changes despite our recommendation that it not do so. We believe that the government should delay the implementation of its proposals until at least January 1, 2019. Why? So it can undertake meaningful consultations on its draft legislation and thoroughly analyze the impact of its proposals on the economy, gender and health care system.

We must also be mindful that President Trump's tax plan is already having an impact on investments that should be made in Canada but rather are moving south of our border.

Over the past decades, various governments have made incremental changes to the tax system, which has become bloated, complex and cumbersome, not to say discouraging for Canadians.

• (1830)

The last comprehensive review of the tax system took place in the 1960s. The committee believes it is long past time for the government to take a close look at our existing system and the challenges it has.

[Translation]

Honourable senators, taxation is one of the most sacred elements of the trust between people and their government, because it involves using private monies for public purposes. The tax system must be seen to be fair and equitable, and the use of public money must be appropriate, responsible and economical. The title of the report by the Standing Senate Committee on National Finance says it all: *Fair, Simple and Competitive Taxation: The Way Forward for Canada*.

That is why reforming the tax system is a delicate task for all governments. Nevertheless, we must look at the facts as they are and make sure that Canadians are investing in their country and in their local regions. If not undertaken with due care and consideration of the possible ramifications, tax reform risks rupturing the trust with citizens and disturbing their sense of fairness, which is so important to them.

[English]

Honourable senators, the title of our report says it all: *Fair, Simple, and Competitive Taxation: The Way Forward for Canada*. This is what Canadians expected.

Honourable senators, our cross-country hearings made it clear that the Government of Canada risks breaking the trust with Canada's business owners, farmers and physicians over its proposed changes to the taxation of private corporations. Once trust is lost, it is hard to regain. The government should take greater care in its approach to tax reform in order to maintain, if not restore, trust in our tax system.

However, as chair of the National Finance Committee, I would like to express my personal gratitude to all the members of our committee who were available for the many hours of meetings in Ottawa and also across the country, in Vancouver, Calgary, Saskatoon, Winnipeg, St. John's, Halifax and Saint John. It has been a pleasure to work with them and with our staff. I admire their diligence in seeking to understand the full ramifications of the proposed changes.

In particular, I wish to recognize the work of Senator Anne Cools, whose deep constitutional knowledge has been an invaluable resource for the work of this committee.

I also want to thank the staff — the clerks, the analysts, interpreters, translators, stenographers, technicians, assistants, senators' staff, the communications team — and others whose hard work made this study and the cross-country meetings possible. I am also deeply appreciative of their long hours of professionalism as they worked together seamlessly to carry out this study successfully in a very short period of time.

[Translation]

Honourable senators, in closing, I am proud of the work our committee has accomplished. I sincerely hope that the government will carefully consider our recommendations and that it will withdraw the proposed amendments to carry out a thorough review of the entire Canadian tax system. It will be a pleasure and an honour to listen closely to what this government proposes in the upcoming 2018-19 budget to be presented on February 27. Thank you.

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

(On motion of Senator Pratte, debate adjourned.)

[English]

## INCREASING OVER-REPRESENTATION OF INDIGENOUS WOMEN IN CANADIAN PRISONS

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Pate, calling the attention of the Senate to the circumstances of some of the most marginalized, victimized, criminalized and institutionalized in Canada, particularly the increasing over-representation of indigenous women in Canadian prisons.

**Hon. Lillian Eva Dyck:** Honourable senators, I rise today to speak to Senator Pate's inquiry calling the attention of the Senate to the circumstances of some of the most marginalized, victimized, criminalized and institutionalized in Canada, particularly the increasing over-representation of indigenous women in Canadian prisons.

I want to thank and acknowledge the thoughtful speeches that have been made to date on this topic and I would like to add my own thoughts to this important issue.

As many of the interventions to date have focused on the over-representation of Aboriginal women in Canadian prisons and their treatment in the correctional system, I wanted to focus my remarks today on the over-victimization of Aboriginal women in Canada generally, and in particular I will discuss the over-representation of Aboriginal women as victims of violence.

At every turn of an Aboriginal female's life, she is disproportionately a victim compared to non-Aboriginal females. As stated by Justice Wally Oppal in his inquiry report entitled *Forsaken: The Report of the Missing Women Commission of Inquiry*:

Aboriginal women as a group have a heightened vulnerability to violence simply because they live in "a society that poses a risk to their safety." In British Columbia and around the world, vulnerable and marginalized women are exposed to a higher risk of violence including sexual assault, murder and serial predation. The phenomenon of missing and murdered women is one stark example of this exposure, and is seen as part of a broader pattern of marginalization and inequality.

Colleagues, there is no question that Aboriginal women and girls are one of the most victimized populations in Canada. With over 1,200 cases of missing and murdered Aboriginal women since 1980, Aboriginal women and girls are three times more likely to be made missing and four times more likely to be the victims of homicide than non-Aboriginal females.

Aboriginal women are three times more likely to be sexually assaulted than other Canadian women. Aboriginal women are seven times more likely to be targeted by serial killers.

It is shocking to note that a 2016 Statistics Canada report showed that simply being Aboriginal is a risk factor for violence for women, but not for men.

It is also shocking to note that the violence aimed at Aboriginal females is more frequent, more brutal and more severe than it is for non-Aboriginal women.

I want to take some time to talk about the perpetrators of violence against Aboriginal women. Many people have jumped to the conclusion that it is mainly Aboriginal men who are responsible for the violence experienced by Aboriginal women. This unjustified conclusion has been made by many, despite there being little or no supporting evidence.

• (1840)

Unfortunately, this false claim took root and was reported in numerous news articles. In March 2015, for example, the then Minister of Aboriginal Affairs, Bernard Valcourt, claimed that 70 per cent of the murders of Aboriginal women were committed by Aboriginal men. The data to validate this claim have never been released to the public. I suspect the data do not exist, because the RCMP stated they do not systematically collect or track the racial identity of the perpetrators.

In the newspaper reports following Minister Valcourt's claim, the RCMP first said they don't collect data regarding the race of the perpetrator. Then they said they would release them in a news report. Then Commissioner Paulson said he would confirm the claim, but he wouldn't release the data. Clearly, the RCMP's story shifted over time, and we should note that any data supporting this claim have not been made public by the RCMP, and whatever data they currently have are not reliable.

Colleagues, it is clear that the RCMP knows that their data on the racial identity of the perpetrators are subjective, open to interpretation, not rigorous and incomplete. It couldn't get much worse. That is to say, at best, their data on race are indicative but certainly not reliable.

Yet, the RCMP backed Minister Valcourt's claim that Aboriginal men are responsible for 70 per cent of the murders of Aboriginal women and girls.

On June 19, 2015, the RCMP updated their report. The focus of their report became "the offender was known" — the offender was known by the victim in 100 per cent of the solved homicides of Aboriginal women in RCMP jurisdictions. I will quote again:

Violence within family relationships is a key factor in homicides of women, and has prompted the RCMP to focus intervention and prevention efforts on familial and spousal violence.

Many people assumed that acquaintances and spouses of Aboriginal women were Aboriginal too. Then they jumped to the conclusion that Aboriginal women were being killed by Aboriginal men in their communities. In other words, just because I, for example, as an Aboriginal woman, know someone, it is assumed that that person is Aboriginal when clearly that is not necessarily the case.

Unfortunately, the media latched onto the observation that nearly all women, regardless of their race, knew their murderers, and this became the focus of the various news reports. For example, a misleading newspaper headline in the *StarPhoenix*, the major newspaper in my hometown, on June 20, 2015, with big bold letters said, "Aboriginal women knew their killers." The article went on to say:

The RCMP said Friday that female victims, regardless of their ethnicity, continue to be targeted most often by men within their own homes and communities.

“There is an unmistakable connection between homicide and family violence,” RCMP deputy commissioner Janice Armstrong said.

This statement by the RCMP ignored and minimized other data in the report that clearly contradict this statement. I will try to explain this to you, though it would be much easier if I could just show you my PowerPoint. When will we modernize the Senate so that you can see the graphs and figures? Bear with me, I will try and take you through it.

The 2014 RCMP report clearly shows that Aboriginal women are just as likely to be murdered by acquaintances as by their spouse. Thirty per cent of Aboriginal women were murdered by an acquaintance; 29 per cent were murdered by a spouse.

This clearly shows that it's not just domestic violence that underlies large numbers of murdered Aboriginal women. Acquaintances were also murdering Aboriginal women, and those acquaintances are not necessarily Aboriginal. Although in more than 90 per cent of cases the acquaintances are male, the race is unknown.

Colleagues, there were also other important distinctions between the two groups, the Aboriginal women and the non-Aboriginal women, that were never really reported on in the news in a meaningful manner. I guess that's because you look for things you think are important and sensational. For example, comparing Aboriginal and non-Aboriginal females, Aboriginal female victims were more likely to be murdered by an acquaintance than non-Aboriginal females: Thirty per cent of Aboriginal females were murdered by an acquaintance; only 19 per cent of non-Aboriginal females were murdered by an acquaintance. Non-Aboriginal females were more likely to be murdered by their spouse than Aboriginal women: Forty-one per cent of the non-Aboriginal women who were murdered were murdered by their spouse. That's a clear difference between the two, and it has not been paid much attention.

However, the *Toronto Star*, I'm happy to report, conducted a study that showed that 44 per cent of the perpetrators of violence against Aboriginal women were acquaintances, serial killers or strangers. This underlies the observation I'm trying to get across to you that it's not just family violence; it's the acquaintances of Aboriginal women who are responsible for most of the murders of Aboriginal women.

There were lots of news articles reporting that more than 97 per cent of women knew their killers. Over and over, that number was interpreted to mean that Aboriginal men living on reserves and family violence in Aboriginal communities were the cause. This was all done despite there being no data on the race of the murderer to justify this conclusion and little data to justify where the murderers were actually living. This is a false narrative that has informed the general public that still exists today.

On June 19, 2015, in *The Globe and Mail*, a headline read: “Native violence starts at home, RCMP say.” They completely ignored the huge factor of acquaintances, because people want to believe in the stereotype that Aboriginal homes are full of domestic violence.

It's important to challenge the claim that family violence committed by Aboriginal men on reserves is the main factor in the murder of Aboriginal women. If we focus only on domestic violence, we are not doing enough to combat violence against Aboriginal women. If we focus the prevention efforts only on Aboriginal men, we are not doing enough to protect Aboriginal women from non-Aboriginal men or from their acquaintances. Focusing only on domestic violence is only part of the picture.

Again and again, the claim that family violence is the main factor has to be challenged, because it's simply not true.

It's important, because the evidence is questionable or non-existent, there are no reliable data on the race of the perpetrator, and sadly the action plan on violence against Aboriginal women does not target acquaintances who are more likely to kill Aboriginal women than their spouses.

Pretty much all of the plans to combat violence against Aboriginal women are focused on domestic violence. This claim, as I noted previously, reinforces negative stereotypes about Aboriginal people, that we have a higher rate of family violence when the data clearly showed, no, it's non-Aboriginal women who are more likely to be killed by their spouses. How incredibly ironic that this is so embedded in the thinking of major newspapers that they totally missed it. There has never been a headline that says, “Non-Aboriginal Women Murdered More Often by Spouse than Aboriginal Women.” There should have been a big headline like that, but there never was and there never will be because the time has passed.

• (1850)

The higher incidence of domestic violence suffered by non-Aboriginal women apparently was not considered newsworthy because, I guess, the reporters are focused on the Aboriginal community and maybe they don't want to say how bad the picture is in the non-Aboriginal community. Because every one of us has that filter, and we pick out the things that seem important to us.

There were a couple of news reports that took issue with the unsubstantiated claim that it is primarily Aboriginal men who are responsible for violence against Aboriginal women, but unfortunately reports which run contrary to prevailing opinion, to prevailing biases, to prevailing prejudices, receive less media attention, less public attention and are literally forgotten. That has literally been forgotten.

Me being a scientist, of course, I went through all the data. I prepared numerous graphs and charts, et cetera. I released a press release and there was very little pick-up. Basically I was saying that the minister must show us the data.

I wrote an opinion piece, and basically that wasn't picked up either. LEAF also sent out a press release. One of their headlines was "The issue of Missing and Murdered Indigenous Women is not just an issue of familial violence." Really, no one picked up on that either.

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

**Senator Dyck:** Yes, please.

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

**Hon. Senators:** Agreed.

**Senator Dyck:** Another report came out from CBC with a nice bold headline: "Focus on 'family violence' in cases of missing, murdered aboriginal women misguided." But, again, the previous numerous reports have overshadowed this, which really reflects the true evidence.

Despite these few reports, there remains public misconception that blames Aboriginal men for the violence suffered by Aboriginal women and girls.

There is only one report so far which analyzed the racial identity of the murderers of Aboriginal women, and that was a 2010 report by the Native Women's Association of Canada entitled *What Their Stories Tell Us — Research findings from the Sisters In Spirit Initiative*. This is the only report that documented that both Aboriginal and non-Aboriginal men murdered Aboriginal women. Their data showed that at least 23 per cent of the murderers were non-Aboriginal, 36 per cent were Aboriginal and 40 per cent were of an unknown race. There is such a high percentage of unknowns because the race of the perpetrator is not routinely determined or recorded during investigations.

I'm basically a teacher and a professor, so I am going to repeat myself so the message gets across. Despite the flawed analysis of the RCMP report and the existence of the Native Women's Association of Canada report showing that at least 23 per cent of the murderers of Aboriginal women were not Aboriginal, there remains public misconception and misguided policies. However, I have hope because we have the National Inquiry into Missing and Murdered Aboriginal Women and Girls, and I'm hoping they can set the story straight.

I sent my PowerPoint presentation to them. Unfortunately, the lead lawyer is no longer there. I gave a copy of my in-depth analysis to them, and when they were in Saskatoon for the hearings, I gave it to them again in French and English to say, "Here it is again. Please look at this." I'm hoping that the commissioners and their analysts will actually look at the data through their own lens, and they will likely see it very much the same way I did.

Now, this is really important because it gets back to the issue of protecting Aboriginal women. That's why I spent so much time going through this. I hope it's clear to you that it's not just Aboriginal men who are killing Aboriginal women. Non-Aboriginal men are also killing them, and the Aboriginal women

in this room know their names. We know the names of the high-profile cases. We know they're out there. We just need to start documenting it. It needs to be documented.

I trust that this in-depth analysis of the RCMP data shows how societal biases and prejudice against Aboriginal people clouds people's judgments and contributes to the further victimization of Aboriginal women by unfairly focusing only on Aboriginal men as the perpetrators. If our prevention efforts do not include non-Aboriginal men, we will fail to protect Aboriginal women as fully as necessary.

According to the Native Women's Association of Canada report:

The experiences of violence and victimization of Aboriginal women do not occur in a vacuum. Violence is perpetuated through apathy and indifference towards Aboriginal women, and stems from the ongoing impacts of colonialism in Canada. . . . Systemic racism and patriarchy has marginalized Aboriginal women and led to intersecting issues at the root of the multiple forms of violence. The result of the system of colonization is a climate where Aboriginal women are particularly vulnerable to violence, victimization, and indifference by the state and society to their experiences of violence.

Presently, though, I think this indifference has lessened substantially in some sectors of our society simply because we now have the National Inquiry into Missing and Murdered Indigenous Women. That is evidence of that. I know myself and others in this chamber pushed for many years for that inquiry to be initiated and is now ongoing.

My time is up. Thank you for your attention.

(On motion of Senator Omidvar, for Senator Sinclair, debate adjourned.)

## REGIONAL UNIVERSITIES

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Tardif, calling the attention of the Senate to regional universities and the important role they play in Canada.

**Hon. Jane Cordy:** Honourable senators, I move that further debate be adjourned until the next sitting of the Senate for the balance of my time.

(On motion of Senator Cordy, debate adjourned.)



## “SOBER SECOND THINKING” PROPOSAL

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Wallin, calling the attention of the Senate to the proposal put forward by Senator Harder, titled “Sober Second Thinking”, which reviews the Senate’s performance since the appointment of independent senators, and recommends the creation of a Senate business committee.

**Hon. Marc Gold:** The publication of Senator Harder’s paper *Sober Second Thinking* was welcomed by many, including myself, who saw it as a constructive contribution to the debate about the modernization of the Senate. But not everyone agreed.

Some worried that his proposal for a business committee would turn the Senate into a politburo that would destroy the opposition. It’s true that it was said.

Other critics struck a less apocalyptic tone, nonetheless seeing his proposal as part of a government plan to marginalize if not indeed to eliminate the opposition.

[Translation]

Honourable senators, the role of the opposition has dominated debate in the Senate since my arrival here more than a year ago. This issue is debated by committees, in the halls, in this chamber and in the media. I find some speeches on this issue to be exceedingly partisan. However, that said, there is an important principle at stake.

Many senators have argued that the unique role of the opposition is part of our history and our tradition, and that it is an integral part of the Westminster system of parliamentary democracy. Consequently, any attempt to diminish the role of the opposition is considered an attack on the very nature of the Senate.

This is an important argument that must be taken seriously, which in turn requires that it be subject to critical analysis. That kind of analysis reveals arguments in support of the opposition’s special role to be much less convincing than they appear at first blush.

• (1900)

[English]

So, let’s turn to the arguments. The first argument is one of history and tradition. It goes something like this.

I love having the call and response; the musician in me likes that.

The Fathers of Confederation, it is argued, intended the Senate to be a partisan institution defined along adversarial lines. The argument often begins by invoking resolution 12 from the Quebec Conference in 1864. It goes on to note that the first group of senators appointed in 1867 reflected the party representation in

the House of Commons and concludes with the fact that from the very first session of the very first Parliament, there has been a leader of both the government and the opposition in the Senate.

Now this argument, however, has not gone unchallenged. In response, it is argued that the *Rules of the Senate* did not explicitly acknowledge the roles of government or opposition leader until 1968, and that the special privileges accorded to both government and opposition were only embodied in our rules in 1991. Far from being deeply rooted in our history, the special role of the opposition is a relatively recent development — or so it is argued.

[Translation]

Honourable senators, these two arguments are, for the most part, legitimate. However, like most arguments based on history, they are selective and incomplete. It is true that the Rules of the Senate did not officially recognize the government and the opposition until about a century after Confederation, but changes to the Rules of the Senate reflected a practice that had been in place in the Senate for some time. That is only half the story though, because, shortly after Confederation, senators began to challenge the organization of the Senate along government and opposition lines. Some still challenge it to this day.

[English]

For example, in 1906, Senator William Perley, a Conservative from Saskatchewan, stated that “when we divide this Chamber into government and opposition we assume a position that is not worthy of the Senate.” The same point was made eight years later by Conservative Senator John Waterhouse Daniel from New Brunswick.

Interestingly, one of the strongest critics of the idea of an opposition in the Senate was Liberal Senator Raoul Dandurand who, during his long career in this chamber, served as Speaker, government leader and opposition leader.

Moving ahead in time, consider the words of former senator and twice leader of the Conservative Party of Canada, Arthur Meighen, written in 1937, who said:

The Senate is worthless if it becomes merely another Commons divided along party lines and indulging in party debates such as are familiar in the Lower Chamber session after session ... Members of the Second Chambers must get away, lift their minds far from those hard-drawn lines of the party, or they cannot serve their country.

Closer to our time, consider the remarks of Senator Grattan O’Leary in a speech marking the opening of a new session of Parliament, when he stated:

I am convinced that you will not get in the Senate the spirit which the Founding Fathers hoped for it, as long as we have a Government side and an Opposition side.

In a similar vein, in a speech about Senate reform in 1973, Albertan Senator Ernest Manning stressed that “the Senate should be an entirely non-partisan body. The concept of a Senate comprised of a government party and an official opposition should be abandoned.”

[Translation]

I could go on, but I don't want to belabour the point. As I see it, an impartial interpretation of our history shows that the roles of government and opposition in the Senate have always been in dispute. The practice survived and was incorporated into the Rules of the Senate simply because the Liberal Party and the Conservative Party controlled Senate appointments and the organization of the Senate, but this reflects power and politics rather than principle. The fact is that the historical argument based on tradition is not as solid as its proponents claim.

The second argument is also based on history and tradition, but is supported by the very nature of the Westminster system, which the Parliament of Canada is modelled after. That argument is this. All of the Westminster-style legislatures have recognized opposition parties. It is in their DNA. Any attempt to remove the opposition from the Senate would compromise its Westminster roots and create a legislative body that is radically different from what it was intended to be.

[English]

Honourable senators, this is a simple and powerful argument, and it's one with strong rhetorical appeal. But if I may speak plainly, it is dead wrong.

Honourable senators, as leading academics have pointed out, it is simply incorrect to assert that there is a fixed set of attributes that define the Westminster system. Indeed, if there is anything that characterizes the various parliaments that trace their origins to Westminster, it is the extent of their diversity, especially with respect to the role and function of second chambers. More to the point, if there is an essential element that characterizes the Westminster system, it is the notion of responsible government whereby the executive is responsible to the legislative branch. And in a system of responsible government, the opposition plays a critical role, but it is a role that belongs in the House of Commons and not in the Senate. The fact is that the invocation of the Westminster system adds nothing to the argument about the role of the opposition in the Senate. In my humble opinion, it should be dropped from our vocabulary when we speak about this important issue.

If the arguments from history, tradition and the Westminster system are considerably weaker than their proponents claim, what are we left with?

[Translation]

Some argued that the opposition is necessary to hold the government to account, but for the reasons that I gave in my speech about partisanship during the debate on the Modernization Committee's report, I do not believe that that argument holds up. It does, however, raise the following related argument: As a chamber of sober second thought, the Senate must conduct a rigorous critical review of all government bills. From that

perspective, the opposition plays a critical role in ensuring that different points of view are considered and debated. After all, the Senate is a place of debate and, by definition, a debate involves conflicting opinions. As one senator pointed out, the role of the opposition is to oppose. In the absence of an opposition, debates would have no clear structure. What is more, all members of a committee could share the same opinion and thus fail to seriously consider any different or dissenting views.

I believe that that is the best argument in favour of the role of the opposition, but how solid is that argument?

[English]

Much depends on what the alternatives are. If that's the only way to structure critical debate, the argument is pretty strong. But if it can be demonstrated that there is another way to organize the work of the Senate, one that guarantees sustained and critical review of government legislation, then this argument loses much of its force. Now, as I have suggested on another occasion, there is another way. So let me take a few minutes to outline it here.

The key is to imagine a set of standing rules that would provide a structured road map for the passage of a bill through the Senate and that would guarantee that all relevant perspectives be brought to bear upon our debates, our deliberations and our decisions. These rules would be administered by a committee of senators drawn from all parliamentary caucuses and groups, a committee not unlike that suggested by Senator Harder in his paper, or by Thomas Hall in his testimony before the Modernization Committee, or, if we may return to history for a moment, to Senator Raoul Dandurand who, writing in his memoirs some many decades ago, promoted the idea of a Senate management committee to oversee the legislative work of the Senate.

For example, we could develop rules to structure the way in which Senate debate is organized from the introduction of a bill through its various stages. Such rules might contemplate the appointment of one or more critics of a bill, to ensure that a diversity of perspectives are represented. Or other rules might empower the Senate committee that I spoke about to organize debate on a particular bill in a more structured manner, such as we did with Bill C-14 on medical assistance in dying.

• (1910)

Now, regarding the committee stage, rules could be introduced to ensure that bills benefit from critical scrutiny. For example, a rule might provide that a committee must consider the interests of all relevant stakeholders and must seek a balance between proponents and critics of a bill when witness lists are being developed. A rule might also require that a bill be subjected to the appropriate impact analysis so that the constitutional obligations of the Senate in relation to the regions, to minorities and to the Constitution itself be embedded in our practices. Rules could also be developed to ensure that once a committee submits its report to the Senate, the bill proceeds to third reading without unreasonable delay.

Note that this is just the bare outline of an alternative approach, one that would need to be developed in greater detail. Nevertheless, it does illustrate at least one way in which the work of the Senate could be structured to ensure critical scrutiny and debate without relying upon a special role for the opposition.

So where does this leave us? Some of you may detect in this an argument for doing away with the opposition in the Senate, but let me be clear. I'm not arguing for that here, nor would I necessarily support it if the issue came before us for decision. The truth is that I'm struggling with this issue, and I remain somewhat agnostic on this point.

What I do support, however, is that we take a critical look at the special powers and privileges that our current rules and practices accord to the opposition in the Senate. In a Senate where all senators are supposed to be equal, these special powers and privileges seem to be anomalous, to say the least. They should be subjected, at the least, to a principled and critical review.

Honourable senators, I have attempted to show that neither our history, our constitutional traditions nor the Westminster system itself require that we maintain a special role for the opposition in the Senate. More importantly, there are alternative ways to organize the work of the Senate to ensure that we fulfil our constitutional role as a legislative body, independent of and complementary to the House of Commons.

So if we are to maintain a privileged role for the opposition in the Senate, honourable senators, it must be supported by arguments far stronger than those that have been advanced to date.

(On motion of Senator Cools, debate adjourned.)

## THE SENATE

### POLICIES AND MECHANISMS FOR RESPONDING TO HARASSMENT COMPLAINTS AGAINST SENATORS—INQUIRY— DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator McPhedran, calling the attention of the Senate to the important opportunity we have to review our principles and procedures with a view to ensuring that the Senate has the strongest most effective policies and mechanisms possible to respond to complaints against senators of sexual or other kinds of harassment.

**Hon. Frances Lankin:** Honourable senators, we are here this evening, so I will discharge my duty on this. I don't intend to speak long.

I want to thank Senator McPhedran for bringing forward this inquiry. I think, as we can all attest by reading the newspapers and seeing world events, this is an issue that is certainly topical in many workplaces and institutions.

The issue of workplace harassment and discrimination, policies, training and measures put in place to reduce the incidence, to support victims and to ensure due process for those who are alleged to have violated such policies exist in most workplaces and institutions already and have so for 15 or 20 years.

So what's new and what is the world doing now? Well, I think one of the things we can all acknowledge is new is that there has been an empowerment of victims to come forward. The #MeToo movement and the Time's Up movement, have really created a seismic shift in the landscape of these sorts of issues and concerns being brought forward. So this inquiry speaks to what in fact the Senate might do or should do.

First of all, let's talk about what the Senate is doing. The Senate does have a policy that is in place and has been in place for a number of years. I think the question that we have to ask ourselves is whether it is sufficient. I don't think we can do that without doing a review of it. I would acknowledge that Internal Economy, CIBA, has in fact undertaken steps towards initiating that review.

The first step was an ad hoc committee that was brought together to start to look at the issues and talk about what might we want to do here in the Senate. As things progressed around us and we were able to see the kind of scrutiny that perhaps we should be bringing to the policy, the committee made what I think is the most appropriate decision. They, in fact, formalized this as a subcommittee of the Committee on Internal Economy. So I think that is wise, and I pay tribute to the senators who led that decision. I am pleased that group is in place. My understanding is that they will be reaching out and contacting third party advice to come in and help us.

Well, if we already have a policy, why do we need to do this? First, it is very clear that the policies that have been in place in many workplaces, as I've said, for 15 to 20 years haven't in all cases worked to restrain the kind of behaviour that we are concerned about nor provide the right kind of supports or training to people to change the behaviour or to support people who have received complaints about that behaviour.

It is so pervasive. I was communicating with the Chair of CIBA and one of the people involved in the ad hoc committee in moving to establish this, and I said to them it's not just the external world. As I look at my experience over the years in workplaces, I can only think of two workplaces I have been employed where sexual harassment or harassment bullying behaviour was not a feature of the workplace. Only two. Some people say I can't keep a job, but I've been in a number of different workplaces over the years.

There is an experience that many people have had that this is something that you just put up with, you just experience and you work around. You learn to develop some very significant coping skills, I could say.

But as we look to review that policy, I think we have to understand that it shouldn't be a top-down process. One of the things that I will ask of the committee — I hope they are meeting soon. I know there were plans to get a committee meeting happening right away. One of the things I would suggest is that

from the very beginning, it is important for you to reach out to the staff of the Senate. As we start to put together a mandate to put out an RFP for a third party to come in and support our work of reviewing this policy, staff need to be engaged and consulted and have input into that mandate.

We need to create that committee while it's constituted under the *Rules of the Senate* and the rules of committees. It is a subcommittee, which means it will only have senators who are appointed to it who are members of CIBA. We all know there are other advisers who could be brought around the table to be part of the discussion and the debate. Again, I would say at that level it's very important that staff be involved.

The actual procedures of what happens, what are the definitions, what happens when there is a complaint, how is it investigated, how are alleged victims treated and how are the alleged abusers treated in terms of due process, all of that has to be very clear in the policy. It has to have sensibilities to both parties. It has to have, while we want complete transparency, some sense of privacy as this moves through the initial process. We need to see if our policies provide all of those things or not.

The other thing is that the definitions and the behaviour have to be very clear. I think we have all read about and understood the nature of allegations around sexual abuse or sexual harassment, but there is bullying behaviour that goes on and that we have experienced. Wherever there is a severe power imbalance, that is a feature for some people — not for everybody — of behaviour that will often emerge in that kind of situation.

So we're setting a new subcommittee, and we are looking to reach out to bring in third party expertise to advise us on this.

What else is happening on the Hill? Well, in the other place, there is a piece of legislation that will eventually land here that looks to create obligations for others in terms of what they do around sexual harassment policy. A committee has been struck to specifically look at what the policy and rules should be for the House of Commons, and they are going out and seeking third party advice.

Those of you who have been here longer might have an answer, but I don't know if there is a reason for us to be doing this work separately, particularly if we're contracting third party advice. There is an expense to that. Perhaps there should be collaborative work done between the House of Commons and the Senate on this. I can't imagine that the policies and the incidents would be dramatically different. So I would ask the committee to examine that.

• (1920)

The other thing the House of Commons has been doing is an online training session. These are mandatory training sessions, as I understand it, and in-person training for all MPs. I think that's something our committee should look to and, in fact, if training modules are being developed we might be able to share that information, or in working collaboratively with them as they're being developed we might be able to bring forward any sensibilities that are important or unique to the Senate to be part of that program.

[ Senator Lankin ]

I find myself in some ways quite interested in the fact that I spent so many years working on equality issues and all of a sudden I come to the Senate and there is something going on around sexual harassment and abuse.

**An Hon. Senator:** Oh, oh.

**Senator Lankin:** I'm sorry, I find that really distracting.

**Hon. Anne C. Cools:** Sorry to distract you, but sexual harassment is not something —

**Senator Lankin:** If I may continue with my remarks, senator, I would appreciate it.

All that I want to say with respect to this is that there are clear policy review and revisions that may come about from this. There is a need for training that provides people with the skills and the knowledge to bring forward their complaints in a manner where they've been advised on how to document, how to keep information, and there needs to be due process for the people who are being alleged to have either participated in harassing, bullying or sexual harassment behaviour.

I was about to say that I find it interesting that here I have had the opportunity to speak about sexual harassment, about the discrimination against indigenous women in the prison system, about the language of "O Canada," and about the number of women on boards. For someone like me, this is a little bit of nirvana going on with all of these issues being topical here in this chamber. However, I believe it's not a coincidence. It is about what has happened in terms of our collective consciousness and understanding of the importance of equality issues, with different slants on all those particular issues. And it all comes down to the basic core, the values and core principles of this chamber, which is respect for people, equality of individuals and ensuring that we have remediation in place where there has been targeted discrimination behaviour that targets certain vulnerable groups, and as a mission in the Senate we are certainly sensitive to that. It is appropriate that we take a leadership role in ensuring updating our policies and in ensuring that we are engaging our staff and ensuring that we are doing it in an efficient and fiscally responsible way, perhaps sharing our resources with the House of Commons, and in the end, in providing the training and supports to all of us to perform our jobs of eliminating this kind of behaviour from our workplace.

Thank you very much.

**The Hon. the Speaker:** Senator Cools?

**Senator Cools:** Could the senator define for us what sexual harassment is? And what evidence is there before us that there is a culture in this place or problems with sexual harassment to begin with? Most senators are too old anyway, and long past the age, so let's rule out most of them. But I would like to know what evidence you have that there is a problem in this place with sexual harassment and that it needs to be fixed? I would love to know the evidence you have.

**Senator Lankin:** I would be delighted to answer your question, senator, although you didn't ask if I wanted to answer.

I mentioned to you that in virtually all but two workplaces I have ever been in this subject has been a feature of the landscape. The question of whether or not the Senate is one of those is something that I reflected on in the beginning. I must tell you — it may have to do with my background or my advocacy role on these issues — I have had a number of women staff come to me and talk to me about experiences that they've had and asked for advice about how to handle it. In this case, I have evidence of first-hand stories on the part of women who believe that they have been victims.

(On motion of Senator Omidvar, for Senator Galvez, debate adjourned.)

### QUESTION OF PRIVILEGE

#### SPEAKER'S RULING RESERVED

**The Hon. the Speaker:** Honourable senators, earlier today, Senator McPhedran gave written and oral notice of a question of privilege pursuant to rule 13-3, and in accordance with rule 13-5(1) I now call upon Senator McPhedran.

**Hon. Marilou McPhedran:** Thank you, Your Honour.

Honourable colleagues, as mentioned earlier today I gave notice that I would be raising a question of privilege regarding communication to the media summarizing some of the content of a letter marked "confidential" sent to me by the clerk of the Standing Senate Committee on Internal Economy Budgets and Administration, hereinafter referred to as CIBA, this past Saturday, February 10, 2018.

As I stated in my oral notice, among the parliamentary privileges guaranteed to all parliamentarians is freedom — freedom from obstruction, impediment or interference in the performance of our parliamentary functions. We are grown-ups. There is considerable scope in allowing us to determine what is appropriate as parliamentarians in fulfilling our parliamentary functions.

According to rule 13-2(1), in order to be accorded priority, a question of privilege must meet criteria, which I will now address. The question must be raised at the earliest opportunity, given that the breach of confidentiality that I am alleging by CIBA, which I believe I have experienced, occurred yesterday, this criterion is met.

Before I address the remaining criteria applicable to this situation, let me summarize briefly the events that have compelled me to raise this question of parliamentary privilege.

On Saturday, February 10, 2018, my office received an email with a letter addressed to me marked very clearly "confidential," dated the previous day, February 9, sent on behalf of what we often refer to as the steering subcommittee of CIBA, requesting additional information about the request for services contract that I had submitted to Senate procurement on January 31, 2018.

In this confidential letter, CIBA stated accurately that I had publicly offered a free consultation with a practising legal expert in a safe and confidential setting to survivors of harassment within the Senate environment, and noted that the lawyer

identified in some media reports is the same expert I named in the contract to assist me with research, analysis and suggestions for systemic change in how the Senate responds to and prevents harassment in this environment.

This expert is working with me to provide a safe, confidential space to survivors to discuss their experience of harassment. We are currently doing this without payment. I, of course, will not receive any payment, and the expert has committed to provide legal consultations to survivors who request it on a pro bono basis. In the letter though, CIBA also notified me "that such an expense to the benefit of a third party would not be permitted under Senate policy," and requested "additional information to support my request."

No specific reference came from CIBA as to the source of their interpretation of what constitutes to them an "acceptable parliamentary function."

• (1930)

Given that the CIBA letter to me was marked "CONFIDENTIAL," given that CIBA asked me to provide additional information to them and "to determine the eligibility of the expense," it seemed entirely reasonable to respond quickly and thoroughly to their request to get the contract back on track and to ensure a message did not get out to survivors that consultation with a legal expert would no longer be possible.

On Sunday and Monday, I finalized an agreement that legal consultations to survivors would be provided pro bono or covered personally by me, if need be. Given that the fast-tracking of Bill C-65 occurred after I had drafted the initial contract request, I expanded the scope of the research and legal analysis to be provided to me.

By midday Monday, yesterday, I had revised the contract to do what the three senators of the CIBA steering group — the chair, Senator Campbell, who is here with us; the deputy chair, Senator Batters, who is here with us; and also Senator Munson, who is here with us — required in their confidential letter to me, a revised contract, with the expectation that my rapid response in accordance with their wishes, on the very first business day possible to do so, would ensure that the process would no longer be delayed. Typically, Procurement has been able to process my contract requests in five business days, sometimes less, but by Monday, we were 12 days beyond my request.

I made meeting the CIBA request a top priority, not because I agreed with their interpretation of "parliamentary function," but because it was essential to get back on track and not undermine the confidence of survivors of harassment in the Senate environment who were perhaps trying to decide if they could rely on my offer of a safe, confidential environment as real and trustworthy.

Silencing takes many forms. Silencing is essential to the perpetration of harassment and bullying. Providing safe and confidential space to speak of their experiences and providing resources for survivors, not just resources to their alleged perpetrators, are among the only effective counterweights within hierarchical institutions that allocate privilege to the higher ranked within.

I consider it very much a parliamentary function of a senator. I consider it an honour as a senator to facilitate awareness and create effective opportunities for the voices of survivors of harassment to be heard without forcing them to be identified. That is one of the reasons why responding quickly and thoroughly to the CIBA confidential letter in order to resume this function was a top priority in my office.

Imagine my surprise when mid-afternoon yesterday, Monday, February 12, 2018, the first business day on which it was possible to respond to the CIBA steering committee, I received an email request from CBC to comment on an email initiated by CIBA earlier that day, which referred to and summarized some of the content of CIBA's confidential letter to me.

You may be familiar with the first headline that ensued this morning: "Senate shoots down senator's plan to use office budget for harassment victims' legal fees."

Given that this breach of confidentiality occurred on Monday, February 12, the question of privilege is being raised in the chamber at the earliest opportunity, meeting the first criterion of priority.

The second priority requires that the question relates to a matter that directly concerns the privileges of the Senate, any of its committees or any senator.

I believe this is a breach of my parliamentary privilege, impeding my capacity to work most effectively with and for survivors of Senate harassment because the letter made it clear that I needed to come back to CIBA before my contract request was going to be further considered.

The CIBA-initiated email to the media referenced information needed and procedures to be followed set out in the confidential letter and was sent out to the media without notice to me and under a time frame that did not allow for my response or agreement before doing so.

The meeting or discussions that took place between the steering committee members were in camera. Any record of their discussion is kept secret, and the CIBA media liaison is directed by the chair and deputy chair of CIBA.

To issue a confidential letter to me on Saturday and then have their CIBA employee reach out to the media on the first business day after the confidential letter was delivered are inconsistent and, in my respectful opinion, unethical actions between senators, negatively affecting the reputation of the Senate and of the CIBA committee, as well as my parliamentary privilege and function.

Thirdly, the question must be raised to correct a grave and serious breach. These actions taken by the clerk and the media liaison, on the direction of the CIBA steering committee, are arbitrary and inconsistent with the instructions to me in the confidential letter. This is a breach of confidentiality that substantially infringes my parliamentary privilege and capacity to function to an optimal degree. This is a breach of my freedom from obstruction and interference as a parliamentarian.

As outlined in the *Senate Procedural Notes*, Number 12 of September 2012, and referred to in Senate Rules in section 13-1:

Parliamentary privilege comprises the rights . . . accorded to Parliament and to parliamentarians to enable them to fulfill their parliamentary functions without interference or obstruction.

Surely, the Senate Rules do not condone direction by a Senate subcommittee to leak information defined to the recipient as confidential by that same small group of senators where the information directly related to a request in progress made by my office to hire a contractor for the benefit of my work, my parliamentary functions and those I try to serve.

These actions demonstrate willingness. These actions demonstrate intent to obstruct the work of my office and those associated with its activities as well as, I would suggest, a form of perhaps subtle but nevertheless quite effective intimidation to survivors of harassment in the Senate environment. They served misinformation to an untold number of survivors who are out there trying to decide if it is safe to come to me.

In fact, the letter, dated February 9, clearly marked confidential, sent by the clerk of the CIBA committee, requested additional information regarding my request for a services contract with a lawyer, partly out of concern that there had already been misinformation to the media, a reference made in the actual letter.

What could have been the motive behind the CIBA steering group directing their staff to go to the media to share some of the information they told me had to be verified and explained to them before they would allow me to proceed with the agreement?

I have verification in writing that there was no request from the media, from CBC, to whom the email was sent. There was no request yesterday, there was no request the day before or the day before that or the day before that by the journalist to whom the CIBA statement was sent. Even if there was, nothing compelled the CIBA chair and deputy chair to initiate outreach to the media less than one business day after they sent me their requirements by confidential letter.

There's no mistake here. A choice was made deliberately, and directions were given to issue the media statement referencing aspects of the confidential letter to me.

Furthermore, I believe this breach of confidentiality was previously debated and should be addressed similarly to the situation regarding the release of the report of the Auditor General in 2015.

• (1940)

Your Honour, you set precedent with your ruling in favour of former Senator Hervieux-Payette, January 26, 2016:

The leaks that started the first week of June 2015, of which we are all aware, violated the confidential framework within which the audit was undertaken. Let me also note that the leaks put a number of senators in an extremely awkward

situation, facing questions about details of a document that was not yet before the Senate and not yet public. That was not right.

I argue, Your Honour, that these actions by the CIBA steering committee and its representatives have also been violations of a confidential framework, which they set out, on which I should have been able to reasonably reply in fulfilling my parliamentary function, and these actions have created an awkward situation as now I am forced to respond to heightened anxiety and distrust that can be reasonably anticipated among survivors of harassment in the Senate.

These conscious choices and actions impede me from fulfilling specific parliamentary duties as further delay for the request for services contract has been incurred. I have received numerous requests for me to do interviews and for further information, as well as questions from survivors of harassment in the Senate environment, for which this whole situation is re-traumatizing, re-victimizing, and exacerbates the deficit of trust in the Senate.

In the past two years, two major breaches of privilege have been debated in the House of Commons, in 2016 and 2017, both in April. Both of these questions of privilege were directly linked to the leaking of confidential information to the media, which breached parliamentary privilege and obstructed the functions of the members involved.

Your Honour, please consider these actions to be debated as breach of parliamentary privilege and open the debate on the larger issues at stake.

The final criterion for priority is for the question of privilege to be raised to seek a genuine remedy that the Senate has the power to provide and for which no other parliamentary process is reasonably available. I am seeking genuine redress for the choices and actions of the CIBA steering committee that are in evidence here. The Senate is a self-regulating body. We have to decide on accountability and standards of conduct, and what good governance means to us as an institution with significant privileges and responsibilities.

I am requesting that the three senators who are responsible for what has happened here be strongly encouraged to refresh their skills in good governance with transparency, consistency and accountability at the centre. I am asking that they lead CIBA in developing a protocol — that they publish and commit to following — with regard to sharing information with the media and respecting and maintaining the confidentiality of their communications to other senators, especially when they designate the communication as confidential.

Lastly, and in closing, I seek a recommendation that CIBA put on the public record the answers to the following questions:

One, since 2006, what is the dollar amount authorized by CIBA to be paid for legal assistance of any kind, to any party or representatives of the parties, in relation to complaints of harassment, including bullying and sexual harassment, against senators or officials of the Senate?

Two, since 2006, was any of the amount, as identified by an honest and accurate answer to my first question, allocated to any form of support or settlement to anyone alleging harassment either paid directly to the complainant or ending up with the complainant having been paid out of legal or other professional fees authorized by CIBA? If yes is the answer, how much?

Your Honour, in closing, please note that my questions in no way compromise identification of any of the parties. I trust that you will examine this question of privilege in fairness and give it your full attention. I maintain that there has been a serious and impactful breach of my parliamentary privilege to be free from impediment in my parliamentary functions, from obstruction, from attempted intimidation, and I hope a ruling in favour will provide a space for debate on larger systemic issues of good governance and accountability in the Senate of Canada.

Thank you, *meegwetch*.

**Hon. Larry W. Campbell:** I rise to speak to Senator McPhedran's question of privilege. I will address her claims in the order in which she made them. All emails to CBC pertaining to Senator McPhedran's use of the Senate budget for legal fees were in response to questions received from CBC.

At no time did CIBA initiate any email correspondence with the CBC.

The chronology of media requests regarding the use of office budget for the third-party legal expenses from J. P. Tasker at the CBC are as follows: On Friday, February 2, Mr. Tasker asked for a comment.

He said:

I was wondering if the chair and/or co-chairs of Internal Economy had any comment on Senator McPhedran's plan to offer free legal counsel to present and former staffers who are coming forward with harassment allegations. She has said she will use part of her Senate office budget to help defer some of the costs. Is this allowed under Senate rules?

On Monday, February 5, 2018, we sent the following reply to Mr. Tasker, along with general information on the harassment policy:

Senators will review the matter of Senator McPhedran's initiative early this week. I may be able to provide you with further comment after that point.

On Monday, February 12, 2018, a question came in from another reporter, Michel Boyer of CTV.

It was:

Not sure who to direct this question to. Is Senator McPhedran allowed to use her office budget to pay legal fees for staffers looking to harassment complaints? If not, who okayed that?

The decision was made to provide a reply to Michel Boyer, and to provide the same reply to Mr. Tasker since he had asked earlier and we had replied that we would follow up on it.

This reply was sent to both reporters:

Media reports indicate that Senator McPhedran will use her Senator's office budget to help cover the cost of legal advice for people choosing to come forward to her with accounts of workplace harassment at the Senate.

Senate policies provide that senators may retain the services of contractors to support them in their parliamentary functions. This would not include paying legal fees for third parties.

We also recognize that law firms commonly provide an initial consultation free of charge.

We have asked Senator McPhedran to clarify exactly how Senate funds will be used for the purposes of her endeavour.

Senator McPhedran claims that the February 12 statement referred to and summarized some of the content of a confidential letter to her. Not only was there no reference to that letter in the statement, but it stands to reason that in providing an explanation of policy in a letter to a senator, and also providing the explanation of the same policy to a member of the media, that explanation — specifically, the wording — would be similar if not exactly the same.

The media statement, which was approved by the members of the steering committee, was merely providing high-level background information on a matter that she brought to the media. The confidentiality label was administrative in nature to ensure that it would be dealt with privately within her office. It was not an indication that the letter contained any confidential in camera proceedings.

This institution has taken great strides in recent years to be as transparent as possible, especially when it comes to our rules and decisions regarding expenditures. Senator McPhedran has been in the media repeatedly in the recent past with claims that she was going to use her Senate budget to pay for legal fees: January 31, *Winnipeg Free Press*; February 1, *Ipolitics*; February 1, the Canadian Press, English and French; February 6, CBC "As It Happens"; February 6, CBC News Network, "Power & Politics"; February 6, CTV "Powerplay"; February 6, CBC News, CTV News; February 7, CBC News Windsor.

And this list is not exhaustive.

• (1950)

Our issues management and media adviser, Alison Korn, sent the email with the approval of the steering committee. This was not an error. This was done, as I stated previously, to address the queries from the media.

Ms. Korn's reply to the CBC reporter's question was general in nature and was in answer to interest generated by Senator McPhedran's media campaign. The statement in no way referenced anything received by Senator McPhedran from the CIBA steering committee. The steering committee was always acting within its authority under the SARs, ensuring that Senate resources were used in accordance with Senate rules and policies.

Senator McPhedran was never obstructed or interfered with in the performance of her parliamentary functions. Therefore, Your Honour, I invite you to find that there is no *prima facie* case of privilege.

[Translation]

**Hon. Ghislain Maltais:** Mr. Speaker, having listened closely to Senator McPhedran's speech and carefully read the letters she presented to us, I have some comments to make.

The question of parliamentary privilege is nothing new; it is enshrined in the Canadian Constitution. It was confirmed in 1982 by the Charter and has been re-confirmed multiple times by the Supreme Court of Canada, for example in the *Donoghue* case.

In order for a question of privilege to be raised, it must originate within Parliament itself. Parliamentary privilege confers the right to freedom of speech in Parliament and in committee; freedom from arrest in civil matters, exemption from jury duty; exemption from attendance in court as a witness; and protection from obstruction and intimidation in general.

Constitutional law dictates that the violation must be committed within Parliament. When we make a statement in Parliament, parliamentary immunity applies. Making the same statement outside of Parliament leaves us open to legal action.

I have no doubt that the problem Senator McPhedran is experiencing is the result of a mistake, but it is not a question of parliamentary privilege. The problem involves a Senate committee that meets in a meeting room, not in Parliament. That means it is governed by administrative rules, not by parliamentary privilege *per se*, as defined by the Canadian Confederation.

Mr. Speaker, what happened is unfortunate, but you must bear in mind that parliamentary privilege exists only within Parliament. This does not in any way prevent the senator from exercising her parliamentary rights in Parliament. Outside Parliament, it is up to her to decide. The problem she is raising did not originate in this chamber.

My arguments are simple, and yet they go straight to the heart of the matter. I have spent the better part of my life in Parliaments, and matters of privilege, across Canada, apply to parliamentarians whose privileges have been breached within Parliament itself. Thank you.



[English]

**The Hon. the Speaker:** Honourable senators, before I call on Senator McPhedran to close out debate, are there any other senators who wish to enter the debate?

**Hon. Anne C. Cools:** Honourable senators, the question of privilege is a deeply troubled one in many ways, and far more complicated and complex than it has been presented in these particular circumstances.

First, Senator McPhedran has no privilege whatsoever to demand or expect that the steering committee of a Senate committee should make a decision in her favour. There is no such privilege.

I cautioned senators about this. This is very serious ground. Very strong accusations are being made here against colleagues. I think we should arrest that forthwith.

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

**Senator Cools:** Forthwith. I say that as a woman and senator who has served in this place for 35 years.

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

**Senator Cools:** I say it with pride.

Honourable senators, when I came to this Senate, I can tell you a lot of the very senior and very successful senators who took me under their wing and trained me very well. They included people like Allan Joseph MacEachen and other big names who served in this Senate.

Privilege is a very complicated concept and a very difficult thing to prove, and I want to put a few small points on the record about what is not privilege.

Senator McPhedran, in the latter part of her speech, asked CIBA to put on the public record their answers to her two questions. These were:

1. Since 2006, what is the dollar amount authorized by CIBA to be paid for legal assistance of any kind in relation to complaints of harassment (including bullying and sexual harassment) against senators or officials of the Senate?

Senator McPhedran has no privilege to receive that information. No privilege whatsoever.

Her second question was:

2. Since 2006, was any of the amount identified by an honest and accurate answer to my first question allocated to any form of settlement to anyone alleging harassment - either paid directly to the complainant or ending up with a complainant having been paid out of legal (or other professional) fees authorized by CIBA? If yes, how much?

Senator McPhedran has no privilege to ask anyone here a question such as these.

Colleagues, let us understand what privileges are and what they are not. Privileges are no excuse or no opportunity whatsoever to malign other people, especially senators.

The first thing a senator learns in coming to this place is that the maligning or the violation in speech of another senator is very frowned upon and not viewed as parliamentary. It is unparliamentary to address senators in the way that they have been addressed tonight.

I will say this to you. It is unparliamentary. I come from a family of generations of members of Parliament, many of them.

I would like to go back into some of the issues to put something on the record that I don't hear very often, but it's a well-known fact.

Honourable senators, I think Senator McPhedran referred to the steering committee of CIBA as a group, "that group." I think she did. If I'm wrong, I apologize and will correct it.

I would like to explain to colleagues that years ago the government, the houses, put into the Parliament of Canada Act subsection 19.6(1), which was created at the time to give the Internal Economy Committee some authority between prorogations and the opening of new sessions of Parliament. They had to find a way so they put it into this statute.

I would like to put this out for your consideration. Senator McPhedran is extremely unhappy — angry, actually — at the decisions of CIBA, so I will put this on the record. The Parliament of Canada Act, subsection 19.6(1), headed "Exclusive authority," states:

The Committee has the exclusive authority to determine whether any previous, current or proposed use by a senator of any funds, goods, services or premises made available to that senator for the carrying out of parliamentary functions is or was proper, given the discharge of the parliamentary functions of senators, including whether any such use is or was proper having regard to the intent and purpose of the regulations made under subsection 19.5(1).

• (2000)

Those regulations were never made.

Colleagues, Senator McPhedran refused to accept that the Internal Economy Committee has that authority, and not only is it given to them by parliamentary privilege, it is also given to them by a statute, that is the Parliament of Canada Act.

Reading is an instructive and wonderful tool, especially reading the thoughts behind and in the intentions of these laws. No law ever made allows another senator to rise in this place and cast aspersions on every male senator in this place. There is something very wrong with that. I don't like it and I will never agree to it. I will never take part in it. I could go on infinitely on the "nevers" and the wrongness of these this phenomenon.

Colleagues, exclusive authority is a pretty powerful authority. Colleagues, senators, Your Honour, I want to say to you that you have a tough job on your hands, but I would like to support you in this. I would like to encourage you to be assured that the matter before us is not a question of privilege. No privilege of Senator McPhedran or no jointly held collective privilege of us senators that we possess was violated.

But something has happened. The issue before us is not a question of privilege. The issue before us is that Senator McPhedran does not accept the authority of Senator Campbell, Senator Batters and Senator Munson, who are the Internal Economy steering committee.

I cannot help you respond to the fact when a senator will not accept an authority that is there. I don't know how to tell you how to deal with that, but I can tell you her non-acceptance of this and her willingness not to heed what they heed is no privilege. There is no privilege in this Senate.

Honourable senators, I would like to say a few other things very quickly. It seems to have become current, very suddenly, in this place that there is an enlarged concern for sexual harassment here. I have never known sexual harassment to be prevalent in this place. As a matter of fact, I have never heard of any incidents of it. That doesn't mean anything, though, but I would question, Your Honour, why at this point in the advancement of women — and women have done very well in recent years — why all of a sudden now, at this stage, with so many women members in this chamber, and with so many women involved in public life and politics, why all of a sudden this little wicked circle of sexual harassment and sexual assault is making the rounds again? Why is that? Certainly there isn't a woman in this Senate, in this place, that if anything untoward was said, who would lack the ability to just send whoever it was packing — not even a challenge. But yet, here again, women are being presented and treated in infantile ways. Women are to be protected here from the sexual harassment of whom? Whom are you thinking? These fellows? I said most of them are too old anyway.

I can tell you something. Most of my career as a woman, I have spent leading in very public ways.

And this particular subject, I really find unfair, because the man accused never has a chance. There is this residual man-hating thing that seems to come and go and seems to want to perpetrate and to perpetuate itself. I have seen this countless times.

Colleagues, as far as I know, there is no problem in this place with sexual harassment. So when you stop and you see the huge problems and the inequities in society and the things that need to be healed and the good things that need to be done, perhaps we could turn our minds to that and put our attention to those issues, than rather quite frankly, try to prove the impossible.

I will say to you that the men who have served in this place are very high-level and very decent men, and I don't like what you did. I'm sorry that you have done it, but you have done it, and it will be on the record, cast in stone forever. You may think that is a good thing, but you will live to see the day when you will regret doing it. You will regret doing it. I have no doubt about that.

Your Honour, there is no question of privilege here. *Prima facie* is just a very funny sort of an animal in a way. I don't think most senators understand what *prima facie* means, anyway. It means just a glimpse. Is there even a glimpse here of some violations of sexual harassment?

If there are people here who have been violated, honourable senators, they are not the persons who have raised this question of privilege. It is all of these men, most of whom I would say — all of whom are loyal to their families. If you know anything about the male species, they have always looked to their families as the source of their daily life.

Don't forget that I spent many years — and you will remember, senator — working on the issue of divorce and men in divorce who were denied the opportunity to see their children, to have custody and access to them.

In any event, I just think it's an unfortunate thing that these issues have raised their head in this place. It's a very sad thing, I think.

I thank you very much.

Colleagues, I am a little too distressed to deliver my best speech tonight, but I can tell you, I have no doubt that Senator Campbell and Senator Batters and Senator Munson are very unhappy and feel very let down by this and feel very disappointed. All of which is unnecessary, anyway, because we do not have an alive case of sexual assault before us anyway.

Having said that, I will end here for the time being. But there can be no finding of a question of privilege here.

**Hon. Murray Sinclair:** If I might, Your Honour, I'm having a little bit of difficulty knowing quite how to respond to the previous speaker, because it seemed to me that there was an obfuscation of the issue, as I understood the privilege issue raised by Senator McPhedran.

As I understand what Senator McPhedran has raised, it is the question of a communication that was directed to her from the members of the steering committee of a Senate committee, that had been released to the media, as she believes occurred. She has alleged that the release of that communication to the media has resulted in a breach of her privilege. I don't recall any of what has just been said by the previous speaker to have been included in what Senator McPhedran has raised. I think it was unfair to Senator McPhedran to try to cast her privilege question in that vein.

So I would encourage you, Your Honour, to try to keep the focus and deal with the issue of privilege in accordance with how it was raised by Senator McPhedran.

I can say that on behalf of all senators, I would hope that there would indeed be respect paid to all of us when a matter of confidentiality has been raised by a committee of this house or a subcommittee of a committee and we are required to maintain confidentiality, and there appears to have been a show of disrespect or an inability or a willingness to not treat a communication as confidential by a member of this place. If that

is the case, then I would hope there would be something that could be done about it, because we rely upon confidentiality being maintained when it is imposed upon us at the same time.

• (2010)

Whether or not that is a question of privilege, I will leave that to you, Your Honour. In my view, I am not sure that it is exactly covered by everything that is in the precedents as I have been able to see it. At the same time, it is a matter of some concern to me that there would be a release to the media of confidential information that was intended to be maintained in confidence from them.

I recall the issue of how information contained in the Auditor General's report became public information was the source of an investigation that was ordered with respect to that. We treat that issue very seriously here, and we should maintain a sense of seriousness about that.

I want to therefore encourage Your Honour to look at this matter very seriously in the context in which Senator McPhedran has raised it, and on the point in which Senator McPhedran has raised it. She has not alleged impropriety on the part of any individual, insofar as harassment or sexual assault at this point has been suggested. She has merely said she wishes to give an opportunity to people to communicate with her and to get advice. The committee has turned down that request to use Senate resources. That may be within their prerogative to do that, but it's the question of the communication and its release to the media that she has raised.

Even if they are right, that in and of itself, the release to the media of that communication still might be wrong.

I leave that for you, Your Honour, to rule on. Thank you very much.

**Hon. Marc Gold:** I rise reluctantly, not to take a position on this issue, but just in some sense to try to clarify what the issue is. As I understand it, there is an allegation that confidential material was released or communicated, but I also heard quite a categorical denial from Senator Campbell on behalf of the steering committee that such was the case.

I want to be clear in my own mind that, at its heart, quite apart from the precedents and what rises to a question of privilege, this is a factual dispute, may I say, or certainly a dispute about the interpretation or the characterization of events that brought us to this place.

So thank you for the opportunity to clarify, at least in my own mind, that there is a difference of opinion as to what actually happened. Thank you.

[Translation]

**Hon. Renée Dupuis:** Mr. Speaker, in your ruling, I invite you to be as precise as possible concerning what you are being asked to do today. It is not up to me to determine whether this is a question of privilege, and please know that it is not my intention to do so. A request is being described as a question of privilege by Senator McPhedran and the response provided by the Subcommittee on Agenda and Procedure of the Standing

Committee on Internal Economy, Budgets and Administration, was that the allegation is inaccurate. That seems to be the subject matter of the question of privilege.

Two things concern me. One is the use of funds for carrying out parliamentary functions. I would ask you to clarify this point in your ruling because I know that the way in which Senator McPhedran announced her intention raised many questions. It was suggested that some senators, or all senators, witnessed problems of sexual harassment and did nothing about it. Not so long ago, senators were tasked with addressing this type of matter involving a senator.

Another thing that concerns me is that it seems as though the question raised by Senator McPhedran is very precise. We have heard arguments here this evening that judge the intrinsic value of senators — mainly male senators from what I gather — when in matters of sexual harassment it is the facts that matter and not the essential value of a person. There is not one person whose essential value gives them immunity from harassment.

Thank you, Mr. Speaker, for assisting us with this matter and providing the clearest ruling possible on this issue.

[English]

**The Hon. the Speaker:** For clarity's sake, are there any other senators who wish to join the debate before I ask Senator McPhedran to close the debate?

**Hon. Jane Cordy:** Your Honour, I have had the privilege of being deputy chair of Internal Economy and a member of the steering committee. I would like to thank the current members of steering who are doing an exceptional job. When you're sitting in a room trying to make decisions of requests to senators, you really weigh everything, you don't just flip a coin. You talk to your legal people, you talk to your finance people and then come to a conclusion. Usually, when I served on steering, we were able to reach agreement in a collaborative way, and that's thanks to Senators Wells, Housakos and Campbell, who served with me on the steering committee.

This question of privilege is in regard to communication to the media and nothing else. It's not the decision made but the communication to the media. I heard about Senator McPhedran's request long before this past week. I heard about it when she was on CBC and CTV. I read about it in interviews in the newspaper. So I'm finding it difficult to get around why it would suddenly be a question of privilege that this information is out in the media when I read about it at least a week ago — maybe even longer. Thank you.

**Senator McPhedran:** Let me begin perhaps with the last comment and question. That this was something discussed in the media and that I posted to Facebook on January 30 that I intended to do this, those are facts. It certainly was my understanding — and it is still an interpretation I feel comfortable with — that this is an appropriate use of my office budget. However, that was not the communication from the Internal Economy steering committee, and that communication is the focus of my request tonight. That communication is the basis of my response to the last comment made by Senator Cordy.

Once the Internal Economy steering committee made a decision to convey a decision — an opinion or a ruling to me, essentially — and a to-do list to me, that made my fulfilling their to-do list and getting the resources to go ahead with the research and legal analysis around sexual harassment, including Bill C-65, contingent on my responding to that letter. They marked it confidential.

• (2020)

I am fascinated by the reasoning of Senator Campbell to say — and I can only paraphrase, but I think it will be very interesting to actually read the exact words — that they can send me a communication marked “confidential,” and that means something, but it’s only one way. There is no obligation on those who determined that it was going to be marked “confidential.” So I’m seeking guidance on this and, yes, I do have a sense of breach.

As to another earlier comment that privilege only happens and can be claimed within this chamber, you and your advisers are the experts on that. I sought advice from a number of sources. I read through the materials. It is my understanding that committees are considered to be part of the work of the Senate and that what happens in committees, by committees, communications from committees, is captured within the frame of privilege. However, Your Honour, I clearly await your ruling and your clarification on that.

Returning to the point of what I believe I heard Senator Campbell say, he quoted from a communication that I have not seen, an earlier communication — I believe it was dated February 5; it would be helpful for there to be a copy, and I’m sure you will request that — in which the reply to the media was, “I may be able to provide.”

In reviewing my earlier comments, I asked the question: What compelled the CIBA subcommittee, having just sent me a letter marked “confidential,” to issue contact and to reference parts of that letter — not quoting, but definitely the tenor, the basic points, the issues, the process that was under way — what compelled them to do that on Monday, yesterday? How does that fit with — not just me as a senator — but what we, as senators, are to take from this, when such a powerful body within our self-governing structure considers confidentiality only to be imposed on the recipient?

I look forward to whatever you can do to help me understand how that is a legitimate position for the committee to make.

I think my last comment needs to be without inviting further comment to this assumption that has been conveyed that what I’m talking about here, and what I’ve been talking about in the media, and what I have in fact spent more than 40 years of my life working on, which is addressing sexual exploitation, a range of harassment — essentially addressing the abuse of power by those in privilege, often sexualized but not always, that the primary purpose of the work that I’m doing and that I have

brought into the Senate after these decades is part of what I consider to be parliamentary function. This is not about targeting men, per se. What I’m trying to do with the project that I have been discussing in the media for the last little while is to gather information — I’m a human rights lawyer, but I’m also a professor and a researcher — from every possible source, to come up with recommendations that will work and support and help the ongoing work of the new subcommittee, chaired by Senator McCoy, on this very issue. Reaching out to survivors is something that, among senators, I’m probably one of the better qualified to do because I have 40 years of working with survivors. Frankly, my credibility is pretty good in that community.

Gathering information from the perspective of survivors, where they are able to provide information from their experience, in their words, on their terms, in a safe and confidential environment, where their information is not going to be exposed and they are not going to be exposed, but should they choose — and so far, those with whom I have spoken are very interested in participating in a constructive review, with specific recommendations out of their experience. They have knowledge. They have a kind of expertise that, if you haven’t lived through this, you don’t have. This is knowledge that is worthwhile to us. This is not something we should be denying without even knowing the circumstances.

I spent almost two hours last night on the telephone with a former employee of a senator. I spent almost two hours today with a former employee of a senator. I have had emails, and I have verified this. These are bona fide people who worked in the Senate for a considerable period of time. I’m not going to expose them to any kind of identifying details, but I’m going to tell all of you that this is a serious issue. To work together and to move forward on this, if one of the single most powerful bodies within this organization sends any senator a letter marked “confidential,” I think we need to know whether it means nothing; and if it means something, then what does it mean? If it’s only one way, then let’s understand how that interpretation of “confidential” has come to be here in the Senate.

My last comment will be simply to say that we have an opportunity here. We cannot think that this hierarchical institution would be the exception to all other hierarchical institutions. We cannot think that this institution, based on certain people within the institution having particular privileges, does not create an environment in which there is the potential for exploitation. And if we’re not willing to create the circumstances that actually allow survivors to share what happened to them, then we’re not going to have the full range of knowledge that we need in order to respond with integrity, to use our resources to right this wrong and to make this a better, stronger place for our country.

**The Hon. the Speaker:** I would like to thank all senators for their input into this question of privilege that has been raised and I will take the matter under advisement.

## ABORIGINAL PEOPLES

### COMMITTEE AUTHORIZED TO STUDY THE IMPLICATIONS OF THE POTENTIAL LEGALIZATION OF CANNABIS ON FIRST NATIONS, INUIT AND METIS COMMUNITIES

**Hon. Lillian Eva Dyck**, pursuant to notice of February 1, 2018, moved:

That the Standing Senate Committee on Aboriginal Peoples be authorized to examine and report on the implications of the potential legalization of cannabis on First Nations, Inuit and Métis communities, including, but not limited to:

- (a) Adequacy of consultations with Indigenous communities and organizations;
- (b) Authority to sell or prohibit the sale of cannabis in Indigenous communities;
- (c) Justice, public safety, policing and enforcement capacity;
- (d) Potential effects of cannabis use on Indigenous peoples, with a particular focus on youth, and child and family services;
- (e) Access to and availability of services and supports for mental health and substance use; and
- (f) Economic opportunities in the production of cannabis.

That the committee submit its final report no later than April 30, 2018 and that the committee retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

She said: Colleagues, the intention of the motion before you is to allow the Standing Senate Committee on Aboriginal Peoples to examine and report on the implications of the potential legalization of cannabis on First Nations, Inuit and Metis communities.

Clearly, this is an important area to study and to report findings back to the Senate. The concept of this study was brought forward by Senator Christmas, who took the initiative to develop the broad parameters of this special issue study. The proposed study has been discussed with the steering committee, and members of the standing committee have been informed or have been part of the discussions. Our analysts will flesh out the proposal and suggest witnesses, and a budget will be prepared for a one-day committee trip.

As outlined in the motion, we plan to report back no later than the end of April 2018. Our aim is to inform the debate on the cannabis legislation before this chamber.

• (2030)

**Hon. Dan Christmas:** Honourable senators, I rise this evening to speak to Senator Dyck's motion to adopt a proposed order of reference for a study by the Standing Senate Committee on Aboriginal Peoples.

I would like to briefly offer you some insight and background on this study we are proposing with respect to cannabis and its impact upon indigenous peoples.

The relationship between cannabis and the indigenous community is a somewhat pendulous one, representing a universe of both potential opportunity and a lurking threat.

The extent, however, to which these things can yet be proven is somewhat of an unknown, and that is exactly why your committee seeks the adoption of this motion, so that it might begin to mine for the answers to this broad question.

The presence and usage of cannabis in our society and its usage now by indigenous people is a matter of fact. That much we do know.

And as our Parliament moves towards the decriminalization of cannabis, we see the myriad papers and hear the multitude of voices in the public square about this issue in so many contexts and reflecting so many points of view.

But among the din of public and parliamentary discourse there is, as yet, little or no fulsome depth and breadth of data or evidence about the real human and community impacts of cannabis on indigenous communities, families and individuals. You might say, as an old adage suggests, we are drowning in information but starved for knowledge.

Colleagues, we need to change this. Through this study, therefore, we are seeking to learn in broad terms such things as the extent to which cannabis use by indigenous people is a gateway to other, more dangerous drug use; whether and how such use of cannabis has consequential impacts on crime involving indigenous people; identifying policing issues on-reserve related to cannabis and cannabis-related crime; seeking to determine the impacts on the mental and physical health of indigenous people and the extent and degree of success of programs for indigenous people to mitigate cannabis use both on- and off-reserve; the availability and the development of addiction treatment and counselling programs, as well as related mental health programs and, in particular, suicide prevention programs for Canada's most at-risk population, indigenous people; the nature and extent of current indigenous enterprises related to the production of medical cannabis; and future opportunities for First Nation communities to produce and/or sell cannabis as a means of community economic development.

And most importantly, we have a duty to First Nations, Inuit and Metis peoples to ensure that we have, to the greatest extent possible, cooperatively undertaken real and meaningful consultation with communities, grassroots people and representative organizations around one of the most important socio-economic matters we have grappled with in this generation.

Honourable colleagues, I urge you to adopt this motion and provide us with the means to illuminate this debate.

Together we must recognize that we have a huge responsibility for ensuring that, when it comes to cannabis and indigenous people, Canada gets it right, in part on the basis of contributions to evidence-based policy considerations identified through this study. *Wela'liq*. Thank you.

[Translation]

**Hon. Renée Dupuis:** Would Senator Christmas take a question?

[English]

**Senator Christmas:** Yes, please.

[Translation]

**Senator Dupuis:** Could you explain how, in the study pursuant to this motion, the committee would deal with Bill C-45? In other words, there is a link between the areas you have identified for us today and the proposed motion to refer Bill C-45 to the Standing Senate Committee on Aboriginal Peoples for study. I would like to know what you see as the link between the study being proposed in the motion and the work the committee would do in studying Bill C-45.

[English]

**Senator Christmas:** Thank you, senator. As you know, Bill C-45, as mentioned earlier by the Government Representative, will be broken into three parts. What we are proposing to do under the Aboriginal People's Committee is to study those portions of the bill that relate to indigenous people. So in one sense it's a generic study covering all parts of the bill, but our focus will be strictly on the impact of the bill on indigenous people.

**Hon. Kim Pate:** Senator Christmas, would you take another question?

**Senator Christmas:** Certainly.

**Senator Pate:** With respect to the study, in addition to the areas that you've identified, I'm wondering whether you would also be prepared to consider including in the study the issues around the high degree of incarceration of indigenous peoples. I think you alluded to it in your comments, but I just wanted to check that we could also link cannabis use to incarceration rates.

I think it's extremely important that we gain insight into those issues as well with regard to the impact, particularly the impact on indigenous peoples.

**Senator Christmas:** Thank you, Senator Pate, for the question. As you will see in the order of reference, we make specific reference to examining issues like that, and one of the specific points we make in the order of reference is that we will look at justice, public safety, policing, enforcement and capacity. So those issues will indeed be studied.

[ Senator Christmas ]

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

**Hon. Senators:** Agreed.

(Motion agreed to.)

## THE HONOURABLE JOAN FRASER

### INQUIRY—DEBATE ADJOURNED

**Hon. Joseph A. Day (Leader of the Senate Liberals)** rose pursuant to notice of January 31, 2018:

That he will call the attention of the Senate to the career of the Honourable Senator Fraser.

He said: Honourable senators, as you know, we had time to say a few words about departing Senator Joan Fraser a couple of weeks ago, and there were many who wished to participate but were unable to do so. To rectify that and give you an opportunity over the next while, you can take adjournment and speak when you are ready. I would like to just start this inquiry so that it's no longer on the Notice Paper.

Joan would often recount her reaction when she received the call from the Prime Minister about her appointment to the Senate. She says she exclaimed, "Why me?"

In later years, she would tell this story to the young women who visited here as part of McGill University's Women in House program. She would tell them about her initial misgivings and how she overcame them. She would encourage these young women to ask instead, "Why not me?"

During her years in the Senate, she often served as a mentor, encouraging more participation of women. She was a long-time member of the Inter-Parliamentary Union Executive Committee and was President of the IPU Coordinating Committee of Women Parliamentarians. She did substantial work to push the IPU in the field of gender equality.

She made her maiden speech here in the Senate on December 8, 1998. She had been sworn in less than two months prior to that, but her first remarks were given as the sponsor of a bill — Bill C-40 — which sought to modernize Canada's extradition law.

She successfully weathered the process, and as she said herself, "In the end it all worked out, but it was quite a first experience."

During her farewell address last week, Joan Fraser said:

[Translation]

Serving in the Senate is an immense privilege. It is hard to grasp just how immense that privilege is until you actually get here. My nineteen and a half years here in the Senate have been an incredible journey. I sometimes had to pinch myself, for I simply could not believe how lucky I was to have the opportunity to grow and, above all, to learn, as well as to try to serve to the best of my ability.

• (2040)

[English]

These are words we should all remember as we go about our work in this place.

Though we will miss Joan Fraser's wise counsel in the years ahead, we do wish her a healthy and happy retirement with her husband Michel and their two girls, Elisabeth and Isabelle.

**Hon. Paul E. McIntyre:** Honourable senators, I also rise to pay tribute to Senator Joan Fraser and, in so doing, echo the remarks made by my colleagues.

Joan Fraser will be a big loss to this institution, mainly because she really understood the meaning of house of sober second thought. She knew the rules, both administrative and procedural, by heart and lived by them. She knew the rules so well that I thought she had written them herself.

Like an experienced boxer in the ring, she never backed down from a fight, always ready and willing to go the full round. That's what I liked about Joan Fraser, her fighting spirit, her wisdom, her independence, her intellect.

Colleagues, Senate history will remember Joan Fraser primarily because she gave to this institution all she had — all of her heart, her strength, her love, her passion and, above all, her strong desire to make of this institution a house of sober second thought. This is her legacy. These are the footprints she is leaving behind.

Thank you, Senator Fraser. Good memories.

**Hon. Marc Gold:** I'm pleased to add my voice to the richly deserved tributes to Senator Fraser for, although she no longer sits with us in this chamber, her presence is and will be felt for many years to come. She was a marvellous parliamentarian and one who we all will miss enormously. We will miss her intelligence, her sharp analytical mind, her ability to get to the heart of an issue, the discipline and devotion that she brought to her role as a senator. We will miss her eloquence. Whether in the language of Shakespeare or of Molière, Senator Fraser's command and love of language rang through this place. It was always a pleasure to listen to her speak.

Above all, we will miss her for those personal qualities that make Senator Fraser a remarkable person and colleague — her sense of fair play, her decency, her sense of humour and, above all, her personal integrity.

[Translation]

Honourable senators, today we are paying tribute to our revered colleague, Senator Joan Fraser. Many of us here in this chamber today rise for personal reasons and rise in the name of friendship to pay tribute to her exceptional career. Senator Fraser is my friend. We first met more than 25 years ago through our children, and our families have shared some happy memories over the years.

Senator Fraser also played an instrumental role in my journey in the Senate. If the Senate was able to attract such a remarkable person, then I wanted to be a part of it as well.

[English]

Since then, whether she realized it or not, Senator Fraser has been a role model for me in the principled way that she approached her duties as a senator, in her defence of the English-speaking community of Quebec, in the way she valued and honoured the best traditions of this place, in the way she only rose to speak when she had something important to contribute to debate — and she always did — in the way she managed difficult situations with calm but firm resolve, and in the way she always treated people fairly and with respect. We will miss her in this chamber. She has served the Senate and our country with great distinction.

Because I feel her presence in this chamber even today, let me conclude by addressing her directly as if she still were here: Joan, as you embark upon the next chapter in your life, may it be filled with blessings and joy for you and for Michel, Elisabeth and Isabelle. Goodbye my friend.

(On motion of Senator Cools, debate adjourned.)

#### THE HONOURABLE CLAUDETTE TARDIF

##### INQUIRY—DEBATE ADJOURNED

**Hon. Joseph A. Day (Leader of the Senate Liberals)** rose pursuant to notice of February 1, 2018:

That he will call the attention of the Senate to the career of the Honourable Senator Tardif.

He said: This, again, is an inquiry that was on the Notice Paper that I hope to move over to the Order Paper by saying a few words so that other senators, in the future, may decide to enter into the inquiry with some comments that they were unable to place earlier.

During her farewell speech, Senator Tardif remarked:

[Translation]

Throughout my personal and professional journey, two driving forces, education and French language and culture, have inspired my choices, my commitments, my causes and my actions.

[English]

That is absolutely true, as all honourable senators who have sat in this chamber with her will recognize.

Claudette's first major speech in this chamber was about, as one might guess, education. She was participating in former Senator Callbeck's inquiry into the state of post-secondary education and spoke about the importance and the problems of post-secondary education in Canada, with a focus on the particular challenges unique to French-language universities outside of Quebec.

Her colleague, Senator Losier-Cool, in adjourning the debate said:

[*Translation*]

It is your first in the Senate, but your expertise shows through very clearly. You know your subject. Congratulations. You will get our rapt attention any time you give a speech like that one.

[*English*]

And so it was, honourable colleagues. Whenever Claudette Tardif spoke in this chamber, people listened. She was always knowledgeable, of good judgment and devoted to her responsibilities here in the Senate.

As I said last week, we are sorry to see her go, but we are happy that she will now be able to spend more time with her husband Denis and their children, Claudine, Nathalie and Pierre, and her seven grandchildren, though I understand that she's now travelling in New Zealand. We wish her well.

**Hon. Jim Munson:** Honourable senators, I know it's late, but I won't have an opportunity to speak about Claudette Tardif because tomorrow I'm going out to Alberta for the celebration of life of our great Senator Tommy Banks, who I worked with and sat over there with for many years. He was a mentor, and I just have to go to Alberta. Sometimes the weather is good there in the fall, I guess, as they say.

I recognize it's late, and it's been kind of an interesting night, to say the least. But sometimes I think that those of us who walk in the shoes of the majority have difficulty in really understanding what it's like to walk in the shoes of others, those who have to fight every day for their rights, and I mean every day.

I can't believe Claudette has gone. Champion, Dr. Tardif, Senator Tardif. Claudette the mother. Claudette, a fierce defender of minority linguistic rights. Her distinctive view and insights on minority rights are genuine and authentic.

I was just thinking the other day, when a very emotional Senator Tardif told our caucus she was leaving before her time was up in the Senate, and our room became very quiet. It was disbelief. Claudette was always there, always ready to reach out, always caring about you.

When the three amigos in those days, Claudette, Jim Cowan and me, were the leadership team, we were enriched by her presence, listening, problem solving, a deep emotional intelligence, a team player, a delightful sense of humour. She enriched my journey, the quality of my work, and I had a deep sense of shared accomplishment.

It's hard to say goodbye to a woman who has served her constituency so well, has served her country so well and has served the Senate so well. It just seems like it was yesterday that we were in the French embassy, watching our dear colleague receiving the French Legion of Honour. Imagine that: the French Legion of Honour from France!

[ Senator Day ]

• (2050)

Earlier I used the words "fierce defender of minority linguistic rights." Perhaps it might be better to say a steady and strong defender of minority linguistic rights all across this country.

In Canada, language has no borders, and the Alberta-born Claudette Tardif knew that from a very young age. I've never been told this, but it must be something that was instilled in her home life. It could not have been easy being a female growing up in a very large rural family in Alberta.

Claudette is in every sense of the phrase an empathetic person. I feel that it's that mindful empathy for others which drives her. She not only represented francophones in Alberta but all across the country, including the Acadian community in my home province of New Brunswick. I know my wife appreciated Claudette's work and what she did.

I want to say a big thank you for all that Claudette has done and will continue to do. In every corner of this country there are francophones who have looked at Claudette Tardif as their champion. She instinctively knows you cannot take rights for granted. You must be vigilant and creative in fighting for those rights. It was never her style to show outrage — instead, determination in her vigilance.

Claudette Tardif is one of a kind; a unique voice who used education and determination in the fight for linguistic rights. It didn't stop there: the rights of women and girls to the rights of First Nations and to victims of violence.

But now there will be time, as Senator Day has said, for her husband Denis, her children and grandchildren because, as I said about Senator Fraser, at the end of the day, honourable senators, it really is about family. Can you imagine what a teacher she will be at home for her grandchildren — children who will grow up knowing they have a grandmother who was on the front line of fighting for only what is right: linguistic rights, human rights and the right to be heard all across a country in your own language.

[*Translation*]

**Hon. Paul E. McIntyre:** Honourable senators, I want to add my voice to those of Senators Day and Munson in paying tribute to our colleague, Senator Tardif, and recognizing her contribution to the Senate.

I want to echo the remarks of everyone who underscored her commitment to the language rights of Canada's official language minority communities and her incredible work as Chair of the Standing Senate Committee on Official Languages.

With good reason, she is recognized as a champion of the francophonie, and has taken up the fight countless times on behalf of official language minority communities, ardently defending their language rights. This has earned her recognition for her leadership and her dedication to the cause; she has even been awarded many important distinctions, as my colleagues have already pointed out.



I have wonderful memories of Senator Tardif, primarily regarding her leadership on the Standing Senate Committee on Official Languages. She carried out her duties as chair with extreme devotion and passion. What a remarkable legacy Claudette Tardif leaves behind. I am honoured to have had the privilege of serving alongside her at the Standing Senate Committee on Official Languages.

Senator Tardif, thank you for all your hard work. You certainly leave big shoes to fill in this chamber.

(On motion of Senator Gagné, for Senator Cormier, debate adjourned.)

*(At 8:55 p.m., the Senate was continued until tomorrow at 2 p.m.)*

---