SENATE SÉNAT

CANADA

DEBATES OF THE SENATE

1st SESSION • 42nd PARLIAMENT • VOLUME 150 • NUMBER 238

OFFICIAL REPORT
(HANSARD)

Tuesday, October 23, 2018

The Honourable GEORGE J. FUREY,
Speaker

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Publications Centre: Kim Laughren, National Press Building, Room 926, Tel. 613-947-0609

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

THE SENATE

Tuesday, October 23, 2018

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

Prayers.

SENATORS' STATEMENTS

SIGNAL HILL

Hon. Fabian Manning: Honourable senators, today I am pleased to present Chapter 41 of "Telling our story."

At the dawn of the 20th century, the world was undergoing profound changes that would shape the culture, politics and technology we know today.

Equal rights movements were gaining support around the world, old ways of government were being modernized and exciting new scientific advancements were being discovered. Among these advancements was Italian inventor Guglielmo Marconi's transatlantic radio transmission on December 12, 1901, the first ever in history, and it happened in Newfoundland and Labrador. It was an impressive proof of concept for wireless global communication and a significant milestone for a technology we rely on to this day.

Marconi, born in 1874 in Bologna, Italy, took an early interest in science, experimenting with wireless telegraphy in his early 20s. Despite making significant discoveries in this field, the Italian government did not sponsor his work.

After moving to Great Britain in the mid-1890s, Marconi began the Wireless Telegraph and Signal Company, which found fierce competition with cable telegraph companies. But Marconi's wireless radio sets received praise from naval vessels, which had previously relied on flag signals to communicate. Marconi was determined to prove the feasibility of radio communication across long distances. He devised an ambitious experiment: a wireless message sent from Europe to North America.

Marconi set up an apparatus in an abandoned hospital on Signal Hill in St. John's involving an antenna raised by a kite in the high winds of Newfoundland and Labrador. Signal Hill was chosen due to its close proximity to Europe relative to the rest of North America.

Marconi monitored a radio receiver in the hospital while, at the same time, almost 3,400 kilometres away in Cornwall, UK, Marconi's staff sent the letter "S" in Morse code each day until December 12, when Marconi reported that the signal had been received.

After the news that wireless transatlantic communication had been achieved, the governments of Canada, America and Newfoundland took interest in establishing radio stations along the coast. Due to a legal monopoly that gave exclusive rights of telegraph communication to the owners of the transatlantic telegraph cables, the Anglo-American Telegraph Company, Marconi was not allowed to build a radio station in Newfoundland, and opted rather to construct one on Cape Breton Island in the province of Nova Scotia.

Interestingly, Signal Hill had its name long before the famous wireless signal was received. It was named Signal Hill after the final battle of the Seven Years' War in 1762 by William Amherst due to the flag signal communication that took place on the hill.

Marconi's breakthrough represents one of our province's greatest contributions to science and technology and will remain a celebrated part of our culture and heritage for years to come.

The fact is regardless of what you may hear from others, always remember we heard it first in Newfoundland and Labrador.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Rhobi Samwelly, Giselle Portenier and Liz Smith. They are the guests of the Honourable Senator Munson.

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

Hon. Senators: Hear, hear!

FEMALE GENITAL MUTILATION

Hon. Jim Munson: Honourable senators, there is a human rights hero in our midst. Rhobi Samwelly from Tanzania is saving lives, girls' lives. I am still trying to catch my breath after watching a compelling documentary on Sunday night here in Ottawa, a documentary called *In The Name of Your Daughter*, produced and directed by Canadian Giselle Portenier.

This may be a difficult subject for some, but this an issue that must be addressed over and over again. FGM, or female genital mutilation, is happening in Tanzania, it is happening around the world and it is happening in Canada.

Today's story is about rural Tanzania where, despite the tragic circumstances, there is hope and courage.

Honourable senators, I am on my feet today to talk about a shining light. That shining light is Rhobi Samwelly.

Robhi, through her advocacy and her Mugumu Safe House, is helping women and girls who have been victims or who are fleeing potential victimization.

Senators, my colleagues Senator Ataullahjan and Senator Jaffer have spoken passionately in this place about this illegal practice. We know what a horrific procedure this is: it puts lives and health of young girls at risk; girls have died.

In the documentary I saw on Sunday, *In the Name of Your Daughter*, there is the story of young Rosie Makore who, at 11 years old, has to decide to submit to cutting and child marriage or run away from everything and everyone she knows.

That is why the work of Robhi's safe house is so important. It gives girls a place of peace, a place of compassion and a place where they are accepted.

It is heartbreaking in this film to see young children run down a country road to a safe house. The child has found out that she will be next in a traditional cutting ceremony. At the safe house, these girls — and there are hundreds of them — gradually gain confidence and independence. The main goal is to stop FGM being forced upon girls and women.

Tomorrow is world UN Day, a day for Canada to reflect on its international roles, commitments and obligations. The United Kingdom has started to track cases of FGM, which is a step I think Canada should take to help women living with the effects, both physical and psychological.

These are vulnerable citizens, these young girls of the world. Let's help the victims of FGM and help stop the practice from happening anywhere ever again.

I salute Rhobi Samwelly. She is here with us today. She's on her way back to rural Tanzania to do her work. Cutting season is an open season now in that country and in other countries of the world.

As you head back to your country today, Madam, we in the Senate of Canada want you to know you are not alone in this battle for the rights of the child.

To Giselle Portenier, the Canadian director and producer of this incredible documentary, I want to thank you on behalf of the senators for shining your light.

This documentary, *In The Name of Your Daughter*, received rave reviews in London, England recently; it should be an Academy Award-winning documentary. This is about little girls, honourable senators; we must do more.

• (1410)

In the name of all senators, thanks to both of you for bringing a shining light.

Hon. Senators: Hear, hear!

DISTINGUISHED VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of our former colleague, the Honourable Nancy Greene Raine.

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

Hon. Senators: Hear, hear!

NATIONAL HEALTH AND FITNESS DAY

Hon. Marty Deacon: Honourable senators, as we continue, it's clear our work is very complex. The issues facing this country are complex and require all Canadians to be physically strong, mentally strong and connected to their communities.

Our youth, our children are our future. Back in June, ParticipACTION released its Report Card on Physical Activity for Children and Youth. This annual report has become the most comprehensive assessment of children's and youth's physical activity in Canada. While ParticipACTION did their homework, we Canadians did not, with our children and youth receiving a grade of D plus in overall physical activity.

The stats are concerning. For example, only 35 per cent of 5- to 17-year-olds are reaching the recommended physical activity levels as outlined in the Canadian 24-Hour Movement Guidelines for Children and Youth, which calls for at least — us too — an hour a day of moderate to vigorous physical activity. It's no coincidence that this lack of physical activity has corresponded to an increase in screen time, with over half of our 5- to 17-year-olds spending more than two hours a day on their devices.

This does not bode well for the overall health of the next generation of Canadians. There's a growing body of evidence that suggests physical activity in childhood is essential for the development of a healthy brain. Encouraging our kids to move can improve their problem-solving skills, their memory, their self-esteem and self-worth. Each and every day, we continue to learn the important connection between physical activity and mental health.

The report card calls for increased and consistent funding in areas such as the training of educators and physicians, as well as subsidies for low-income families and increasing access for youth with disabilities.

These calls echo those in the obesity report released in 2016 by the Standing Senate Committee on Social Affairs, Science and Technology. Worryingly, the committee found while interventions can be effective in promoting physical activity, funding for the groups that conduct this outreach has become consistently unreliable. Colleagues, as the old saying goes, an ounce of prevention is worth a pound of cure. It is imperative that we act now so that our youth can grow up to be well-equipped adults who can confront an increasingly complex and uncertain future.

Tonight, at 6 p.m. in room 107 East Block, my office, we will mark the kickoff of National Health and Fitness Day. Here you can bounce ideas off Canadian athletes, educators, builders, fellow parliamentarians, all who work tirelessly to promote physical activity in our daily lives.

Come and learn how we can use our role as senators to promote health and well-being for the next generation of Canadians.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Franco Vaccarino and Mrs. Cosmina Vaccarino. They are the guests of the Honourable Senator Black (*Ontario*).

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

Hon. Senators: Hear, hear!

[*Translation*]

JEAN-FRANÇOIS CARON

Hon. Éric Forest: Honourable senators, today I'm going to tell you about someone who has done a lot of working out. Quebecers have long been fascinated by strongmen. Our history is full of tales about legendary giants like Jos Montferrand, Louis Cyr, Horace Barré and Saguenay's Benoît Côté.

Jean-François Caron made history this year in Plantagenet when he took home the title of Canada's strongest man for the eighth year in a row. In late September in Barcelona, he became the world champion in the most prestigious strongman series around, the Arnold Pro Strongman World Series.

Besides genetics and training, this athlete, who hails from Les Hauteurs in the Rimouski region, owes his success to his iron discipline. It takes a tremendous amount of perseverance and determination to train three hours a day, cope with pain and injuries, and follow a strict diet.

Paul Ohl, a strongman sports historian and Olympic analyst, calls Jean-François Caron the modern-day Louis Cyr. Allow me to quote Louis Cyr's biographer on the subject of Jean-François Caron:

> Never before in the history of strongman competitions in Canada or worldwide have we seen anyone with his work ethic and determination.

The fascinating thing about this athlete's story is seeing how many doors can open when a person chooses to achieve his potential and set his sights on a goal. At 22, he placed seventeenth out of 30 in his first competition. Since then, he has come a very long way. Every challenge he overcame led to another. In addition to his eight national titles, Jean-François can now pride himself on being a respected trainer, a successful businessman, and an inspiring speaker.

I'm sure that senators will join me in congratulating Mr. Caron. I can assure you that his journey, his determination and his 330 pounds of muscle command respect.

[*English*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mr. Ateed Riaz and Ms. Fiza Shah. They are the guests of the Honourable Senator Ataullahjan.

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

Hon. Senators: Hear, hear!

CHILD ABUSE PREVENTION MONTH

Hon. Victor Oh: Honourable senators, October is Child Abuse Prevention Month in Canada, also known as the Purple Ribbon Campaign.

Each year, thousands of children and youth in Canada are affected by various forms of abuse that are harmful to their physical, mental and emotional well-being. This campaign aims to raise awareness about the importance of protecting and promoting the safety of children, youth and families. It also calls attention to the responsibility of adults and society as a whole to prevent, identify and respond appropriately to cases of maltreatment.

While the actual extent and nature of violence against children and youth is unknown, a national study from 2014 suggested that one third of Canadians have been victims of child abuse, including physical and sexual abuse and exposure to intimate partner violence.

Moreover, there is evidence that children from ethnic minorities are overrepresented in the child welfare system. A recent report by the Ontario Human Rights Commission found that Black and Indigenous children appear to be put into care in relatively far greater numbers.

Colleagues, it is clear that Canada needs a plan of action to systematically reform the child welfare system and reduce the number of children in care. I encourage you to learn more about this issue and help find solutions that can address the disparity and outcomes among different population groups.

Tomorrow, October 24, is Dress Purple Day in Ontario. I invite you to join me, as well as individuals and agencies across the province, to send a strong message that help is available for children, youth and families who need support, and to celebrate the community that works for those who need us the most.

[*Translation*]

ROUTINE PROCEEDINGS

AUDITOR GENERAL

COMMENTARY ON THE 2017-18 FINANCIAL AUDITS—
REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the report of the Auditor General of Canada to the Parliament of Canada entitled *Commentary on the 2017-18 Financial Audits*, pursuant to the *Auditor General Act*, R.S. 1985, c. A-17, sbs. 7(5).

TREASURY BOARD

PUBLIC ACCOUNTS OF CANADA—2017-18 REPORT TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the Public Accounts of Canada for the fiscal year ended March 31, 2018, entitled (1) *Volume I — Summary Report and Consolidated Financial Statements,* (2) *Volume II — Details of Expenses and Revenues,*(3) *Volume III — Additional Information and Analyses,* pursuant to the *Financial Administration Act*, R.S.C. 1985, c. F-11, sbs. 64(1).

INDIGENOUS AND NORTHERN AFFAIRS

SAHTU DENE AND METIS COMPREHENSIVE LAND CLAIM
AGREEMENT IMPLEMENTATION COMMITTEE—
2010-15 CONSOLIDATED ANNUAL REPORT TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the Consolidated Annual Report of the Implementation Committee of the Sahtu Dene and Metis Comprehensive Land Claim Agreement April 1, 2010 – March 31, 2015.

INUVIALUIT FINAL AGREEMENT—
2012-13 ANNUAL REPORT TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the Inuvialuit Final Agreement Annual Report for the fiscal year ended March 31, 2013.

• (1420)

[*English*]

BUSINESS OF THE SENATE

The Hon. the Speaker: Pursuant to the motion adopted in this chamber, Thursday, October 18, 2018, question period will take place at 3:30 p.m.

ORDERS OF THE DAY

CRIMINAL CODE
DEPARTMENT OF JUSTICE ACT

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

On the Order:

Resuming debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Pratte, for the third reading of Bill C-51, An Act to amend the Criminal Code and the Department of Justice Act and to make consequential amendments to another Act.

And on the motion in amendment of the Honourable Senator Pate, seconded by the Honourable Senator Deacon (*Ontario*):

That Bill C-51 be not now read a third time, but that it be amended

(*a*) in clause 10, on page 5,

(i) by replacing lines 17 to 20 with the following:

"**(b)** the complainant is incapable of consenting to the activity in question for any reason, including, but not limited to, the fact that they are

(i) unable to understand the nature, circumstances, risks and consequences of the sexual activity in question,

(ii) unable to understand that they have the choice to engage in the sexual activity in question or not, or

(iii) unable to affirmatively express agreement to the sexual activity in question by words or by active conduct;", and

(ii) by adding the following after line 20:

"**(2.2) Section 153.1 of the Act is amended by adding the following after subsection (3):**

(3.1) For greater certainty, capacity to consent at the time of the sexual activity that forms the subject-matter of the charge cannot be inferred from evidence on capacity to consent at the time of another sexual activity."; and

(*b*) in clause 19, on page 9,

(i) by replacing lines 20 to 23 with the following:

"**(b)** the complainant is incapable of consenting to the activity in question for any reason, including, but not limited to, the fact that they are

(i) unable to understand the nature, circumstances, risks and consequences of the sexual activity in question,

(ii) unable to understand that they have the choice to engage in the sexual activity in question or not, or

(iii) unable to affirmatively express agreement to the sexual activity in question by words or by active conduct;", and

(ii) by adding the following after line 23:

"**(2.2) Section 273.1 of the Act is amended by adding the following after subsection (2):**

(2.1) For greater certainty, capacity to consent at the time of the sexual activity that forms the subject-matter of the charge cannot be inferred from evidence on capacity to consent at the time of another sexual activity.".

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

Some Hon. Senators: Question.

The Hon. the Speaker: We cannot stand the item. Someone can move an adjournment of it, otherwise we are going to the question.

(On motion of Senator Woo, debate adjourned.)

OIL TANKER MORATORIUM BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Cordy, for the second reading of Bill C-48, An Act respecting the regulation of vessels that transport crude oil or persistent oil to or from ports or marine installations located along British Columbia's north coast.

Hon. Nicole Eaton: Honourable senators, I rise to speak at the second reading of Bill C-48, the oil tanker moratorium act. As Senator Pratte noted previously, this bill bears an inaccurate short title because what it proposes is not a moratorium but rather a permanent ban on tanker traffic.

The affected area extends from the northern tip of Vancouver Island all the way to the Alaskan border. It prohibits tankers carrying more than 12,500 metric tonnes of crude or heavy oil from using all ports and offshore installations in northern British Columbia. It also prevents ship-to-ship transfers. The only exceptions are to allow supplies to be brought in to serve local communities. Violating the ban can result in a $5 million fine.

Honourable senators, you will recall that we heard repeatedly from the Prime Minister, both during the 2015 election campaign and since, that the Trudeau government would be committed to evidence-based policy.

Ministerial mandate letters repeat this call for decisions to be based on science, facts and evidence. Yet this bill seems to be based entirely on an election promise with no indication that it is backed up by solid evidence.

The directive to implement this ban was in the Minister of Transport's mandate letter, despite the fact that there had been no time to consider science, facts or evidence.

There is no indication that any studies were done on the safety records of modern tankers, that any risk assessments were undertaken or that any cost-benefit analysis was conducted. No consideration was given to the fact that Canada has tanker safety and environmental standards that are second to none.

It is obvious that any consultations that were conducted were done with the ultimate result already in mind. In other words, the consultation was a sham.

Honourable senators, fewer than 300 oil tankers a year traverse Canada's West Coast. Meanwhile, nearly 4,000 tankers come down the East Coast every year, according to Transport Canada. Are the dangers greater in northern B.C. than in the Gulf of St. Lawrence or along Newfoundland's Iceberg Alley? Is the orca more important than the right whale? Is the East Coast less deserving of protection than the West Coast? Of course not, but this bill is not based on logic. It is based on politics. It is about squeezing the NDP in vote-rich British Columbia. Ultimately, Bill C-48 is about further land-locking the substantial petroleum reserves in the Fort McMurray area.

This legislation is in keeping with the politically motivated decision to kill the Northern Gateway pipeline, which would have taken crude oil from Bruderheim, Alberta, to Kitimat, British Columbia. That project would have provided $2 billion in benefits to First Nation partners along the route. Make no mistake, if Bill C-48 becomes law, the big losers will be the 35 First Nations between Grassy Point, B.C., and Fort McMurray, Alberta, who are partners in the Eagle Spirit Energy Corridor project.

This $14 billion project is the largest First Nations project in history. They have been working on it for six years. They have received preliminary financial commitments from a major global energy firm. They have reached agreements with Canada's four pipeline unions, and they promise that Eagle Spirit will be the greenest project on the planet, through Indigenous environmental stewardship.

The chiefs council of the Eagle Spirit project, in a letter that I believe all senators received, says that the energy corridor ". . . represents the only opportunity for our communities to generate sustainable own-sourced revenues which would allow us to solve our own problems."

In that same letter, the chiefs expressed their concerns about ". . . the complete lack of consultation from the federal government in introducing Bill C-48 and the incredibly harmful impact that this will have on our communities."

Honourable senators, I have met with senior representatives of the Lax Kw'alaams band located in northern B.C. near Prince Rupert, and they were deeply disappointed by this arbitrary and unjustified legislation. If Bill C-48 goes ahead, the Eagle Spirit Energy Corridor is as good as dead. The chiefs asked the same questions I have asked: Crude oil can be shipped anywhere in Canada. What makes the waters of northern B.C. any different?

There are markets eager for Canadian oil. This government, through legislation such as Bill C-38 and Bill C-69, seems determined to deny them access. Those countries will buy their oil elsewhere, from producers like Venezuela or Nigeria, who lack Canada's commitment to environmental stewardship and human rights.

So where does that leave us? With the United States as the only viable market for Alberta crude, even as the Americans are ramping up their own production to become self-sufficient.

On October 11, the price of Western Canadian Select was a record $52 per barrel below that of West Texas Intermediate oil. Think about that, honourable senators. Texas oil selling for more than $70 a barrel. Alberta oil for only $20. A shortage of pipeline capacity was cited as one of the major factors. That price differential means a loss of thousands of potential jobs and billions of dollars in revenue.

According to the Fraser Institute, the price differential cost Canadian oil producers $20.7 billion between 2013 and 2017. That loss of revenue has an impact on governments. It means less money for schools, hospitals, mental health treatment, research and innovation, and for our military.

• (1430)

Honourable senators, as the recent NAFTA renegotiations proved, Canada is far too dependent on the United States for our economic prosperity. We are at the mercy of President Trump. It is incomprehensible to me why the federal government should take deliberate action to ensure the United States remains the only accessible market for one of our major exports.

But that is exactly the impact of Bill C-48. It is a bad bill. It is not based on evidence, and that offers no benefits to Canadians. Thank you.

(On motion of Senator Omidvar, for Senator Black (*Alberta*), debate adjourned.)

CUSTOMS ACT

BILL TO AMEND—SECOND READING

Leave having been given to revert to Government Business, Bills, Second Reading, Order No. 2:

On the Order:

> Resuming debate on the motion of the Honourable Senator Coyle, seconded by the Honourable Senator Pratte, for the second reading of Bill C-21, An Act to amend the Customs Act.

Hon. Leo Housakos: Honourable senators, I'm pleased to rise today to speak on Bill C-21, An Act to amend the Customs Act. I must admit, I have two distinct views related to this legislation.

[*Translation*]

First of all, generally speaking, this bill is important for Canada. I support it, and our caucus supports it, too. After all, it seeks to implement an agreement that will improve and further facilitate the management of trade and travel across the border we share with the United States. That is really the purpose of the bill, and it is definitely an important objective for Canada. I will develop this thought more fully in my speech.

[*English*]

However, I must also reference the high degree of mystification and frustration that I feel with how the government has handled this legislation.

Colleagues, the agreement this bill seeks to implement was concluded between Canada and the United States in 2015 as part of the Beyond the Border Action Plan of December 2011. The action plan and the agreement aim to build a perimeter approach to security and economic competitiveness between our two countries — an approach that will better target high-risk travellers while still facilitating and improving legitimate cross-border travel and trade.

There are a number of initiatives within the scope of the Beyond the Border Action Plan. The particular one we are addressing here today, as part of Bill C-21, aims to set up a system for sharing entry data at the land border so entry information from one country can constitute exit information for the other country. Simply put, the initiative is designed to provide both countries with a reliable means of knowing when and where travellers leave the country. It aims to do so in a way that avoids high costs and does not impede cross-border trade and travel on which both countries dearly depend.

It is a straightforward initiative that will provide government agencies the same knowledge about when an individual leaves the country as currently exists about when an individual enters the country. Right now, the government does not have information on when an individual, who could be in Canada illegally, has actually left the country, nor do police know when a criminal, who may be wanted for a serious offence, may actually have fled Canadian jurisdiction. This legislation closes that gap.

What is mystifying to me, colleagues, is why this legislation has sat in the House of Commons for over two years since being introduced in 2016. The current government repeatedly and loudly proclaims that it is committed to "thinning the border" and to building a strong foundation for trouble-free cross-border travel and trade. It argues this is one of its core policy objectives, yet its actions repeatedly suggest otherwise.

As I said, Bill C-21 has languished in the House of Commons for over two years.

But other measures, as well, have been the victim of poor policy implementation. One need only consider the example of Bill C-23, a bill that implemented the pre-clearance agreement negotiated by the previous government with the United States in 2015. Senators may recall the Senate passed that legislation last year. That bill, too, was permitted to languish in the House of Commons for an extended period of time.

Thankfully, Bill C-23 only sat in the House of Commons for a little over a year, rather than more than two. The complete absence of any sense of urgency in advancing that initiative, which was also clearly in Canada's economic interest, was hard to understand.

I recall that Ambassador David MacNaughton, our ambassador to the United States, admitted his own embarrassment about this to the Senate Foreign Affairs Committee in the spring of 2017. At that time, he said:

> . . . I'm a bit embarrassed. I leaned on the Americans so heavily and now they're coming back and saying, "Where is [your implementation legislation]?"

Ambassador MacNaughton told the Senate committee the Americans had already passed their own implementation legislation on pre-clearance during the Obama administration, yet our own government showed no sense of urgency in moving complementary Canadian legislation forward.

Given that Bill C-21 has sat around for an even longer period of time, I'm sure the levels of frustration are even greater today.

Colleagues, make no mistake: The approach provided for in Bill C-21 related to the exchange of entry/exit information is clearly in Canada's national interests. Under the terms of the legislation, Canada and the United States will exchange basic biographical information on travellers who exit Canada at the land border. The system will work by ensuring that entry data collected by one country can serve as an exit record for departure from the other country. By sharing that information, the two countries have found a cost-effective way to track entry and exit from one country to the other.

In the air mode, such biographic data is available through the electronic passenger manifests received from our air carriers.

There are several reasons why such an agreement is in Canada's interests. First, without the exchange of the information that Bill C-21 will permit, there is a risk that American authorities might move to establish exit controls on the Canada-U.S. border. Such a move would significantly inhibit and slow Canada-U.S. border trade and traffic.

Second, Bill C-21 will also close a gap in the information currently available to Canadian law enforcement agencies. In this regard, Bill C-21 will be important for our immigration system since it will enable the Canada Border Services Agency to know whether temporary residents and visitors have actually left the country. Resources won't have to be wasted looking for people believed to be illegally in the country but who may have already left Canada.

[*Translation*]

Bill C-21 is also important for our police forces. It will help with arresting wanted criminals who may have left the country and with finding missing persons. In the case of an AMBER Alert, for example, the police can be informed when a missing child or a person suspected of kidnapping leaves the country, which will make it possible to quickly warn police in the United States so that they can take urgent action.

Lastly, Bill C-21 will serve as a tool in the fight against fraud involving our social programs by helping us identify individuals who may not meet the residency requirements to be eligible for benefits.

All that to say that there are many advantages to this agreement and this bill. Some people have expressed concerns about how information could be shared between various government organizations in the two countries. The Senate committee responsible for studying this bill therefore has a legitimate role to play in examining these issues and looking at the regulatory measures that still need to be developed. We also have a responsibility to make people aware of the impact this bill will have on Canadian travellers and businesses, not to mention the legal delays on both sides of the border.

[*English*]

However, in an overarching sense, as we examine this legislation, we need to be cognizant of at least three points. First, exit information is already routinely collected by many other countries, including several of Canada's key allies, such as the United Kingdom, Australia, New Zealand and other states. In this context, we need to understand that what is being proposed for Canada is not out of the ordinary.

• (1440)

Second, the type of basic biographical information we are talking about is already collected upon entry into Canada or the United States. This legislation means it will now also be collected on exit, regardless of the mode of travel.

Lastly, it is important to understand the broader context of the Canada-U.S. relationship and the integrated approach that has been taken to border management and security for many decades.

Canadian and U.S. law enforcement agencies are already working together collaboratively and have been for many decades. Border management is an increasingly integrated process.

This is evident when one looks at the varied Canada-U.S. Integrated Border Enforcement Teams or if one considers joint programs such as Shiprider, under which Canadian and U.S. law enforcement officers operate from each other's vessels.

All of this needs to be understood as we evaluate the provisions in Bill C-21.

It is also important to remember that this co-operation between our two countries runs much deeper than any one American administration or any one Canadian government.

[*Translation*]

These days, we often turn our attention to the U.S. administration. However, we should not forget that although presidents and prime ministers come and go, our two countries will continue to cooperate. We must strengthen this cooperation and collaboration in order to protect the livelihood and security of all Canadians.

The ease of movement across our common border and closer cooperation between police forces should be a non-partisan exercise.

[*English*]

It is for that reason I am so frustrated at how slowly and lethargically the current government has pursued this effort.

As the Senate examines this legislation, we will examine the varied implications of this bill. I also believe we need to move forward on this legislation and hopefully at least make up for some of the unproductive delay this initiative has already been subjected to. Thank you, colleagues.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

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

[*Translation*]

REFERRED TO COMMITTEE

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

(On motion of Senator Coyle, bill referred to the Standing Senate Committee on National Security and Defence.)

CRIMINAL CODE
DEPARTMENT OF JUSTICE ACT

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

Leave having been given to revert to Government Business, Bills, Third Reading, Order No. 1:

On the Order:

> Resuming debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Pratte, for the third reading of Bill C-51, An Act to amend the Criminal Code and the Department of Justice Act and to make consequential amendments to another Act.
>
> And on the motion in amendment of the Honourable Senator Pate, seconded by the Honourable Senator Deacon (*Ontario*):
>
> That Bill C-51 be not now read a third time, but that it be amended
>
> (*a*) in clause 10, on page 5,
>
> (i) by replacing lines 17 to 20 with the following:
>
> "**(b)** the complainant is incapable of consenting to the activity in question for any reason, including, but not limited to, the fact that they are
>
> **(i)** unable to understand the nature, circumstances, risks and consequences of the sexual activity in question,
>
> **(ii)** unable to understand that they have the choice to engage in the sexual activity in question or not, or
>
> **(iii)** unable to affirmatively express agreement to the sexual activity in question by words or by active conduct;", and

(ii) by adding the following after line 20:

"**(2.2) Section 153.1 of the Act is amended by adding the following after subsection (3):**

(3.1) For greater certainty, capacity to consent at the time of the sexual activity that forms the subject-matter of the charge cannot be inferred from evidence on capacity to consent at the time of another sexual activity."; and

(*b*) in clause 19, on page 9,

(i) by replacing lines 20 to 23 with the following:

"**(b)** the complainant is incapable of consenting to the activity in question for any reason, including, but not limited to, the fact that they are

(i) unable to understand the nature, circumstances, risks and consequences of the sexual activity in question,

(ii) unable to understand that they have the choice to engage in the sexual activity in question or not, or

(iii) unable to affirmatively express agreement to the sexual activity in question by words or by active conduct;", and

(ii) by adding the following after line 23:

"**(2.2) Section 273.1 of the Act is amended by adding the following after subsection (2):**

(2.1) For greater certainty, capacity to consent at the time of the sexual activity that forms the subject-matter of the charge cannot be inferred from evidence on capacity to consent at the time of another sexual activity.".

Hon. Pierre J. Dalphond: Honourable senators, I rise today to ask you to vote against the amendment Senator Pate proposed at third reading to make changes to the Criminal Code.

I do so with regret.

I have the utmost respect for my colleague Senator Pate, and her important contribution to the work of the Senate. I would like to mention, for example, her Bill S-251, An Act to amend the Criminal Code (independence of the judiciary), which seeks to restore sentencing discretion to judges, in order to prevent the automatic imposition of minimum sentences in every case regardless of the circumstances. I commend my colleague's initiative and appreciate her confidence in the ability of the courts to fully understand the specific circumstances of each case. In a speech delivered on September 27, 2018, our colleague Senator Wetston brilliantly invited this chamber to vote on the motion to pass this bill at second reading.

With the exception of more serious crimes, such as first and second degree murders — where I am not convinced that minimum sentences are inappropriate for sending a strong deterrent message — I agree with Senator Wetston's comments and invite you, honourable colleagues, to vote in favour of second reading of Bill S-251 so that the Standing Senate Committee on Legal and Constitutional Affairs may study it in greater detail and propose suitable amendments.

That said, I will now move on to the proposed amendment to Bill C-51, which is now at the end of the legislative process.

[*English*]

What is Bill C-51 about? The bill pursues four distinctive objectives, and I quote here from the Justice Department website:

> Clarify certain aspects of sexual assault law relating to consent, admissibility of evidence and legal representation for the complainant.
>
> Repeal or amend the number of provisions in the Criminal Code that have been found unconstitutional by appellate courts and other provisions that would likely be found unconstitutional.
>
> Repeal several or obsolete or redundant criminal offences; and.
>
> Require the Minister of Justice table a Charter Statement in Parliament for every new government bill, setting out the bill's potential effects on the Charter of Rights and Freedoms.

In connection with sexual offences, the summary of the bill states:

> It also modifies certain provisions of the Code relating to sexual assault in order to clarify their application and to provide a procedure applicable to the admissibility and use of a complainant's record when in the possession of the accused.

In other words, in connection with sexual offences, the primary aim of the bill is to reflect in the code the current state of the law on consent and not to respond to the invitation made to Parliament in 2011 by the Supreme Court in *R v. J.A.* to change the state of the law on consent if Parliament felt the courts were going too far in their interpretation of what is consent.

As stated by Senator Harder in his October 16 speech, Bill C-51 does not seek to legislate a legal test of incapacity.

The second aim of the bill, which was criticized before the committee by several criminal defence lawyers and civil rights groups, is to expand the rape shield provisions and to restrict the accused's use of the complainant's private records in his or her possession.

Like Senator Joyal, I share some of their concerns and I believe there will be constitutional challenges to these provisions. That said, I support the bill as a whole because I believe courts can be trusted to interpret the new provisions with some flexibility so as to preserve the accused's rights to a legitimate means of defence in the appropriate circumstances.

Acknowledging that Bill C-51 has multiple objectives, for the remainder of this speech I will focus on consent, a key element in sexual offences.

The jurisprudence has concluded that the current provisions of the code require ongoing, conscious consent to ensure women and men are not victims of sexual exploitation and to ensure that individuals engaging in sexual activity are capable of asking their partners to stop at any point.

To prevent sexual exploitation, the Supreme Court said in *J.A.*, rendered in 2011, that the jurisprudence has consistently interpreted consent as requiring a conscious, operating mind, capable of granting, revoking or withholding consent to each and every sexual act.

Thus, consent must be present at all times during the sexual activity and cannot be given, for example, in advance by a person who agrees to engage in erotic asphyxiation.

Bill C-51 merely incorporates in the existing Criminal Code the principle that consent must be specific to each sexual act and be present at all times.

• (1450)

Clearly, the two additions to section 273.1 of the Criminal Code do nothing more than codify the Supreme Court's ruling in the *R. v. J.A.,* when stating that consent must always be present during the sexual activity in question — new section 273.1(1.1) — and that consent no longer exists if a complainant becomes unconscious during the activity.

Relying on some witnesses, Senator Pate expressed the fear that the new wording is:

> . . . likely to encourage defence counsel to argue, and some judges to accept, that Parliament intends to draw the line for incapacity and capacity to consent at unconsciousness and similar states.

With all due respect, this argument is clearly untenable, as it would be a complete reversal of the existing case law, as evidenced, amongst other things, by the recent judgment of the Nova Scotia Court of Appeal in the *Al-Rawi* case, stating clearly that the dividing line between consent and lack of consent is not consciousness but the ability to consent and to withdraw consent at any point.

Nobody can seriously argue that a bill intending to codify the current state of the law could have the feared effect.

This is one of the reasons why I opposed a different version of the amendment proposed by Senator Pate at committee stage and now oppose, respectfully and in all friendship, my colleague's second attempt with the new wording.

My second reason to oppose, then and now, is related to the content of the amendment.

As stated by Senator Harder in his October 16 speech opposing the amendment, at committee, concerns were raised by representatives of the Department of Justice that replacing in subsection 273.1 the words "the complainant is incapable of consenting to the activity" by a list of factors that will result in a more complex and harsher cross-examination of complainants during trials.

While acknowledging that this is an issue which was not addressed by the witnesses on whom she relies, Senator Pate told us that she subsequently spoke with them and reported in her October 16 speech that they are not alarmed by this possibility:

> . . . because women are already, usually, extensively cross-examined about the types of issues raised by these factors . . . .

Before subjecting victims to further stress and pain in the courtroom, I, for one, would like to hear witnesses on the consequences of the proposed amendment for the conduct of trials.

My third and last reason to oppose the amendment at the committee level was about the drafting technique used in the then proposed amendment. At the time, Senator Pate suggested deleting references to unconsciousness and incapacity to consent and replacing them with a list of three detailed tests. The tests would have served to determine a complainant's state of mind at the time of the sexual activity and were designed especially for situations where the complainant is intoxicated.

Even if this list was eventually amended to make it non-exhaustive, it remains that lawyers and courts would most likely have strived to read into the list of tests some guiding principles to determine what other circumstances or factors were to fall into the purview of the disposition, as intended by Parliament.

I apologize to non-jurists for delving into legal niceties, but when interpreting lists, courts often rely on an interpretation rule known as *ejusdem generis*, of the same kind or nature.

In *R. v. J.A.*, the majority of the Supreme Court stated that the courts have to:

> . . . identify additional cases in which no consent is obtained, in a manner consistent with the policies underlying the provisions of the Criminal Code.

By replacing the words "incapable of consenting to the activity in question for any reason" with a list of criteria, the principles underlying the amendment proposed at committee would have restricted the other circumstances where the person is unable to consent.

One cannot help but notice that the amendment now proposed, which has kept the words "incapable of consenting to the activity in question for any reason" but deleted the words "the complainant is unconscious" and reinstated the three sets of criteria introduced in committee, will create interpretative difficulties and risk changing the state of the law or, at the very least, will create a period of uncertainty about Parliament's intent when incorporating such a list of criteria in the Criminal Code.

Incidentally, this is why an amendment to add simply the words "including the reason that the complainant does not have the capacity to understand the nature of the activity or is not aware that they are not obliged to consent to the activity" was rejected by the Justice and Human Rights Committee in the other place.

For all these reasons, I prefer the Justice Department's approach, as amended in the House of Commons, that preserves the discretion of judges to deal with the specifics of each case and avoids a period of interpretive difficulties and uncertainty.

Finally, let me say a few words about Senator Lankin's call for action.

There is no doubt in my mind that victims of sexual assault, the majority of whom are women, do not view reporting to the police and resorting to the judicial system as worthy avenues.

There is no doubt there remain in society myths, biases and prejudices towards victims of sexual assaults, and these do not stop at the door of police stations or courthouses. Crown counsels, defence lawyers, judges and the jury are not immune to them. Some groups and experts have rightfully addressed criticism in this regard to the judicial system. Some of these groups are now intervening before Courts of Appeal and the Supreme Court to help courts correct any failure that may exist from time to time.

But following the teachings of the Supreme Court on consent, appellate courts do not hesitate to reverse troubling cases, such as *Al-Rawi* and *Barton*, to which Senator Pate and Senator Lankin have referred.

However, these cases are emblematic of the need for greater education and awareness efforts on the issue of consent, as the Minister of Justice acknowledged before the Justice Committee.

Our societal efforts may very well include changing various provisions of the code governing sexual offences to increase trust in the system and to tend to the needs of the victims, while at the same time protecting the right of the accused to a fair trial.

That being said, an amendment at third reading to a complex and key provision of the code on consent, described by Senator Lankin in her speech last Thursday as an attempt to change the law in the context of a "small 'r' revolution," is not the proper way forward for a house of sober second thought.

Bill C-51 is not an attempt to reform the law on consent. It is not an attempt to provoke a small revolution in the law of sexual offences. Those who participated in the parliamentary process understood that.

The Hon. the Speaker *pro tempore*: Senator Dalphond, your time has expired.

Senator Dalphond: Five more minutes?

The Hon. the Speaker *pro tempore*: Five minutes?

Hon. Senators: Agreed.

Senator Dalphond: I understand that for those advocating for change, Bill C-51 may not be enough, but the solution cannot be a proposal adopted at third reading without proper consultation and without any thorough analysis and debate in committees in both houses of Parliament.

This should be done through a bill directed at reforming sexual offences or the Criminal Code to reflect, amongst other things, the concerns of victims of sexual assault.

In the meantime, as stated by Senator Pate, the Supreme Court will rule on the appeal in the *Barton* case, where the assessment of consent to sexual activity is a very live issue.

After the ruling, should the government or members of the Senate deem it necessary, a bill proposing to change the law on consent in relation to sexual activity could be introduced, and a fair debate involving all interested parties could follow.

• (1500)

[*Translation*]

This is not what we are discussing today. Today, we should be looking at why it is so important that this one last-minute amendment to the bill be passed so that the bill can be returned to the House of Commons, which would then delay the implementation of provisions for which there is broad consensus. In my opinion, there is no need for this. I urge you to oppose the motion in amendment.

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

Hon. Serge Joyal: Would the Honourable Senator Dalphond take a question?

Senator Dalphond: Certainly.

Senator Joyal: Senator, I listened carefully to your speech. Do you think that Bill C-51 as drafted is sufficient to allow the Supreme Court to rule on the fundamental question in *Barton*? Could the Supreme Court rely on an "objective likelihood of harm" to find that the victim could not have consented to physical harm? An individual cannot consent to physical harm.

Would Bill C-51 as drafted allow the Supreme Court to find that its scope is sufficient to read in the law —

[*English*]

That criteria is, in my opinion, objective and has nothing to do with the consciousness or lower level of consciousness of a victim or a complainant.

[*Translation*]

Senator Dalphond: The current law is not going to change. The judge has to take into account all applicable circumstances to determine whether consent is or is not present. The requirement is that consent must be present at all times, can be withdrawn at any time, and must be specific to each sexual act. That's not going to change.

However, if this chamber were to adopt an amendment now, while the case is still before the Supreme Court, wouldn't it be a bit disrespectful to the Supreme Court, which is still weighing the matter?

In *R. v. J.A.*, the Supreme Court demonstrated a very liberal interpretation of consent. Indeed, three justices dissented, including Judge Fish, a noted criminal law expert, because they felt the court was going too far. The Supreme Court ruled that consent must be present at all times, including during the period when the person who later filed the complaint claimed to have been unconscious. The Supreme Court also did not hesitate to reaffirm that equality in sexual relations requires ongoing, conscious consent at all times.

I believe that in the *Barton* case, which involves 12 interveners in addition to the Crown and the accused, the court will answer these questions with its customary wisdom.

Senator Joyal: My question is not about changing the state of the law that the Supreme Court must rule on. The Supreme Court will not rule on the *Barton* case based on Bill C-51 because, as the honourable senator knows very well, it is the state of the law at the time that the alleged act was committed that the Supreme Court has interpreted, not the state of the law after the offence was committed, which is obviously what is covered by Bill C-51.

My question is basically about determining the interpretation of the victim's consent under the current Criminal Code and not under some future criminal code that could be amended if Bill C-51 is passed.

The Hon. the Speaker *pro tempore*: Senator Dalphond's time has now expired, Senator Joyal. Thank you.

(On motion of Senator Deacon (*Nova Scotia*), debate adjourned.)

[*English*]

FEDERAL SUSTAINABLE DEVELOPMENT ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Griffin, seconded by the Honourable Senator Christmas, for the second reading of Bill C-57, An Act to amend the Federal Sustainable Development Act.

Hon. Rosa Galvez: Honourable senators, I rise today to speak at second reading of Bill C-57, An Act to amend the Federal Sustainable Development Act.

The Federal Sustainable Development Act — I will call it "act" — has been in place since 2008.

In 2016, the House of Commons Standing Committee on Environment and Sustainable Development published a report on this act. The report was followed by Bill C-57, which will amend the existing act in response to the committee's recommendations.

Bill C-57 provides the legal framework to develop and implement the federal sustainable development strategy — which I will call "strategy" — which sets out sustainable development priorities, targets, goals and action for the federal government. Among the 13 goals in the strategy are a commitments to: effective action on climate change, including limiting global warming to 1.5 degrees; promoting a transition to a low-carbon economy; ensuring Canadians have access to affordable, reliable and sustainable energy; and ensuring that Canadians have access to safe drinking water and that the challenges facing Indigenous communities are addressed.

These goals are in line with the UN Sustainable Development Goals, which are broadly supported by global organizations, including the OECD and the World Economic Forum. Bill C-57 amends the purpose of the act to include:

> . . . respect Canada's domestic and international obligations relating to sustainable development, with a view to improving the quality of life of Canadians.

Bill C-57 adds six principles to the act, including that sustainable development is an evolving concept. This provides that commitments, including fighting climate change, can evolve with new scientific information or Canada's national or international engagements.

The bill enshrines that the polluter pays principle must be taken into account within the strategy. This principle is the logically accepted practice that those who produce pollution should bear the cost of managing it to prevent damage to human health and the environment. For instance, a factory that produces a potentially poisonous substance as a by-product of its activities is usually held responsible for its safe disposal. This principle underpins most of the regulation of pollution affecting land, water and air.

Part of a set of broader principles to guide sustainable development worldwide, the polluter pays principle has also been applied more specifically to emissions of greenhouse gases which cause climate change in the form of a carbon tax pricing mechanism.

Adopting Bill C-57 and modernizing the strategy for the federal government is one step towards sustainability. However, with respect to the Intergovernmental Panel on Climate Change report *Global Warming of 1.5°C* showing unequivocally climate change must be addressed by all nations and at a faster pace. We must have a deeper, but essential, conversation concerning our present economic models.

[*Translation*]

Honourable colleagues, we live in a world where eight people hold as much wealth as 50 per cent of the global population. According to Oxfam, 82 per cent of the wealth generated in 2017 went to the richest 1 per cent. In addition, just 100 companies account for 71 per cent of annual global emissions. A third of the food produced every year, which amounts to 1.3 billion tonnes, gets thrown out. Most people live on $2 to $10 a day, yet we still manage to use up a year's worth of the planet's resources in eight months. The model we are operating on today, apparently without any alternative solutions, is one of the underlying causes of the social, environmental and economic imbalance, and it must be addressed if we want sustainable development to succeed.

This discussion is already well under way in other parts of the world, but Canada lags behind. I was in Strasbourg recently to attend meetings of the Council of Europe. I learned that in mid-September, scientists, politicians and decision- makers met at the European Parliament in Brussels for a historic conference organized by members of the European Parliament from five different political parties, in partnership with unions and NGOs, to explore the possibility of a post-growth economy in Europe.

• (1510)

Over the past seventy years, GDP growth has been the top economic objective of European countries. However, although they may have grown their economies, the negative impact on the environment has been exponentially larger. There is no indication that the current economic models take into account, on the scale required, the depletion of our non-renewable natural resources or the pollution produced, such as emissions, effluent, and waste.

The current social problems of European countries will not be solved with more growth but with a fairer, more meaningful and more consistent distribution of existing revenue and wealth. In fact, economic growth as we understand it is increasingly difficult to attain given the decline in productivity gains, the saturation of markets and ecological degradation. If the current trends continue, growth could come to a permanent standstill in Europe and elsewhere in the world in less than a decade. Today, economists mainly recommend trying to restore growth by going into debt, providing bailouts, weakening environmental regulations, extending work hours and making cuts to social protection systems. This aggressive search for growth at any cost not only is socially divisive, but also creates economic instability and weakens democracy.

[*English*]

We must recognize, then, that the status quo, the linear economy, the "old" way of doing things — create, use, throw away — must change. The approach of a circular economy can offer a better transition to the fourth Industrial Revolution — decarbonization. This can be achieved through developing a more efficient and effective process to reduce residues and waste, reducing consumption and recycling materials to a greater extent than we do at present, relying on renewable energy sources for electrification and conducting life-cycle analysis to close resource and materials loops.

This will enable governments to lead by example in moving towards a functional circular economy. In a circular economy, waste from products we use in our everyday life becomes a resource, and externalities of industrial projects and processes are addressed routinely and not only as an exception.

Much of the policy research about the prospects of a circular economy has been conducted in Europe. A 2015 study co-authored by Green Alliance and WRAP found that adoption of circular economy policy could create half a million new jobs and alleviate unemployment and regional inequality in Britain by 2030. A 2015 Club of Rome study showed that the move to a circular economy could significantly reduce carbon emissions in the range of 70 per cent and create hundreds of thousands of jobs in countries such as Finland, France, Sweden, Spain and The Netherlands.

When a politician says, "Economy and environment go together," they, albeit indirectly, are referring to a circular economy being the bridge that links both sides. Following the principle of a circular economy could help Canada to achieve the 17 UN Sustainable Development Goals by 2030.

Honourable senators, I know that Bill C-57 passed unanimously in the other place. Additionally, the act mandates that progress reports detailing the status of the implementation of the goals and targets laid out in the Federal Sustainable Development Strategy be published every three years. As the next report is due in November 2018, I recommend that Bill C-57 be referred to committee as soon as possible so that it can be studied.

Thank you very much, honourable senators.

(On motion of Senator Martin, debate adjourned.)

NATIONAL SECURITY BILL, 2017

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Gold, seconded by the Honourable Senator Moncion, for the second reading of Bill C-59, An Act respecting national security matters.

Hon. Pamela Wallin: Honourable senators, I rise to speak at the second reading of Bill C-59, An Act respecting national security matters.

My views on this bill, and on national security in general, are in part shaped by my time living in the U.S. in the days and years following 9/11 and subsequent visits to Afghanistan.

Although yesterday marked the fourth anniversary of the attack on Parliament Hill, Canada has been spared, by and large, the horror of frequent or large-scale incidents of terrorism, more by virtue of our rank in the world's nations rather than because of our preparedness.

Of course, we will never know about all the close calls because our security forces, in cooperation with our allies, did their job, and because citizens who saw something said something.

Bill C-59 attempts to make some of the security imperatives spelled out in its predecessor bill, Bill C-51, more Charter-proof, and that is helpful.

Oversight and accountability of our intelligence agencies is important, but so is the ability to respond to threats as they unfold in real life and in real time. So we must allow our agencies some latitude if they are to be operationally effective.

Informed and timely oversight, I believe, actually allows our security agencies to function more effectively because when the rules are clear, people know what to do and what not to do. But, as we all know, more and overlapping levels of regulation or more bureaucratic hoops seldom ensure transparency but will more likely hamper operational effectiveness.

This bill calls for an intelligence commissioner to oversee the Communications Security Establishment and would have a mandate to approve foreign intelligence and cybersecurity authorizations issued by the Minister of National Defence. But how workable is the structure? For example, is a part-time position the most appropriate tenure? What about staffing and research components? Is it necessary for the intelligence commissioner to be a retired Superior Court judge? Can we ensure that the individuals in the commissioner's office have expertise on the range of related terrorism issues which are often grey areas in law?

Of course, we need to assess the legalities of operations, but we must also determine whether they are reasonable or necessary, and that requires political accountability. And who is ultimately responsible — the judge or the minister — for a failure to act or for actions outside the law?

Some of these same questions arise when we consider the creation of the new review board, NSIRA — the national security and intelligence review agency — which would replace the existing SIRC — Security Intelligence Review Committee — and the Office of the Communications Security Establishment Commissioner. They would be able to review the activities of CSIS, CSE, CBSA, FINTRAC and the RCMP when their actions relate to national security.

NSIRA can direct a department to review its actions and ensure that they are compliant with the law and ministerial direction.

Although I support the basic operational structure of NSIRA, I think it will be necessary for one or more Senate committees to evaluate how, through the interpretation of this bill, NSIRA will define "timely oversight."

As I have already noted, formal review does not automatically mean transparency. It is easy to camouflage important information or problems deep in a 500-page report delivered on a Friday afternoon, and it is always tempting to blame the other guy or push off responsibility to other departments. So it is really important that we assess the range of intelligence-gathering activities allowed and the ability to share information amongst separate agencies and with allies in a timely way.

I realize it is difficult to predict all the potential and various scenarios that could unfold in this country, but hearing the testimony of subject experts will help us meet our responsibility as senators.

Allow me a few words on the intelligence-gathering process — another key part of this bill. Our national security agencies actively gather, share and store information. Some put personal privacy above all else. Others want governments to be more aggressive in preventing violence and acts of terror and are willing to forfeit a little privacy for the sake of our collective safety.

I will defend a constitutional right to privacy, but we all have a right to be protected from acts of terror.

• (1520)

As security expert Scott Newark testified in the other place:

> . . . they are rights that exist in the context of a civil society. That has ramifications . . . of what citizens are entitled to expect of their government. I don't want government intruding on my privacy, but, at the same time, if government has the capability of accessing relevant information and acting on someone who is a threat to me and my family, I expect, under my civil right, that . . . government will do what it needs to do to extend that protection.

In other words, all of us have a right to be protected.

Our national security policies must be viewed in the context of today's reality: the horrors of 9/11 have faded, and our technological reality is also very different. BlackBerrys were a new thing back then. Today, we willingly give up personal data so that we can do online banking or get a head start on Christmas shopping on Amazon, with deals offered to us based on previous purchases.

So let's not impose a double standard on our security services with expectations that they must be perfect in all cases in respecting the privacy of others when we, through our own actions, make ourselves vulnerable.

More importantly, if a terrorist recruits online, there too should be consequences, and our security officials need the ability to act in preventive ways.

This bill, I fear, makes it a little more difficult to make a preemptive arrest to stop a crime or a terrorist act, but it needs study.

Bill C-59 will give CSE its own statutes, and its functions will be defined in law rather than left to ministerial discretion.

As I understand it, CSE can be proactive, not just reactive or defensive. CSE is responsible for protecting cybercritical infrastructure, which is the most consequential threat to our national security today. But, again, their mandate is limited, so we must explore the scope, definition, language and its intent.

There is a related concern highlighted by Pierre Paul-Hus, Vice-Chair of the House of Commons National Security Committee, regarding the definitions of terrorist propaganda and the evidentiary threshold.

In the old bill, the Criminal Code's section 83.22(1) applied to:

> Every person who . . . knowingly advocates or promotes the commission of terrorism offences in general . . .

Bill C-59 would introduce a more stringent test by changing the wording to:

> Every person who counsels another person to commit a terrorism offence . . . .

Some argue that using the expression "another person" means that the offence must target someone specifically rather than the broader target of terrorist networks. This concern has been raised by many security experts, and my personal preference would be for a broader net.

Regarding the definition of "terrorist propaganda" in subsection 83.222, will it now, as some fear, significantly reduce the ability of law enforcement to take down terrorist propaganda?

Colleagues, we are all aware that the issues of national security are controversial. We all come to the table with a world view shaped by our own experiences, but it's our job to engage in debate around these sensitive issues — for example, the extent to which police and our security forces are allowed to know who is coming and going and whether they can detain or debrief people of interest abroad.

In this chamber, and in the country at large, we all reacted differently to the $10 million payout to Omar Khadr and to the ethical predicament we have found ourselves in by allowing the flow of queue jumpers coming across the border in apparent defiance of the safe third country law. For some they are illegals, whereas for others they are asylum seekers.

Then there is the current issue of the return of foreign fighters. What should their fate be after their despicable and heinous behaviour that put our soldiers at risk?

And what about Huawei, the giant Chinese telecom that offers next-generation mobile networks? There are media reports that CSE is already working in labs built by Huawei, leaving us all vulnerable to state-sponsored cyberattacks.

Colleagues, this is a complex bill to be studied carefully and examined within the context of today's reality. It's a different time and place, but threats to national security exist and must be met.

And if, through the process of debate and committee scrutiny, the Senate recommends amendments, we must hope that the government, on this crucial matter of national security, is genuinely open to advice and open to improvement.

Let's work together to move this bill to committee as soon as possible.

Thank you.

Hon. Senators: Hear, hear.

(On motion of Senator Martin, debate adjourned.)

The Hon. the Speaker: Senator Pratte, before calling upon you, I unfortunately have to inform you that at 3:30 I'll have to interrupt your speech.

IMPACT ASSESSMENT BILL
CANADIAN ENERGY REGULATOR BILL
NAVIGATION PROTECTION ACT

BILL TO AMEND—SECOND READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Pratte, for the second reading of Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts.

Hon. André Pratte: Honourable senators, allow me to make a few remarks regarding Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts.

My analysis of the bill is not yet complete. As you know, this is a large and complex piece of legislation. However, at this stage I can say that I agree with the basic thrust of the bill, which seeks to establish an impact assessment regime that is at once more credible, more transparent, more inclusive and more efficient.

Events of recent years have clearly established the need for an in-depth reform of our environmental assessment process. I'll give only one example: the failure of the Energy East pipeline project.

Many in and outside this chamber are convinced that were it not for the current government, the National Energy Board would not have decided to include upstream GHG emissions among the factors it would consider. Energy East would have gone ahead, they say. With respect, I believe this view simplifies reality considerably.

First, it is just as possible that TransCanada killed Energy East for economic reasons rather than because of new environmental requirements. After all, the price of crude oil stood at US$107 when the project was announced in August 2013; when the project was cancelled, oil had fallen to US$50.

Second, and more important, even if the proponent had stuck it out, it is very far from certain that the project would have proceeded. The fact is that the NEB's credibility in the province of Quebec is extremely low. The board is perceived as being biased because of its proximity to the energy industry. Therefore, even if the NEB had given a green light to Energy East, it is more than likely that a significant majority of Quebecers would have continued to strongly oppose the project. In this context, it would have been very difficult for the government to give the go-ahead. Social licence was simply non-existent.

The truth is that the current impact assessment regime has lost much of its credibility, and not only in Quebec but in other regions of the country as well. Industry doesn't like it, environmentalists don't trust it, Indigenous communities demand major changes, and the courts are critical.

The outcomes of Energy East and other pipeline projects are the symptoms of a flawed process. A new system is required, and a new system is what Bill C-69 provides. Amongst other things, Bill C-69 will, one, remove the impact assessment process from the purview of the life-cycle regulators. The Impact Assessment Agency of Canada will be seen as a more neutral institution and will consequently be seen as more trustworthy.

Three, the bill removes the standing test so that any interested Canadian can participate in the project. Now, I know some are worried about this, but I'm convinced that, as the Expert Panel to review federal environmental assessment processes has asserted:

> The exclusion of individuals or groups from the assessment process erodes any sense of justice and fairness.

Moreover, the proposed act does not state that all members of the public who wish to be heard should be invited to appear in front of the agency or the review panel. What it says is that the public should have:

> . . . an opportunity to participate meaningfully . . .

This gives the agency sufficient leeway to manage the public's participation so that it does not delay or derail the process. Even Imperial Oil agrees that, on projects evaluated under the impact assessment act, all Canadians should be afforded the opportunity to comment.

Four, Bill C-69 sets new legislative timelines which are shorter than the existing ones. Now, I know that is a matter of controversy, and I'll come back to this in a few minutes.

Five, the bill requires the participation of Indigenous peoples in the impact assessment process and a serious consideration of Indigenous traditional knowledge.

• (1530)

This is another crucial change, and I will listen carefully to what Indigenous representatives and our Indigenous friends here in this chamber have to say as to whether these modifications are sufficient to alleviate their concerns regarding impact assessment.

Fifth, Bill C-69 requires and encourages the cooperation of the federal government with other jurisdictions in order to implement the principle of one project, one assessment.

BUSINESS OF THE SENATE

The Hon. the Speaker: Senator Pratte, my apologies, but we do have to interrupt your speech. After Question Period, we will return to Senator Pratte for the balance of his time.

QUESTION PERIOD

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, we will proceed to Question Period. Minister Gould has arrived.

On behalf of all senators, welcome, minister.

Pursuant to the order adopted by the Senate on December 10, 2015, to receive a Minister of the Crown, the Honourable Karina Gould, Minister of Democratic Institutions, appeared before honourable senators during Question Period.

MINISTRY OF DEMOCRATIC INSTITUTIONS

SENATE REFORM

Hon. Larry W. Smith (Leader of the Opposition): Good afternoon, minister. Welcome to Question Period.

My question is related to Senate reform and concerns your mandate letter from the Prime Minister, which states:

> You will lead on improving our democratic institutions and Senate reform to restore Canadians' trust and participation in our democratic processes.

A check of your speeches on the department's website since your appointment as Minister of Democratic Institutions shows no mention of Senate reform, and the only press releases on this subject are related to the Senate appointments process, including naming members to the advisory board.

Do you consider your involvement in the appointments process to be the extent of your involvement in Senate reform? If not, what are your further plans for Senate reform as per your mandate letter?

Hon. Karina Gould, P.C., M.P., Minister of Democratic Institutions: First, thank you very much, Senator Smith, for your question. I want to say it's an honour to be back in front of this chamber. I had such a pleasant experience last time, so I'm glad to be here.

With regard to Senate reform, one of the major aspects that I have been involved with is the independent appointments process. That's something I've been working quite diligently on and I am proud to say that we now have a permanent process in place with regard to the appointments. However, when it comes to Senate reform more broadly, I have tremendous respect for this chamber and know that there is a modernization process under way that senators are engaged with. I look forward to continuing to be part of that process inasmuch as it deals with the Parliament of Canada Act, and also engaging with senators as to how they envision a more modernized chamber in the 21st century.

Senator Smith: The most recent report of the advisory board was released well over a year ago in August 2017. Since then, we have had no updated information on the work of the board. The public knows nothing about who selects the board members, how they're selected, the plan for filing current advisory board vacancies and, most importantly, how the Senate candidates are selected or vetted.

In the interest of transparency, will you table with the Senate the names of all individuals recommended by the board to the Prime Minister for appointment, as well as the minutes of board meetings? As well, could you tell us if you are involved in the process or interview process for Senate candidates?

Ms. Gould: Thank you, Senator Smith. With regard to the appointments process, it is the independent board that makes those advisements and suggestions to the Prime Minister. I am not involved in the actual selection or appointment of senators, simply in establishing the process itself.

As you know, and as has been publicly disclosed, the permanent board is part of every provincial jurisdiction and is led by Huguette Labelle. Each province nominates individuals who sit on the board when there's a vacancy in that province, and the advisory board then makes recommendations after having received applications from the public. One of the key features of the permanent process is the fact that it's ongoing, so individuals can make submissions at any time, whether or not there's a vacancy, because we know there's a possibility that a vacancy could occur ahead of schedule. It's important to be nimble and to be able to respond to that, and those applications can stay for up to two years at a time. Individuals do not have to reapply every time there is a vacancy, which means that when there is a vacancy, a number of good people will apply and they will not be lost in the process if they're not selected for that exact appointment.

JAMES CUDMORE POSITION

Hon. Denise Batters: Minister Gould, James Cudmore is now your director of policy, a senior political staffer in your office. Cudmore was the CBC reporter who blew open the story about the Irving Shipbuilding contract. Curiously, he was then immediately hired in the Minister of Defence's office. It seems he has now been shuffled to your office — a little ministerial hide-and-seek? I'm not asking anything about the particulars of the *Mark Norman* court case. I'm asking you, as a minister, about your senior political staffer.

Did the PMO direct you to hire James Cudmore to solve their political problem, and which department is paying his legal fees? Is it Defence? Is it PCO? Who is it?

Hon. Karina Gould, P.C., M.P., Minister of Democratic Institutions: Thank you, Senator Batters. I see that you're in step with your colleagues in the other place. We are very fortunate to have a strong and dedicated group of women and men who serve Canadians every day on the Hill, in ministers' offices and leaders' offices and in the offices of parliamentarians both in this place and the other. They are professionals who make huge sacrifices in their lives to work and serve, and personally I would like to thank all of them for their hard work making life better for the middle class and those working hard to join it.

Honourable senators, some of you may be aware that these types of questions have been asked in the other place, where the government has refused to comment so as to protect the integrity of an ongoing court case. Though I appreciate the senator's question, it is equally inappropriate to comment on that here.

Senator Batters: Nothing to do with my question.

FOREIGN ELECTION DONATIONS

Hon. Terry M. Mercer (Acting Leader of the Senate Liberals): Minister, thank you for being here. Last spring, I sponsored Bill C-50 here in the Senate, which was designed to implement an advertising and reporting regime in the Canada Elections Act to increase transparency in political fundraising.

The bill received Royal Assent in June and I believe it comes into force in December. Are we ready? Is Elections Canada ready? I also understand that Bill C-76, the elections modernization act, includes implementing spending limits for third parties and political parties pre-writ and bans the use of foreign money being spent on our elections.

Could you comment on how these measures will further aid transparency?

Hon. Karina Gould, P.C., M.P., Minister of Democratic Institutions: Absolutely. Let me begin by offering my sincere thanks and gratitude for your sponsorship of Bill C-50, Senator Mercer. I have every reason to believe that Elections Canada is prepared and ready to implement Bill C-50 when it comes into force at the end of this year. And I'm looking forward to that because I think it will be a very important step for all political parties represented in the other place to ensure that they are being transparent in their fundraising activity. Thank you very much for your efforts in seeing this through this place and through to Royal Assent.

With regard to Bill C-76, I am extraordinarily proud of this legislation and it is a piece of legislation that will do much to further the integrity and fairness of our electoral system, particularly with regard to transparency, as you mentioned. When we talk about third parties and political parties, with regard to third parties, it will create a new pre-writ period from which they must disclose funding and activities with regard to advertisements and also political activities. This will enable us to see for the first time where this money is coming from and how it is being spent, which I think is integral for our elections processes, particularly with the advent of a fixed election date.

This piece of legislation will carry on our government's trajectory to ensure greater transparency in the political process and for Canadians to understand where money is coming from, how it's entering the political process, and to ensure a fair and level playing field. Thank you very much for your question.

SENATE APPOINTMENTS

Hon. Wanda Elaine Thomas Bernard: Thank you, Minister Gould, for being here today to answer our questions. My question has to do with representation in the Senate.

• (1540)

Currently, African Canadians are the third largest non-Indigenous racialized group in Canada, accounting for 2.9 per cent of the total population and 15.1 per cent of non-Indigenous racialized Canadians. In the Senate, however, I am one of only two Black women senators, which clearly does not properly match the demographics of the Canadian public. For example, Ontario has the largest Black population in Canada but has no regional representation from the African Canadian community in the Senate. For anyone applying to become a senator, there is a knowledge requirement of minority representation. However, many times, I have found myself often being the only one to voice issues that affect African Canadians.

Minister Gould, how do you plan to address this representation gap in the Senate and to ensure that this chamber is truly representative of the Canadians we serve?

Hon. Karina Gould, P.C., M.P., Minister of Democratic Institutions: Excellent. Senator, thank you very much for your important question. As all senators in this place know, minority and regional representation are part of the pillars of the Senate Chamber, and they're extraordinarily important.

One of the things our government has strived to do is to ensure we have that representative reflection of Canadian society in this chamber. Of course, it will not be perfect; it will not be a perfect mirror-to-mirror of the Canadian population, but we are certainly striving for this. Of the 45 appointments that our Prime Minister has made, 58 per cent of them have been women. Now, in this chamber, 46 per cent of senators are women, which is extraordinarily close to parity. We hope to get there in short order.

The other important statistic to note is that 18 per cent of the senators that we have appointed have self-identified as Indigenous, which is another important constituency we need to be representing.

I take to heart your point specifically around African Canadians, and I would confirm with you that a part of my deliberations around the independent advisory board is to ensure they are undertaking all efforts to solicit applications from as broad a range of Canadians as possible. I would note that in 2017, they reached out to almost 800 organizations across the country. I encourage them to do more. In 2018, that number more than doubled to 1,600 organizations across the country, representing people from all different backgrounds, races, religions and professional organizations to ensure they are going as far as possible.

Additionally, with the appointments process, one of the things in the permanent process that is really important is that it's not just about individuals applying but also still enabling organizations to nominate qualified Canadians for the position. That's really important because, as many of you would know, not everyone will see themselves as a senator and might not take the initiative to apply on their own. It's always good to have a bit of encouragement for people who would serve Canadians extraordinarily well.

I thank you for your advocacy on this issue. Rest assured it is something that we are continually striving to achieve in this chamber. But all of us, whether in this place or the other, have a duty to encourage those who are in minority situations to feel empowered and to put their name forward, whether it's to run for elected office or to sit as a senator. That's I certainly take extraordinarily seriously, as a young woman and a new mom, making sure I'm doing my part to encourage others to apply and to join me in this process. Thank you very much for your advocacy and for your question.

ELECTORAL REFORM

Hon. Mary Coyle: Minister Gould, thank you very much for being with us here today. As my colleague Senator Smith also mentioned, I am referring to your mandate letter. I see it indicates that your overarching goal is to strengthen the openness and fairness of Canada's public institutions. As we've discussed, it is also your task to take the lead on improving our democratic institutions and on Senate reform in order to restore Canadians' trust and participation in our democratic processes.

On July 19, 2016, long before I was called here to be a senator, I was asked by my local member of Parliament, Sean Fraser, to moderate a town hall discussion in our community of Antigonish on the topics of electoral reform and climate change. I'm sure you remember those. Our academic experts at St. Francis Xavier University made excellent presentations on the two important matters, and a large community audience engaged in a fruitful and lively discussion. The town hall, I know, was one of the many ways the Canadian government reached out to Canadians on the issue of electoral reform.

Your predecessor, Minister Monsef, had a mandate to establish a special parliamentary committee to consult on electoral reform, including preferential ballots, proportional representation, mandatory voting and online voting. A parliamentary committee was established, and a number of recommendations were made.

While your mandate letter clearly states that changing the electoral system will not fall within your current mandate, I'm wondering what the next steps are or will be for this government in the important area of electoral reform. This is something people at home ask me about, because they associated me as moderator of that town hall, with this very important matter. Thank you. *Wela'lioq*.

Hon. Karina Gould, P.C., M.P., Minister of Democratic Institutions: Thank you for your question and for your engagement on this very important topic in Canadian society and politics.

As you know, and as you mentioned, you were part of our government's extensive electoral reform consultations across the country. As you noted, this was before my time in this position. However, one of the things I can say is that, as we saw with the committee that was established and with town halls across the country, there was no main consensus on what it would look like to change the electoral system. While change I think is worthwhile, and it's something we should be constantly striving to do better, when we're thinking about changing something of such magnitude and importance to the day-to-day lives of Canadians, even though they may not recognize how much it might fundamentally impact their lives, it's important to bring Canadians along on this journey.

When we went out and consulted and found there really was no consensus, the Prime Minister and this government made the decision that we would not be pursuing electoral reform at this time. As such, I have been focusing on my mandate on really important legislation such as Bill C-76, which undoes many of the unfair elements of the previous government's Bill C-23, which are crucial for Canadians to be able to participate in our elections.

One element of that I would like to point out, which I think is extraordinarily important, is returning the ability of the CEO of Elections Canada to educate Canadians about our elections. We absolutely need to have greater civic education in this country, and we absolutely need Elections Canada to be able to speak to Canadians about our elections. That is really fundamental and important in Bill C-76, among many other measures.

INDEPENDENT ADVISORY BOARD

Hon. David Tkachuk: Minister, my question for you concerns the Senate appointment advisory board, which the government claims is independent and non-partisan.

In July, you appointed celebrity chef Vikram Vij as a member of the board for British Columbia. He had been previously named to the board in July 2016. Earlier this year, taxpayers shelled out over $17,000 for the flight, hotel and out-of-pocket expenses for Mr. Vij as he accompanied the Prime Minister on his trip to India. Mr. Vij was described at the time as a "vocal Liberal supporter" who endorsed Mr. Trudeau prior to the last federal election and helped fire up the crowd at one of his campaign rallies in Vancouver.

Minister, how do you square appointing Mr. Vij twice to an advisory board that the Prime Minister insisted, when he announced it, is arm's length and independent?

Some Hon. Senators: Shame.

Hon. Karina Gould, P.C., M.P., Minister of Democratic Institutions: Thank you for your question. The Independent Advisory Board for Senate Appointments is arm's length and independent. As I had said to Senator Smith, the provincial appointments are made upon nominations from the provincial government. We solicit advice from the provincial government for them to have input on whom would be sitting on that board, and that is certainly the case in this instance.

Of course, when someone is successful in their duties and their abilities, they are considered for reappointment. That was the case in this instance.

• (1550)

[*Translation*]

FOREIGN ELECTION DONATIONS

Hon. Jean-Guy Dagenais: Minister, the Prime Minister signed your mandate letter on February 1, 2017, in which he removed electoral reform from your responsibilities. Electoral reform was another of his big promises during the last election campaign. This does not make any sense, to say the least, because you are the Minister for Democratic Institutions. Yet this file was removed from your responsibility.

Nevertheless, your mandate also included proposing measures to ensure that spending between elections is subject to reasonable limits. Why did your leader abandon or give up on this electoral

reform promise? Where does it stand now? With less than one year away from the next election, where are you in your review of election spending?

Hon. Karina Gould, P.C., M.P., Minister of Democratic Institutions: Thank you for your question, senator. I believe the answer is the same as the one I gave your colleague on this side of the chamber about electoral reform. We consulted Canadians, but there was no consensus. As I said, how we decide to govern is a matter of vital importance. It is not something we can move forward on without consensus among Canadians.

On the subject of political and election spending, Bill C-50 was passed and will come into force at the end of the year. I believe that is very important too.

In addition, Bill C-76 contains important measures governing third-party spending. I believe it is a good bill. Experts from across the country, including the Chief Electoral Officer and the Commissioner of Canada Elections, have said this legislation is important for our elections. Our government introduced this bill to improve elections in Canada, and I strongly believe it will do just that.

[*English*]

SENATE MODERNIZATION

Hon. Ratna Omidvar: Thank you, minister, for being with us today. I'm delighted to find common ground with my colleague Senator Smith across the aisle and his interest in Senate reform. I want to focus on the Parliament of Canada Act.

As we all know, the Parliament of Canada Act is out of step with the increasing independence of the Senate. The independent senators are now the largest group in the Senate. The act doesn't reflect this. Let me give you a few examples of what that means.

Parliamentary groups other than the government and the opposition are not recognized. The leadership of the independents and the independent Liberals is not compensated. Further, under the status quo, decisions on allocation of time to a particular stage of a study on a bill, length of bells to summon senators, compositions of committees, et cetera, are based on agreements by the Government Representative and the opposition leader.

I want to tell you we're all good people here and we've been able to get accommodation for the ISG and the Senate Liberals through sessional orders and with the help of my colleagues in the Conservative caucus and the G3. These are just agreements between various groups and caucuses and are not formal amendments to the rules and legislation that govern how we work.

In order to anchor the independence and modernization of the Senate, the Parliament of Canada Act must be amended. In my view, there is some urgency on this matter.

Do you agree the Parliament of Canada Act should be amended to reflect the new modern Senate? Can you tell us if this is a priority for you and your government?

Hon. Karina Gould, P.C., M.P., Minister of Democratic Institutions: Thank you, senator, for your question. I'd like to thank all those senators involved in the project of modernization in the Senate.

I would like to be able to converse more on this. I think it's important for me not to prejudge how the Senate does its modernization, as I believe that's up to the chamber.

However, I would entertain amendments to the Parliament of Canada Act and think this is something that should be done. However, I would leave that up to honourable senators to decide. I hope we can carry on this conversation in greater detail to ensure the governing rules reflect the actuality of this place.

ELECTORAL REFORM

Hon. Donna Dasko: Minister, thank you for being here today to speak with us. Thank you so much for your efforts to promote more women to this chamber. We look forward to reaching the 50 per cent level very soon.

My question relates to Bill C-76 and the number of amendments proposed to this bill in the other place and its committee. I understand that over 300 amendments have been put forward with regard to this bill.

Why is this? Are there fundamental flaws in the drafting of this bill? Or is it an effort to bring back the provisions of what the bill was from the previous government? Or, in fact, are there new ideas and principles that members want to have incorporated into the bill? Or is it all of the above? Thank you.

Hon. Karina Gould, P.C., M.P., Minister of Democratic Institutions: Thank you, senator, for your question. In short, it's a mix of some of those things. However, some of those amendments, as senators well know, can only be made if it's within the scope of the bill. There were no new ideas presented.

However, the bulk of those amendments were from the Conservative Party that was trying to make amendments to revert back to Bill C-23. Obviously, those were not accepted. However, a number of the amendments came directly from suggestions that were made to improve the bill from the CEO of Elections Canada and the Commissioner of Canada Elections. These were very important. They were something that, as a government, we agree with. We have the utmost respect for Elections Canada and the Commissioner of Canada Elections and take their advice very seriously.

The majority of what was originally in this bill was based on the recommendations from the CEO of Elections Canada following the 2015 election. There were a handful of amendments that in fact were proposed by the opposition parties that further strengthen the bill and ensure greater integrity. For example, when it comes to foreign interference. I believe that all of us as parliamentarians, when it comes to protecting our democracy and safeguarding our elections, can indeed and should and will put partisanship aside in favour of country. That was something I think was seen quite rightly in the other place when they were debating this bill. However, there were many things that were simply there to make improvements to the legislation from the CEO of Elections Canada. We supported those.

POLITICAL PARTY FUNDRAISING

Hon. Yonah Martin (Deputy Leader of the Opposition): Minister, my question for you today concerns the fundraising rules brought in by your government. Last month, it was revealed these rules have been repeatedly broken. *The Globe and Mail* reported of the more than 200 instances of registered lobbyists and Liberal fundraisers, over 75 per cent were registered at the time to lobby the cabinet minister speaking at the event.

Minister, when you were here in Senate Question Period over a year and a half ago, you defended your government's need to introduce new fundraising rules, saying:

> . . . the rules that we have in place in Canada are very clear, but that doesn't mean we can't do better . . . .

Minister, with the revelation your new rules have been routinely broken, will you take action and put an end to this practice? How will you get it done?

Hon. Karina Gould, P.C., M.P., Minister of Democratic Institutions: Thank you to the senator. I look forward to the end of the year when the Conservative Party starts disclosing their participants and fundraisers.

SENATE APPOINTMENTS

Hon. Nicole Eaton: Minister, thank you for coming. To follow up on Senator Bernard's question, 30 per cent of Canada, as you know, is the polar north. Our two colleagues who used to represent the North in the Senate have gone missing since they had to retire. I'm thinking of Senator Watt and Senator Sibbeston.

When the Arctic Committee was travelling in the North, it was brought up at every stop: When will we have somebody sitting in the Senate representing us? Could you give us some kind of timetable when you think that will happen? They've now been gone for quite a few months.

Hon. Karina Gould, P.C., M.P., Minister of Democratic Institutions: Thank you very much for the question. I continue to advocate Senate vacancies are filled in as timely a manner as possible. However, I'm not responsible for the actual appointments. I will continue to advocate on that particular point and will endeavour to ensure they are made as speedily as possible. Thank you for raising it.

• (1600)

INDEPENDENT ADVISORY BOARD

Hon. Denise Batters: As a follow-up to Senator Tkachuk's question, minister, you indicated that for the Independent Advisory Board for Senate Appointments, of which Vikram Vij was a part, the Government of British Columbia provided names for that one, but the government of Christy Clark at the time indicated that she was not participating in that particular Senate appointment panel. Why did you think that it was? And how is it that you, as Minister for Democratic Institutions, don't know that?

Hon. Karina Gould, P.C., M.P., Minister of Democratic Institutions: Thank you to the senator for the question. In instances where the government does not want to participate, we endeavour to ensure that there are highly qualified individuals who participate on the panel.

ELECTORAL REFORM

Hon. Serge Joyal: Minister, my question is in relation to the amendment to the Elections Act. A month ago, the Information Commissioner and the Privacy Commissioner came forward together requesting that the government amend the Elections Act to require political parties to respect the principles enshrined in the Access to Information Act and the Privacy Act and allow any Canadian citizen to get the information political parties may retain about them and have the Information Commissioner exercise oversight of the use by political parties of private data that belongs to Canadians.

Why is your government refusing that suggestion, which meets the concern of Canadians all across the country with the protection of their privacy and what political parties do with the information that they retain about Canadians?

Hon. Karina Gould, P.C., M.P., Minister of Democratic Institutions: Thank you, senator, for your question. With regard to privacy and political parties, one of the key amendments in Bill C-76 that is being proposed is to, for the first time, require political parties to provide public policy statements with regard to privacy on their websites with a contact person whom Canadians can contact for further clarity.

This is actually groundbreaking because never before has this been required. So, for the first time, political parties actually have these privacy statements. And within a couple of days of putting this in Bill C-76, when it was introduced in the House of Commons, the New Democratic Party actually updated their privacy policy to something that was quite robust, whereas prior to that it was not.

This is an important first step. I think this is an area that needs to be studied and explored further. Political parties play an integral role in engaging with Canadians in the political process, and we want to ensure that they can continue to have that important engagement with Canadians. However, I think this is something that could be studied in greater depth.

[*Translation*]

SENATE APPOINTMENTS

Hon. Percy Mockler: My question is for the minister. When we speak of the Senate of Canada, we speak of democracy and fair representation across the country. We all understand how important the Senate's role is.

[*English*]

You said earlier that you would advocate.

[*Translation*]

Acadia is a people. Nova Scotia has a vacant seat. My question is as follows: Are you going to urge the federal government and especially the Prime Minister of Canada, who appoints senators, to fill the next Senate seat for Nova Scotia with an Acadian? The last Acadian senator from Nova Scotia was Gerald Comeau. Acadia in Nova Scotia needs a representative in the Senate of Canada as soon as possible. Thank you.

Hon. Senators: Hear, hear.

Hon. Karina Gould, P.C., M.P., Minister of Democratic Institutions: Senator, thank you for your question and for your patience on this file. As I mentioned, it is important for minority groups to be represented here in the Senate and in the House of Commons to ensure representation for all Canadians. As I cannot appoint senators, I will relay your message to the Prime Minister. Thank you.

[*English*]

Hon. Percy E. Downe: Minister, thank you for being here. I would like to follow up on Senator Mockler's comments.

It's important that you understand some of the gaps we currently have in the Senate. We have no farmers. We're about to get what used to be called the TPP, now the CPTPP, and we have no farmers here. It's a major issue, as you know, for the agricultural community. We have no fishers — men or women — here, and we have no veterans. We constantly hear complaints about veterans, particularly below the rank of colonel, who they allege are not receiving the treatment they or their families should be receiving from Veteran Affairs. The government has a policy, as you know, minister, to hire medically released veterans on a priority basis.

If you could give some consideration to those gaps we currently have in the Senate — farmers, fishers and veterans — that would enrich our debate and fill in areas that are obviously a problem now when we view legislation and we don't have those voices here.

Ms. Gould: Certainly, and thank you, Senator Downe, for that very important intervention.

Following my last appearance here, close to 18 months ago now, I returned to the appointments section at PCO and encouraged them to expand their search. That is partly why we have enshrined in the application process the ability for organizations to nominate individuals. As I mentioned earlier, the interaction with organizations across the country went from 800, which is considerable, to 1,700 precisely for that reason, because it was brought up by one of your honourable colleagues previously.

As I mentioned to your colleague earlier, I would encourage everyone in this chamber that, should you know an organization or an individual who you think would make an excellent colleague of yours, you should definitely encourage them to apply or for an organization to nominate someone in one of those fields to apply to the Senate.

Thank you very much, and I will bring that message back with me as well.

ELECTORAL REFORM

Hon. Serge Joyal: I come back to my issue, minister. Canadians are very lukewarm following the scandal of Cambridge Analytica and feel manipulated by the data that are retained or controlled by groups or in the present case political parties. Don't you agree that, given the suspicions Canadians have about the fact that their privacy is continuously invaded in all ways, shapes and forms, it is time for political parties to submit themselves to the Privacy Commissioner and to the Information Commissioner, who are there on behalf of Parliament? They are Parliament's agents who maintain the principles of fair access to the data of Canadians.

Hon. Karina Gould, P.C., M.P., Minister of Democratic Institutions: Thank you very much, senator. With regard to Cambridge Analytica, I would submit that Cambridge Analytica already falls under privacy legislation in Canada and under PIPEDA, and there is an investigation under way with regard to their practices. This is something that is important to note.

Furthermore, the Ethics Committee in the other place is studying this issue considerably, and I would encourage parliamentarians to explore this in a way that enables us to ensure that political parties can carry on engaging with Canadians in a productive way, while also looking at a privacy regime.

I think this is, as you mentioned, a very important issue, but it is one that requires further study, and in order to get it right, we need to do it justice. So thank you.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, the time for Question Period has expired. I'm sure all honourable senators would like to join me in thanking Minister Gould for returning to the Senate for Question Period.

ORDERS OF THE DAY

IMPACT ASSESSMENT BILL
CANADIAN ENERGY REGULATOR BILL
NAVIGATION PROTECTION ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Pratte, for the second reading of Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts.

Hon. André Pratte: Honourable senators, I had just mentioned some changes that are proposed by Bill C-69, increased Indigenous participation in impact assessment processes, new legislative timelines, the removal of the standing test, a new impact assessment agency, amongst other changes. I believe these changes will considerably strengthen Canada's impact assessment regime.

• (1610)

The Mining Association of Canada supports Bill C-69:

> If implemented well, the Association asserts, our members believe that the Impact Assessment Act has the potential to be an improvement on recent experience.

The significance of this support by the Mining Association of Canada should not be minimized. The mining industry accounts for 19 per cent of Canada's goods exports. Mining projects alone represent 60 per cent of all federal environmental assessments. They know what they're talking about.

I have some concerns regarding a couple of aspects of the bill. On the issue of timelines, as I mentioned, proposed timelines for assessment reviews are shorter than what is currently required. That being said, there are still many opportunities for the minister or the Governor-in-Council to extend timelines or to stop the clock.

Experience has shown that oftentimes these extensions are useful both for the proponent and for stakeholders. However, in my view, there needs to be a formal end date so that some certainty is provided.

I'm particularly concerned with the possibility provided in Bill C-69 for cabinet to extend the timeline for decision "any number of times" with no legislated limit. It's true this is the case right now. Under Bill C-69, the government would at least be required to provide justification for each extension. Still, proponents will never be sure as to when a final decision will be reached. This fuels the perception that the bill's timelines are just smoke and mirrors.

I agree with the Expert Panel that:

> A well-designed and successful impact assessment process must provide clarity to all parties through predictable requirements and timelines.

The Mining Association of Canada, which I just mentioned, supports the bill, agrees that some flexibility should be provided within legislative timelines but adds that "such flexibility should be used appropriately with transparent constraints." As far as final decision is concerned, there are no constraints at all in Bill C-69.

[*Translation*]

Under Bill C-69, for the first time, the positive impacts of a project will have to be considered. The Canada West Foundation, which has been very critical of Bill C-69, nonetheless believes that this specific point is a very important initiative.

The purpose of the new act will be:

> to ensure that impact assessments of designated projects take into account all effects — both positive and adverse — that may be caused by the carrying out of designated projects.

The bill also provides that the agency or review panel assessing the project must take into account:

> the changes to the environment or to health, social or economic conditions and the positive and negative consequences of these changes. . . .

That is an important change.

That said, the text does not generally focus much on the positive economic impact a project might have. I note in particular that these positive economic aspects are not explicitly part of the list of five factors in clause 63 that the minister or cabinet must consider when determining whether the project is in the public interest.

Honourable senators, the economic benefits of a project at the regional and national levels absolutely must be carefully weighed. If not, then we are not really talking about sustainable development. As the Expert Panel report notes, "A sustainability approach . . . requires honest consideration of both positive and negative impacts." In my opinion, the new legislation would have more credibility if it more explicitly required the government, the agency, and the panels to review the economic benefits of each project.

Furthermore, I am concerned about certain parts of the bill that appear to open the door to possible federal interference in areas of provincial jurisdiction. At least two provincial governments, Alberta and Quebec, have expressed concerns in that regard. The federal government is trying to be reassuring, but the wording is not clear. Given that protecting provincial jurisdictions is one of this chamber's primary responsibilities, I think we need to pay particular attention to this issue.

In addition, under clause 39(2) of the new impact assessment act, an impact assessment cannot be carried out jointly with any province, territory or Indigenous governing body if the project falls under the jurisdiction of the Canadian Nuclear Safety Commission or the new Canadian Energy Regulator. This means that many pipeline projects, for example, would be excluded from the joint assessment process. This is troubling, since the federal government does not seem to realize that, here in Canada, the provinces do indeed have a shared responsibility for environmental protection with respect to projects like pipelines, electrical transmission lines and uranium mines.

[*English*]

Even before the agency has decided whether it will proceed with an impact assessment evaluation, the minister can decide that a project will cause "unacceptable environmental effects."

This would stop the project dead in its tracks. However, the act does not set any particular criteria for such a ministerial determination. This, colleagues, opens the door to arbitrary political decisions.

Some of these concerns, notably the issue of timelines, were expressed by Senator Black, Alberta, in his speech on October 4. Senator Black believes that the bill "is so problematic that it is not fixable."

With the greatest of respect, I disagree. I think the bill brings forward many welcomed changes. The weaknesses that exist, should our collective analysis confirm these weaknesses, can be remediated. Moreover, we cannot afford to go back to the drawing board; this would create even more uncertainty at a critical time for Canada's resource development.

Honourable senators, this is a large, complex and extremely important bill which requires fulsome debate and review. I'll be listening carefully to what you have to say on the principle of the bill in the next few days.

However, I'm anxious to see the bill go to committee. Only a thorough examination, with the help of experts and stakeholders, will enable us to see clearly whether the bill needs to be improved, and if so, how.

Developing and exporting our natural resources while protecting the environment, respecting Indigenous rights and allowing First Nations, Metis and Inuit communities to share in the benefits, is Canada's biggest challenge for the 21st century.

If we manage to improve the bill and pass it, the Senate will have made a significant contribution to Canada's future prosperity.

What our collective aims should be has been convincingly set by the *Resources of the Future: Canada's Economic Strategy Table:*

> By 2025, Canada is a global competitive force in natural resources with a clear path to recognize economic, environmental and social leadership, making Canadians proud of the success we create for our talent today and in the future.

This is an ambitious and exciting goal that I believe we all share. Let's get to work, let's get to work together. Thank you.

Hon. Richard Neufeld: Honourable senators, I rise today at second reading to speak to Bill C-69, a bill senators are likely familiar with considering how we have been inundated with correspondence highlighting some of its problems.

Among other things, it proposes two major changes to Canada's energy-related regulatory process.

One, it replaces the Canadian Environmental Assessment Agency with the Impact Assessment Agency; and, two, replaces the National Energy Board with the Canadian Energy Regulator.

So far, there have been a number of second reading speeches on Bill C-69. Senator Mitchell did an admirable job, all things considered, in defending a flawed bill on behalf of his government.

I think it speaks volumes that Senator Mitchell, a senator from Alberta, would even consider sponsoring a bill that has the potential of reducing investment and killing thousands of potential family-supporting jobs, many of them in his own province.

Alberta is the heartland of Canada's oil and gas industry. Alberta is home to many industries who have raised serious concerns with Bill C-69.

And yet, another senator from Alberta, Senator Black, was very critical in his speech and highlighted some of the negative impacts the bill will have on resource development in Alberta and Canada.

Senator Galvez also spoke to the bill and pointed out that Bill C-69 "is not a new type of legislation, and that all parties involved want Bill C-69 to be sent to committee."

I would respectfully disagree with our honourable colleague; not all parties want this bill sent to committee. Some are calling for it to be defeated now. Others want the government to withdraw it and go back to the drawing board.

• (1620)

I would argue that the bill deserves to be fully debated and properly reviewed at all stages of the legislative process. According to *Senate Procedure in Practice*, second reading debate is intended to address questions such as, "Is this bill good policy?" and "Will it be good law?"

For Bill C-69, the answers to those two questions are "no" and "no."

Why is that? The short answer is because it will make Canada's resource development sector uncompetitive and create a significant barrier to future investment.

Ron Wallace and Rowland Harrison, two Canadian energy experts who both served on the NEB, recently wrote to the *Financial Post* that:

> . . . the proposed act would, at huge cost, disrupt and seriously exacerbate the current regulatory process at a time when institutional stability is central to the Canadian national interest.
>
> Continued regulatory chaos compromises Canadian competitiveness and risks further damage to Canada's international reputation for capital investment. Senior Canadian financial experts have repeatedly called attention to the accelerating capital exodus from Canada.

Canada's overall competitiveness, which naturally implies economic activity, good-paying jobs, and revenues from royalties and taxes for social and health programs, is the overarching issue that makes this bill a threat to our prosperity.

Allow me to address a few points of contention. I will focus mostly on Part 1 of the bill, which deals with the Impact Assessment Act. With more than 350 pages, it's difficult to address all controversial aspects in 15 minutes, and I certainly don't pretend to know every detail and provision.

At the centre of the bill lies the new impact assessment agency that will replace the Canadian Environmental Assessment Agency. I appreciate that some feel that CEAA 2012 was unworkable. I don't pretend to think it's ideal either, but I contend that Bill C-69 does not improve the situation. In some ways, I think it will make it even more difficult to get any major energy-related project built. Canada is already struggling on that front.

First, the government is legislating a new early planning and engagement phase that is supposed to build trust, improve project design and give companies certainty about the next steps in the review process. It argues that it would make sure decisions on projects are guided by robust science, evidence and Indigenous traditional knowledge. I don't disagree that decisions should be based on these principles.

As per clause 10, proponents are expected to provide the agency with an "initial description" of their project, with sufficient detail to ensure that potentially affected communities and Indigenous groups can meaningfully influence the project design. The agency would also determine if the project is a designated project under the act. Regulations will set what will be required in the initial description.

On paper, this early planning phase makes sense. However, one provision raises some red flags. Despite this being an early planning phase, clause 17 says that if "the Minister is of the opinion that it is clear that the designated project would cause unacceptable environmental effects within federal jurisdiction," he or she can essentially pull the plug on the project. Perhaps someone can explain to me how robust science will be used to determine the fate of a project at such an early stage? In light of the fact that this phase is only 180 days, how can proponents be assured that science will guide the minister's decision? I wonder how this so-called "initial description" will be sufficient for the government to fully and fairly assess a project.

The Canadian Energy Pipeline Association maintains that clause 17 seems rather arbitrary and does not appear to be grounded in science-based reasoning. This is concerning, because this clause can be used to kill a project.

I also have an issue with the fact that the government has yet to announce what type of projects will be included in the designated project list. That will have to undergo a formal impact assessment. Sure, the government has released a consultation paper for the new system and received public input, but I strongly believe, as do some industry players and provincial governments, that the designated project list should be included in the legislation and not set through regulations. The government has been in power for three years. Surely, they could have come up with this list by now. Perhaps we should wait to receive this list and amend the bill to include it.

Clause 22 of Part 1 has also generated much interest. It legislates a list of 20 factors to consider when assessing a designated project. The very first factor that must be taken into account is:

> (a) the changes to the environment or to health, social or economic conditions and the positive and negative consequences of these changes that are likely to be caused by the carrying out of the designated project, including . . . .

Some will say this is totally in line with the government's overall goal. However, what is most telling is that Minister McKenna's original version of this clause had no mention of any potential positive impacts projects could have on society. The word "positive" was added at the committee stage in the other place.

On this very issue, just last week, Senator Mitchell circulated a document to remind us that the definition of "effects" in clause 2 includes the word "positive" and that there are 161 references to the effects on economic conditions. Once again, the definition of "effects" was amended in committee to add the word "positive." The original version of the bill had one single reference to "positive effects."

To me, it's crystal clear that there was originally a disproportionate and clear emphasis on environmental factors over economic or positive factors. This speaks volumes about the government's true intention.

The Canadian Association of Petroleum Producers suggests the list of factors is "broad, highly subjective and poorly defined," and CEPA argues that they "are difficult to assess on a scientific basis and are difficult to implement in practice."

Companies fear their projects will be assessed using undefined social concepts and overarching climate policy issues.

In the end, I strongly believe that no changes to the assessment process will satisfy those who are categorically opposed to any resource development project. I doubt the consideration of additional factors would suddenly change the mind of those who oppose a hydro dam like the Site C Clean Energy Project in British Columbia or the Trans Mountain Pipeline expansion project.

Bill C-69 also removes what is commonly known as the standing test. Under the current legislation, people who are directly affected by the construction or operation of a proposed facility must be allowed to participate in the NEB's hearings. The NEB also has the discretion to allow the participation of people who may have relevant information or expertise. CEPA believes the standing requirements are reasonable.

This approach has worked for years — and as recently as last week, when the NEB granted intervener status to 98 of the 123 applicants for the upcoming Trans Mountain hearings.

With Bill C-69, everyone can now participate in the review process. As is often the case, I fear the majority of submissions will come from participants who oppose a project. This comes as no surprise, considering foreign money continues to fund Canadian environmental groups.

Some companies have openly told me that investors won't tolerate the uncertainty of having to address every public intervention within the review process. To be perfectly honest, it would be unfair for proponents to have to address bogus claims or people who may not be affected by the project and who have no relevant expertise or legitimate science-based concerns.

Let's consider Northern Gateway's review panel. Based on research conduct by CEPA, an examination of some of the applicants for oral presentations revealed form letters. It also included children, Venezuela's state-owned oil company and people who had never even heard of the pipeline. Even Disney's Captain Jack Sparrow provided a submission to the panel. Does that seem legitimate?

What the government is suggesting with Bill C-69 will lead to a free-for-all, possibly with no end in sight for project approvals.

Furthermore, I am unsure how clauses 76 to 80 on cost recovery will be applied. Subclause 76(2) sets out the proponent's obligation to pay costs if the agency or review panels have not been provided the funds to recover all or a portion of the costs incurred during the assessment.

Unsurprisingly, the Governor-in-Council will have the authority to make these regulations later.

• (1630)

Is there a limit to what proponents are expected to pay? Will the proponent be obliged to answer everyone, to address each concern? I asked the questions because we do not know the answers.

And yet apparently this bill is supposed to provide greater certainty to industry.

So far, I've focused exclusively on Part 1 of the bill. Part 2, which covers more than half of the bill, creates the Canadian Energy Regulator, thereby pulling the rug out from underneath the National Energy Board. This is a massive change to our regulatory framework. And yet the 2015 Liberal platform spoke about modernizing the National Energy Board, not abolishing it.

Despite what some may say, I believe the NEB is a world-class regulator, one that may very well be the envy of the world. Personally, I feel there is no need to completely destroy the board. Modernize it, yes; blow it up, no.

I think it's unfair to discredit and disgrace the NEB. For decades, it has done tremendous work in regulating pipelines, energy development and trade, and all in the Canadian public interest. As far as I know, the regulator has always factored in economic, environmental and social considerations when making a decision or recommendation to cabinet.

As Jack Mintz and Ron Wallace wrote in February:

> After almost 60 years of proven regulatory performance, [the Trudeau] government claims to have concluded that the NEB was incapable of achieving decisions based on "science-based" assessments. . . .
>
> When cabinet declined to approve the Northern Gateway pipeline because "we don't build pipelines in rainforests," it rendered a decision that appeared to mirror the narrow advice of many NGOs and some communities who wanted protections for the Great Bear Rainforest . . . . In so doing, cabinet overruled the science, evaluations and conditions previously set by the joint National Energy Board/Canadian Environmental Assessment Agency panel that had recommended approval of the project based upon years of consultations and hearings that cost the proponent hundreds of millions of dollars.

Politics led Prime Minister Trudeau to cancel Northern Gateway, not science. To say otherwise would be misleading. Or perhaps it was Captain Jack Sparrow who convinced him?

The government claims it wants to restore public trust in Canada's life-cycle energy regulator, and yet it continues to have confidence in it. Case in point, it approved the Trans Mountain Expansion Project, LNG Canada and Enbridge's Line 3 Replacement. The government simply doesn't know where it stands on the matter.

The Liberals themselves, while in opposition, made every attempt to discredit the NEB and have Canadians feel like they couldn't trust its decisions. Their accusations were not based on evidence. They simply wanted to score political points. Even previous Liberal governments relied heavily on the NEB and had confidence in its work.

The Liberals claim they want to rebuild trust with this bill, and yet it is one of the most divisive bills we've come across in a while.

The government asserts that Bill C-69 strikes a balance between environmental protection and economic progress.

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

Senator Neufeld: Can I ask for five more minutes?

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

Hon. Senators: Agreed.

Senator Neufeld: I'm tired of this rhetoric that prior to the Trudeau government, previous governments were unable to give equal consideration to the environment and the economy in their decisions. The Liberals make it sound like the environment has been completely neglected.

Some would even argue — and I tend to agree — that this bill will actually do the opposite and favour the environment over the economy. According to CAPP, the federal government should:

> . . . pause and review its plans for Bill C-69 and further consider the long-term impacts to the country and Canadians. . . .
>
> The proposed changes to the National Energy Board Act and the Canadian Environmental Assessment Act will make the regulatory process more complicated, time consuming, legally vulnerable and, ultimately, erode public and investor confidence.

Honourable senators, keep in mind that this bill doesn't only affect the oil and gas sector, although many have focused on that, and rightfully so, since oil and gas are used in many manufacturing processes and hundreds of products all around us, making it integral to our daily lives.

The implications and consequences of Bill C-69 worry many other sectors, including hydropower, pipelines, port authorities, mining, labour groups, utilities, the Western Grain Elevator Association, just to name a few. Dozens of Indigenous communities also urge us to oppose this bill.

Before anyone asks me, I am fully aware that the Mining Association of Canada is encouraging the Senate to pass this bill, but it agrees that it's not perfect legislation. In fact, MAC confirms that timelier outcomes are not guaranteed and that it will not eliminate uncertainty for mining proponents. Some of MAC's partners and member companies do not endorse its position either.

With much uncertainty and controversy surrounding this bill, I think it falls upon us to give this bill the attention it deserves. I hope the Senate will do what the other place failed to do.

The Liberal-dominated committee next door only held 11 meetings on a bill that could seriously change Canada's economic landscape and have far-reaching implications. Of the 117 witnesses it heard from, a whopping 49 of those represented the Government of Canada. That's nearly 42 per cent of all witnesses.

How many pipeline companies? Zero. How many provincial governments? Zero. How many port authorities? Zero. How many natural gas companies? Zero. How many local mom-and-pop shops who provide services to the resource sector? Zero.

Clearly, the Senate has some work to do, and I wholeheartedly endorse Senator Black's suggestion of conducting cross-country hearings to hear from Canadians.

I've been a politician and a legislator for nearly half my life, and I've always strived to provide the best leadership possible and defend the interests of Fred and Martha. Perhaps the Fred and Marthas in your local community aren't the same as the ones in mine, but the reality is thousands of Fred and Marthas across this country rely on our natural resources for work.

I won't fearmonger and tell you that this bill will completely destroy our economy as we know it. I'll leave the fearmongering to others, but it may have serious implications for our country and ultimately for thousands, if not millions, of Canadians who rely on a healthy, thriving resource sector for their livelihoods.

Hon. Lucie Moncion: Senator Neufeld, in the last couple of weeks, we've been lobbied in our offices on Bill C-69. I received, in my office, a group from B.C. and a group from Alberta. I don't remember where the other group was from, but it was from the mining industry.

The two that I met from the West were not against the bill. They wanted changes to the bill, but they were not against the bill.

Could you give me your opinion on these groups that are coming from the West? I think one was from the pipelines. I would have to look at where the other group was from. They're both for the bill but with some changes. They might not be minor, but they want changes. Could you comment, please?

Senator Neufeld: Certainly. I appreciate that because probably a lot of the same ones that have been in to see you have been in to see me, and most of them have serious concerns. They are saying not minor but major changes if it's to stay the way it is. Otherwise, you take it and start all over again.

If we can do some major changes to this bill to make it more workable —

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

Senator Neufeld: — for all resource industries, we should do that.

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators? Senator Martin, are you taking the adjournment?

(On motion of Senator Martin, debate adjourned.)

[*Translation*]

BILL TO AMEND CERTAIN ACTS AND REGULATIONS IN RELATION TO FIREARMS

BILL TO AMEND—SECOND READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Pratte, seconded by the Honourable Senator Coyle, for the second reading of Bill C-71, An Act to amend certain Acts and Regulations in relation to firearms.

Hon. Raymonde Gagné: Honourable colleagues, I thank those who have already spoken at second reading of Bill C-71 and all those who participated in the debate by asking questions.

Any debate on firearms will be a sensitive one, and I started off by trying to understand why this is the case.

• (1640)

The only thing I could think of is that this debate goes beyond political preferences and challenges our moral and physical integrity. One side is afraid of being made to feel guilty, while the other side is afraid of becoming victims. The debate becomes charged, because one side sees the issue as an assault on their dignity, while the other side sees it as a serious threat to their safety.

Honourable senators, it is up to the legislator to address public issues and to prioritize the many competing interests. With Bill C-71, the government is proposing relatively limited measures to make Canadians safer, especially vulnerable groups like women.

This is the conceptual approach we should try to take when studying this bill. The bill is not designed to undermine gun owners. It is designed to protect very vulnerable people. In addition, it achieves its objective without infringing on anyone else's rights. Bill C-71 is not attempting to balance safety with the rights of gun owners. Gun owners cannot claim that their rights are being violated. My colleagues Senators Pratte, Dean and Dalphond explained that very clearly.

It is actually the issue of convenience that is creating such vocal opposition to Bill C-71. That tips the balance very heavily on the side of safety.

Honourable colleagues, the debate on Bill C-71 has reminded me of another debate we had fairly recently about Bill C-49 on transport. I know that, at first glance, these bills seem nothing alike. However, there was a very important debate in committee and in this chamber on a specific aspect of Bill C-49 and that is voice and video recorders in locomotives. Many of us were worried that such recorders would infringe on workers' right to privacy, in the name of safety. Workers' right to privacy is a right that is recognized and upheld by the courts.

A number of amendments were proposed to tip the balance back to the side of workers' rights. They were debated and ultimately defeated. Many of my honourable colleagues who are concerned today about the effect that Bill C-71 will have on hunters determined during the study of Bill C-49, as did the government, that infringing on a recognized right to privacy was justified in the name of public safety.

In my opinion, it is even easier to strike a balance when no recognized right is threatened, as is the case with Bill C-71. That is why I support the principle of Bill C-71, and I believe that it deserves more time in committee than it was given at second reading stage.

[*English*]

We cannot constantly repeat that this is an urban issue that Bill C-71 is trying to fix at the expense of rural interests. The data tells us that this statement is simply not true. In terms of victims of violent crimes involving firearms, for example, rural Saskatchewan has a rate that is twice as high as that of the city of Toronto. This, by the way, is based on the most recent data compiled by Statistics Canada for 2017.

We have to let go of some of those preconceived notions. The reality of the data is that there isn't a national firearms issue but, rather, many different regional issues. This is Statistics Canada's major conclusion on the basis of the 2017 statistics, that each region has its own difficulties. It is my belief that each of these regions would benefit from greater security.

[*Translation*]

Speaking of urban areas, while it's true that gun crime tends to be more common in big cities, sadly, the cities with the most gun crime in 2017 were Saskatoon, Regina and Winnipeg, my hometown.

Honourable colleagues, having read extensively on the subject and listened to Honourable Senator Miville-Dechêne's speech, it seems to me that gender-based analysis is a must here. There is no escaping the link between gun ownership and domestic violence. Here again, the issue is not strictly an urban one. We cannot pretend that domestic violence does not exist in rural communities. That's simply not true.

Gun violence is an issue across the country, and it affects women disproportionately. According to a report by the Canadian Centre for Justice Statistics entitled *Family violence in Canada: A statistical profile, 2011*, shooting was the leading cause of death in spousal murder-suicides and murder-suicides involving children and youth. Access to a firearm is a risk factor for spousal violence causing death.

The latest Statistics Canada stats show once again that there is a striking disparity when it comes to victims' gender. In 2017, there were 582 victims of spousal violence involving a firearm; 492 of them were women. That disparity is neither novel nor unexpected. Consistently, since at least 2009, over 80 per cent of the victims of spousal violence involving a firearm have been women.

[*English*]

Honourable colleagues, many of you have certainly read the brief prepared by the Coalition for Gun Control. Allow me to quote the report:

> Legally owned, easily accessible rifles and shotguns are the guns of choice in domestic violence and women's safety experts and front-line shelter workers have repeatedly said that controlling access to all firearms is crucial to preventing avoidable deaths. Every year in Canada, more than 100,000 women and children leave their homes to seek safety in a shelter. Gun violence is present in many of these cases, taking such forms as intimidation, control and homicide. Studies and coroner inquests have shown that rates of homicide in domestic violence situations increase significantly when there is a firearm in the home. "Long guns" — rifles and shotguns — are the guns most likely to be used in domestic violence situations. Women's safety experts and front-line women's organizations have repeatedly spoken out on the importance of gun control and the gun registry to protecting women at risk of domestic violence. With stronger controls on firearms, murders of women with guns have decreased dramatically — from 131 in 1991 to 32 in the last year for which there is data. Nevertheless, firearms continue to figure prominently in the cycle of violence against women and children in their homes. Strong licensing provisions are critical to reducing violence against women.

[*Translation*]

Besides the crimes reported and compiled into the annual statistics, the presence of a rifle as a tool of intimidation must not be underestimated. Senator Miville-Dechêne asked the following question, and I quote:

> For example, are written statements from respondents good enough, or should officials try to speak to them directly to confirm that they have no concerns about their significant other or spouse obtaining a firearms licence?

• (1650)

That is a very good question and I hope that the committee that will study Bill C-71 will look into it. However, let's also consider the spouse already dealing with a violent man who then asks her to submit a written declaration in support of his possession licence. Imagine the pure terror this situation would cause.

The coalition included recommendations in its brief that were made after members realized that Bill C-71 does not go far enough. The bill actually does not address everything. I am pleased that the debate on Bill C-71 coincides with the announcement of a broader public consultation on hand guns and assault weapons. That is a national discussion that we need to have.

Here is another situation that should be examined under a lens of gender-based analysis: 77 per cent of the 738 deaths caused by firearms in Canada in 2016 were the result of self-inflicted injuries, including, for the most part, suicides. In fact, the number of suicides committed using a firearm has been on the rise since 2014. In a three-year period, from 2014 to 2016, approximately 600 suicides were committed each year with a firearm — that's right, 600 suicides. That is the highest average since 2004-06. Men, who are already much more likely to be victims of gun violence, are also much more likely to commit suicide than women. Indeed, 78 per cent of firearms-related deaths involving men were intentional, that is, a result of suicide, compared to 60 per cent of firearms-related deaths involving women. In other words, while women run a greater risk of being victims of violence inflicted by someone else, men are more likely to harm themselves, often fatally, with a firearm. Therefore, another factor at play here is men's mental health, which needs to be addressed in a broader discussion on gun violence.

In the meantime, I will focus on two major aspects of Bill C-71 that would help improve public safety. First, background checks related to violent behaviour will not be limited to the five years preceding the application. Senator Boisvenu asked Senator Pratte some interesting questions about that. Sometimes even the most recent records do not seem to get properly checked. It is a serious flaw in how the current law is enforced. I hope that the committee will be able to find potential solutions.

Second, the requirement for retailers to keep a record of their transactions will help improve the traceability of firearms. This is not going to solve the problem of firearms being illegally imported from the United States, but we might be able to unravel the mystery of how so many firearms make their way from the legal Canadian market to the illegal market. All gun owners who pride themselves on obeying the law should support such an initiative. We appreciate all gun owners who buy and sell their guns legally and who thereby discharge their burden of responsibility. Every Canadian benefits, whether they own a gun or not, when those who abuse this privilege are punished by law.

For all these reasons, I support Bill C-71 in principle and move that it be referred to a committee for further study.

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

Senator Gagné: Yes, please.

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

Hon. Senators: Agreed.

Senator Gagné: I encourage my colleagues who are undertaking this study to pay close attention to the successes and failures of the background check system used for issuing licences.

The following questions should be considered. Why does suicide account for such a large proportion of gun-related deaths? Are these people using their own weapons, and, if so, how was the weapon acquired? In cases of gun-related domestic violence, does anyone follow up with the victims to find out more about the circumstances that led them to support their partner's licence application? Was there violence in the relationship before the gun was obtained?

As I said, although Bill C-71 will not fix all of the problems, it does propose some targeted measures to address certain specific, urgent issues. I hope that it will serve as a catalyst for a broader conversation in society on violence and prevention.

Thank you.

Hon. Senators: Hear, hear!

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

Hon. Lucie Moncion: Yes, I have a question for Senator Gagné.

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

Senator Gagné: Yes, absolutely.

Senator Moncion: Senator Gagné, thank you for your presentation. You presented aspects that are very important. First, you mentioned that Winnipeg has the highest rate of gun violence in Canada. Second, you spoke about mental health, violence against women, and suicide. You are no doubt aware that we receive many messages from gun owners who believe that Bill C-71 constitutes harassment.

I would like to know what you think of this aspect of the bill, because you also referred to other senators who spoke about mental health and violence.

Senator Gagné: Thank you for your question, Senator Moncion. Let me start by saying that I have owned guns. I was raised on a farm, and guns were part of our family culture. We had access to guns.

I have never been a victim of domestic violence, but I have witnessed it. I know the terrible consequences of domestic violence involving guns and intimidation. I have supported people in distress, and members of my own family have used guns to commit suicide; young men have used guns to kill themselves.

That's kind of why I wanted to speak to this issue. It's a small piece of a very complicated puzzle, and I feel I have to take part in the debate because doing so may reduce the number of victims. Of course we need to take action elsewhere too; mental health and women's shelters come to mind. Doctors have to be educated so they can ask the right questions when they see women and children with issues that might be connected to violence or domestic violence. Maybe we should find a way for doctors to report gun control issues. It's a complex problem that we need to address on multiple levels.

Incidentally, I am not proud of the fact that Winnipeg has one of the highest rates of violent crime. Here are some more statistics: Alberta reports 53 victims per 100,000 residents; Manitoba, 50; Saskatchewan, 58; Yukon, 169; Northwest Territories, 112; and Nunavut, 69. I think the statistics —

• (1700)

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

[*English*]

Hon. David Tkachuk: Honourable senators, Bill C-71 is a wide-ranging bill that, on the surface, seeks to address various components of Canada's gun-control system.

We have been here before, in 1995, with Bill C-68, the Firearms Act. That was another Liberal bill that purported to respond to the horrible murder of 14 women at the École Polytechnique in Montreal.

This bill will have no more impact on gun crime than that one did. It is a knee-jerk response to gun violence that will have more impact on the legal, law-abiding gun owners than it will on the criminal intent on gun violence.

I'm opposed to this bill because of what it does not do rather than what it does. It tinkers with guns and gun owners, people who have applied and have gun licences and know how to use guns and have to deal with more bureaucracy and restrictions on their personal freedoms.

Criminals engage in criminal acts. They are not particularly fazed by breaking another law and getting their hands on a restricted firearm to commit the crime they are intent on. They will find a way to get a gun illegally, no matter how many restrictions you put on them.

In fact, criminals want restricted weapons that can't be traced.

Bill C-71 is a response to gun violence. What does this bill do? First, it expands background checks to potentially cover an individual's life history for anyone applying or renewing their firearms licence.

Second, the bill will require any firearms licence holder transferring a non-restricted firearm to another licensed firearm holder will need to verify that the person to whom the firearm is being transferred has a valid licence.

Third, the legislation requires businesses selling non-restricted firearms to keep records of the sale of these firearms to licenced firearm holders. For the most part businesses already do this, but the legislation would mandate it.

Fourth, the bill imposes new restrictions on the transportation of certain types of firearms by those licenced to possess them, a provision which, since it applies to those who are already licensed, seems to have almost no value at all.

Fifth, the bill repeals two previous firearms classifications, prohibiting two firearms previously classified as non-restricted, now prohibited. While those holding those firearms would be entitled to be grandfathered, there does not appear to be any intent on the part of the government to compensate them, even though, by making these firearms prohibited, the government will significantly reduce their value.

The legislation also makes it impossible for the Governor-in-Council to, in future, downgrade the classification of a firearm and turns over power to classify or reclassify firearms to the RCMP. Will it address crime? Will it do anything to reduce crime — especially gun crimes — which is the real problem here?

Research on the causes of crime doesn't mention guns as one of the causes. Drugs, drug abuse, injustice, a brutal prison system, depression and other social disorders, TV and radio violence, family dysfunction, racism and poverty are the causes of crime, not guns. They are tools used in crimes, to be sure. They are not the cause.

Now, we can debate these real causes in committee when the bill gets there. I can safely say Bill C-71 will neither reduce crime nor prevent criminals from getting their hands on guns. The very act of getting a gun licence demonstrates that you are not interested in committing a crime. It is illogical that introducing more paperwork will lead to a reduction in crime.

This government is more interested with being seen to be doing something rather than actually doing something: "Look at what we are doing: We are so concerned." I'm surprised Bill C-71 doesn't have a gender and environmental component.

The bill does nothing about the increase in gun violence that led to its introduction and that it purports to respond to.

At second reading, Senator Pratte said the former Conservative government "gave itself the power" to ignore the definition of prohibited firearms set out in the Criminal Code.

Senator Pratte knows this is not quite the whole story. The two firearms in question had been classified as non-restricted for many years. The people who purchased these firearms did so in good faith.

The owners of these firearms were understandably surprised when the RCMP suddenly announced they had reclassified these firearms as prohibited.

Such reclassification decisions can be made for a variety of reasons. Sometimes those reasons may be valid from a public safety perspective. At other times these decisions may be bureaucratically driven with little or no public safety benefit.

What the former government did correctly, in my view, was to say that in exceptional circumstances those who are elected must have a right to make a final decision. This is entirely normal, and the current government is certainly seeking to give itself that power in a range of policy issues, including Bill C-69. We should not pretend that what was done in relation to firearms in rare cases was somehow out of the ordinary.

Lastly, the legislation before us seeks to bring Canadian law into line with the United Nations Firearms Marking Regulations.

Most senators are likely not familiar with these regulations, and neither was I. Essentially they are regulations which Canada signed nearly two decades ago but which no government, neither Conservative nor Liberal, has ever brought into force.

That is because these regulations require every civilian firearm imported into Canada has to be specifically marked, which can be an expensive and time-consuming process, again, with little or no public safety benefit.

Therein I believe lies a major problem with this legislation. It appears to have a rather limited public safety benefit. It may even be detrimental, especially to those who live in remote or rural communities.

There is no measure in this bill to address the growing problem of gun and gang violence on our streets. There is no measure to address firearms smuggling from the United States, which is probably the main source of supply of illegal firearms for gangs on Canadian streets. This bill will do nothing to address that, which is the issue it purportedly responds to.

The government continually protests that it has no intention of creating another long-gun registry. It will point to its acceptance of such a statement in this legislation.

Yet this legislation will permit data on the federal long-gun registry to be shared with the Province of Quebec should that be requested. This data is now many years old and is of questionable utility, yet the current government has nevertheless chosen to write such a provision into the bill.

The process around the mandatory verification of firearms transfers, a key part of Bill C-71, has also raised concerns about how the federal government might track the activities of licensed firearm owners.

The fact the government rejected both NDP and Conservative amendments in the other place, which would have introduced greater simplicity to the process of verifying firearm transfers, has only served to heighten such concerns.

Some may regard these concerns as alarmist, but one can understand why, given the past track record of the Liberal Party on this issue, there are concerns. It was, after all, the Liberal Party that dreamed up the long-gun registry, claiming it would essentially be a cost-neutral endeavour. Yet it ended up costing taxpayers nearly $2 billion with little or no public safety benefit.

Given that experience, it is not surprising that many Canadians will not accept what the government says on this issue at face value. These and other provisions in this legislation will need to be carefully examined in the Senate committee.

It is important to acknowledge some of the components of this bill may have some value. I don't believe there is any harm, for instance, in requiring retailers of firearms to keep records of their sales. Nearly every reputable business will do so anyway. Mandating this in law seems to be supportable.

Enhanced background checks are something most Canadians would probably support as long as they are effective and remain reasonable.

When Senator Pratte spoke to this provision of the bill at second reading, he argued that such comprehensive checks were going to make major contributions to public safety.

However, we must acknowledge the devil will be in the details of precisely how such "lifetime" background checks will actually work. If such checks simply end up making the process of licence acquisition and renewal slower and have neither the mechanism nor the funding to focus on real red flags, then this provision will simply end up becoming an additional burden on firearm owners, with little or no public safety benefit.

• (1710)

Concerns about how these lifetime background checks will be used in practice have been raised by several Indigenous organizations as well. This means they will require a thorough review at Senate committee.

I'd like to say just a few words about crime in rural Saskatchewan and rural Alberta. I grew up in a small town in Saskatchewan. We had about 150 people. The best man at my wedding 53 years ago — he loves this story. He loves to retell the story of what happened. He came from Hamilton. He was a relative of my wife's, and he came from Hamilton to be my best man. He was helping at the wedding. I asked him to go to the train station to pick up a couple packages we were expecting. He says, "What time does it open?" I said, "Well, it's open all the time." He says, "What do you mean it's open all the time?" I said, "Yes, it's open all the time and at night you take a flashlight." He asked, "Is anybody there?" I said, "No, there's nobody there. You just go in the room, rustle through the stuff and pick up the package that belongs to me and leave all the rest there."

Well, he couldn't believe that. Of course,he comes from Hamilton. Nonetheless, that was a long time ago. The point I'm trying to make — and this is a serious point — is everybody in our town had a gun. Everybody. You know why they had a gun? Because there were no police for miles around and there were no phones. You couldn't call the police.

We weren't killing anybody. There wasn't robbery in the streets. You could walk into the CN station and pick up a package and nobody cared. You got your own package; you didn't take anybody else's. Crime in rural Saskatchewan is on the increase and it isn't because of guns. Actually, guns are the only protectors that a farmer has. For some societal reason, whether it's drugs, alcohol or other social reasons, people are going into rural areas and causing tremendous fear. It used to be in rural Saskatchewan you felt safe. Not anymore. You don't feel safe.

Those are the questions that should be addressed by the government. We need more police in Saskatchewan. We need to address some of the social issues that are causing the problems, not this piece of crap we have here causing every farmer in our province problems, when he has to go to a gunsmith to get another permit when he already has one, to travel back and forth, but if his gun breaks down, he has to get another permit before he gets it fixed and he has to travel to Prince Albert from the town that I grew up in.

I think this bill should die on the Order Paper and the Government of Canada should get busy solving the real problems in rural Canada. This bill certainly won't.

Hon. Marc Gold: Will the senator take a question?

Senator Tkachuk: Not really, but I will, yes.

Senator Gold: Thank you. It's a nice question. Senator, you criticized the bill as having no real effect on crime, that it tinkers, and you questioned the efficacy of the background checks.

Senator, the documents the *Ottawa Citizen* obtained reveals the now-convicted murderer Basil Borutski had in fact a valid Possession Acquisition Licence on the day he was arrested for brutally shooting and killing three women in Ontario in September 2015.

The Hon. the Speaker *pro tempore*: Senator Gold, we might have to stop for an intermission. We have to vote.

Senator Tkachuk, would you ask for five more minutes after the bells and after we have voted?

Senator Tkachuk: Sure.

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

Some Hon. Senators: Absolutely.

BUSINESS OF THE SENATE

The Hon. the Speaker *pro tempore*: Honourable senators, it being 5:15, I must interrupt the proceedings. Pursuant to rule 9-6, the bells will ring to call in the senators for the taking of the deferred vote at 5:30 on the motion in amendment to Bill S-203, as amended.

Is it agreed, honourable senators?

Hon. Senators: Agreed.

• (1730)

ENDING THE CAPTIVITY OF WHALES AND DOLPHINS BILL

BILL TO AMEND—THIRD READING—
MOTION IN AMENDMENT NEGATIVED

On the Order:

Resuming debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Gold, for the third reading of Bill S-203, An Act to amend the Criminal Code and other Acts (ending the captivity of whales and dolphins), as amended.

And on the motion in amendment of the Honourable Senator Tannas, seconded by the Honourable Senator Batters:

That Bill S-203, as amended, be not now read a third time, but that it be further amended,

(*a*) by adding the following after clause 6 (added by decision of the Senate on April 26, 2018):

"Exemption

7(1) Section 445.2 of the *Criminal Code*, section 28.1 of the *Fisheries Act* and section 7.1 of the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act* do not apply to a person whose name appears in the schedule to this Act.

(2) If the Governor in Council is of the opinion that it is in the public interest, the Governor in Council may, by order, add a name to or delete a name from the schedule.

(3) In determining whether it is in the public interest to add a name to or delete a name from the schedule, the Governor in Council must take into account whether a person

(a) conducts scientific research in respect of cetaceans; or

(b) provides assistance or care to or rehabilitates cetaceans."; and

(*b*) by adding the following schedule to the end of the Bill:

"**SCHEDULE**

(Section 7)

Designated Persons

The Ocean Wise Conservation Association (Vancouver Aquarium)".

The Hon. the Speaker: Honourable senators, the question is as follows: It was moved by the Honourable Senator Tannas, seconded by the Honourable Senator Batters:

That Bill S-203, as amended, be not now read a third time, but that it be further amended,

(*a*) by adding the following —

Shall I dispense, honourable senators?

Hon. Senators: Agreed.

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

YEAS
THE HONOURABLE SENATORS

Andreychuk	McIntyre
Ataullahjan	Mockler
Batters	Neufeld
Beyak	Oh
Boisvenu	Patterson
Dagenais	Plett
Doyle	Poirier
Eaton	Richards
Greene	Seidman
Housakos	Smith
MacDonald	Tannas
Manning	Tkachuk
Marshall	Verner
Martin	Wells—29
McInnis	

NAYS
THE HONOURABLE SENATORS

Bellemare	Griffin
Bernard	Harder
Black (*Ontario*)	Joyal
Boehm	Klyne
Boniface	Lankin
Bovey	Lovelace Nicholas
Boyer	Marwah
Busson	Massicotte
Campbell	McCallum
Christmas	Mégie
Cordy	Mercer
Cormier	Mitchell
Coyle	Miville-Dechêne
Dasko	Munson
Dawson	Omidvar
Deacon (*Nova Scotia*)	Pate
Deacon (*Ontario*)	Petitclerc
Downe	Pratte
Dyck	Ravalia
Forest	Saint-Germain
Forest-Niesing	Simons
Francis	Sinclair
Gagné	Wetston
Galvez	Woo—49
Gold	

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

BILL TO AMEND CERTAIN ACTS AND REGULATIONS IN RELATION TO FIREARMS

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Pratte, seconded by the Honourable Senator Coyle, for the second reading of Bill C-71, An Act to amend certain Acts and Regulations in relation to firearms.

The Hon. the Speaker: Resuming debate on Bill C-71. Senator Tkachuk for the balance of your time.

Hon. Marc Gold: Your Honour, I had started to ask a question of Senator Tkachuk.

The Hon. the Speaker: You were in the middle of a question? Senator Gold.

Senator Gold: It's become a habit now.

Senator Tkachuk, I wanted to ask you about the case of Basil Borutski, the now-convicted murderer of three women in Ontario. He had been issued a Possession and Acquisition Licence, a PAL, in 2007 and again in 2012, but records that were obtained by the *Pembroke Observer* indicate he had a lengthy criminal record of domestic abuse from the years 1985 to 1994.

If police were authorized to extend their background checks beyond the five-year period, as this bill would propose, do you think he might have been refused a permit back in 2007 when he first got it?

Hon. David Tkachuk: I don't know the man personally, but everything I've read about him shows he's had a long and violent history. Whether he was using his own gun or using someone else's gun, I don't think that would have made a difference. I think he would have committed the same crime.

Knowing Canada, we can't say where crime guns are even coming from. Public Safety doesn't know, the cops don't know, no one knows where the crime guns are coming from. They have no statistics on it.

So I'm just going to leave it with that answer.

Hon. Gwen Boniface: Would the honourable senator take a question?

Senator Tkachuk: Sure.

Senator Boniface: Senator, I appreciate your comments very much because I think they do speak to the heart of the issues in the bill.

I'm interested in the background checks, particularly around the relationship between suicides by firearms and the benefit that background checks may also assist in that. Certainly the police being able to look beyond five years, I think, could be advantageous in terms of looking at our suicide rates.

• (1740)

Could you speak to that, particularly given the suicide rate in your own province?

Senator Tkachuk: I can't. I'm not a psychologist. I can't really speak to why people commit suicide. All I know is men use guns; women use other means. They use drugs, usually, to kill themselves.

What would cause someone to do that, I really don't know. I don't think it has anything to do with the bill we have before us. I don't think anything in that bill would prevent anyone from committing suicide with a gun.

[*Translation*]

Hon. Chantal Petitclerc: Would the senator take another question?

[*English*]

Senator, I understand you're not a psychologist, but do want to come back to the suicide rate because we have read and we know the suicide rate for youth in Saskatchewan is three and a half times higher than in the rest of the country. We also know the proportion of all suicide deaths involving firearms is higher in Saskatchewan than in the rest of Canada. That's 21 per cent versus 14 per cent.

Again, I understand you are not a specialist or a psychologist, but I do want to hear whether you think and believe the changes in Bill C-71 in expanding that background check to a lifetime in order to investigate criminal behaviour, and especially mental illness, would help mitigate the statistics and potentially have an impact on saving lives.

Senator Tkachuk: No. I don't think there's any statistical evidence to show that. I have an idea why the suicide rate is high in our province. I think it's related to drugs, alcohol and social issues. It's a very sad thing. It's something we have to deal with. This bill is not going to solve those problems. We need more police. We have to look at some of the major issues that are causing suicide — I think there is plentiful research on that — and I think we have to get busy and do that.

The Hon. the Speaker: Senator Tkachuk, your time has expired. I do know that Senator Miville-Dechêne wishes to ask a question. Are you asking for more time?

Senator Tkachuk: I'm done.

The Hon. the Speaker: Senator Tkachuk is not asking for more time, I'm sorry.

(On motion of Senator Plett, debate adjourned.)

ENDING THE CAPTIVITY OF WHALES AND DOLPHINS BILL

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Gold, for the third reading of Bill S-203, An Act to amend the Criminal Code and other Acts (ending the captivity of whales and dolphins), as amended.

Hon. Mary Jane McCallum: All my relations: An adult female beluga whale lying motionless below the body of her dead baby calf; an orca lying motionless on her side, floating towards the top of the tank, heavily sedated from an accidental overdose of Valium; a sharp, rust-coloured, steel-edged grate covered in blood, the result of carelessly transporting a beluga whale between tanks; finally, an indoor tank lacking both natural light and quality air ventilation, and now a sickly green colour caused by a breakdown in the disinfection unit. This tank contained dolphins and pinnipeds that now suffer permanent eye health issues as they were forced to endure the substandard condition of this tank after the malfunction.

These disturbing visuals I have painted for you are actual photographs submitted to the Standing Senate Committee on Fisheries and Oceans on April 11, 2017, by a former marine mammal trainer. They are all captured at Marineland adventure park.

Honourable senators, after that brief introduction, which represents only a microcosm of the issues at hand, it will come as no surprise I rise to speak today with great urgency on Bill S-203, also known as the ending the captivity of whales and dolphins act.

I would like to thank Senator Wilfred Moore for introducing this important and long overdue piece of legislation. I would also like to thank Senator Sinclair, who has taken over the reins and has been an ardent champion for the guidance and passage of Bill S-203 in this place.

Colleagues, I would like to give a gentle reminder that this is 2018. The fact that we are only having this discussion now is, frankly, disappointing. The fact this bill has had such an unfortunately long tenure in this place is even more disappointing.

In this day and age of heightened awareness, enlightenment and compassion, I admit my confusion and frustration that a bill aimed at protecting some of nature's largest, most substantial and intelligent animals from living in insufficient confines can be mired in the Senate since its introduction in 2015.

Honourable senators, as I had mentioned at the outset of my speech, the grisly and upsetting images I described were submitted by a former marine mammal trainer who had worked at Marineland. As you know, Marineland is one of a very small number of similar aquariums that would be affected by this legislation, along with the Vancouver Aquarium.

For their part, Marineland submitted their own briefing to our Fisheries and Oceans Committee, which stated, in part, that they have a long-standing commitment to ". . . marine and land animal care by consistent investment in the evolution of its facilities, its staff, education, and the continued re-evaluation, commitment and implementation of the highest standards of animal care."

I have no doubt this adventure park, as with similar parks or aquariums across Canada, does not set out in their operation with the intention of causing undue harm, pain, stress or injury to any of the animals in their care. However, despite best efforts, these types of issues are simply unavoidable, whether by human or mechanical error. The fact there exists a reality of undue harm while in captivity should be enough to jolt people — namely this chamber — into action.

In his testimony before the committee, the former marine mammal trainer indicated in his own words that:

> I . . . after much desperation, elected to abandon my profession of 12 years as I could no longer tolerate the unnecessary and prolonged suffering of animals.

This issue of animal cruelty is unacceptable in the 21st century in and of itself. This concern is compounded by my personal belief, shared by many, that having these majestic and intelligent

animals in captivity is simply unnatural. It is against the very nature, biology and physiology of these animals to be swimming around in tanks when they are wired and built for the vastness of an ocean.

A representative from the Canadian Federation of Humane Societies spoke to both of these points while testifying before our Fisheries Committee, drawing a clear link between unnatural captivity and the reality of the harms that befall these animals. In their testimony, they said:

• (1750)

> . . . the confinement of cetaceans causes physical and mental pain and suffering, and therefore fails to meet their health, behavioural and environmental needs. There are a number of pressing problems for cetaceans in captivity . . . . In captivity, natural behaviours such as foraging, breaching and fluke waving are all limited and sometimes impossible. Cetaceans are frequently isolated and spend much of their time understimulated, causing them psychological and physical suffering. Cetaceans are a highly intelligent, social, deep-diving species whose needs simply cannot be met in a tank. Nor can our needs to study and learn more about cetaceans. Studying the behaviours of a whale in captivity as an effort to better understand their natural behaviours in any way is not directly relatable. In captivity they do not and cannot express natural behaviours that would lead to a better understanding for conservation of their species.

Colleagues, there is an excellent quote from Jacques Cousteau that rings especially true here:

> There is about as much educational benefit to be gained in studying dolphins in captivity as there would be studying mankind by only observing prisoners held in solitary confinement.

Honourable senators, the argument put forward about the necessity and benefit of research that can be done on these animals while in captivity is, I believe, an argument of convenience. Nothing about cetaceans in captivity is natural, including their behaviour. If scientists are truly interested in observing and understanding the actions and behaviours of these animals, they would be best suited doing this in the wild, where they are able to exist freely and without constraint.

Colleagues, it is my belief that aquariums have these animals in captivity, first and foremost, to turn a profit. It is important that we do not confuse entertainment for education. The actions and reactions elicited from these animals while in captivity are a far cry from what their usual behavioural patterns and habits are in the wild.

The scientific benefit of keeping these animals captive seems moot and, with it, the educational argument for the benefits of students and children. Rather, this seems to be entertainment in the simplest terms to the benefit of the public and the detriment of the animal. With any big company that is selling an experience, entertainment drives revenue. It is incredibly unfortunate that the entertainment must come largely at the expense of the welfare of these animals.

A representative from Ontario Captive Animal Watch told our Fisheries and Oceans Committee:

> As science has demonstrated, cetaceans are extremely intelligent, highly emotional and socially complex species.

They are well aware of their situation, surroundings and the stresses that come with captivity. These are heavy burdens for them to bear, both physically and mentally.

Honourable senators, while the passage of this bill has been regrettably slow, now is the time to act. Let us do what is right by both respecting and upholding the democratic process. Every piece of legislation that passes before this chamber is due the right to come to a vote. In my heart, I do not believe there is a single member of this chamber who disagrees with this sentiment.

However, I strongly believe it is inappropriate and unfortunate that a small collective would act in bad faith because of their personal stance on a piece of legislation. Acting in such a way to indefinitely delay the legislative process goes against the spirit of our democratic institution, one which is predicated on the will of the majority.

With that, colleagues, let us put personal opinion aside and do what is right. Let us respect the democratic process. Let us respect the will of our sponsor. Let us vote on this bill. In the words of this bill's initial sponsor, Senator Willie Moore:

> Whales and dolphins don't belong in swimming pools. They belong in the sea.

Thank you.

Hon. Donald Neil Plett: I would like to ask the senator a question, if she would take one.

Senator McCallum: Yes.

Senator Plett: Thank you very much, senator. First of all, let me say I agree with the comments you made at the end of your speech. To stall bills for our own personal gratification or satisfaction is certainly reprehensible. We have seen that, of course, over the last few weeks here on a number of bills — bills being slowed down and questions not allowed to be called because people have personal ideas on what others are doing. So I agree with you.

I have only one question, senator. At the start of your speech, you referred to an employee at Marineland, a trainer. I'm wondering, senator, whether you are aware that this employee became a very disgruntled employee and, under oath, in court admitted to stealing drugs from Marineland and using, for his own use, drugs intended for mammals — for cetaceans. I'm wondering whether that is the respected trainer you were referring to at Marineland when you were speaking.

Senator McCallum: Thank you for your question. No, I didn't know that. But the issue here is the conditions that these animals are kept in.

This conversation we are having is really not about Bill S-203 anymore; it is about getting this bill to a vote and moving forward. It's about looking at ourselves as elders. It's looking at ourselves as ambassadors of the Senate. We have to behave accordingly, and it is now the time to vote on this matter.

Senator Plett: This will be a supplementary question. The wonderful thing about this chamber is that we have the right to our opinions and to express them, as you and I have done in the past.

You have talked about Marineland. I asked the sponsor of this bill, Senator Moore, and other members of the Fisheries Committee whether any of them had ever made a trip to Marineland to inspect this horrendous facility that everybody is talking about — to inspect this small little bathtub that these whales are swimming around in. I have been there. I have been to the Vancouver Aquarium. I see the joy on these cetaceans faces' — on the belugas' faces — when they come out and get food.

I'm wondering, senator: Have you ever taken the time to travel either to the Vancouver Aquarium or Marineland?

Maybe Senator Gagné wants to ask a question, too. I'm not sure.

The Hon. the Speaker: Senator McCallum, before answering the question, your time has expired. Are you asking for five more minutes to answer the question?

Senator McCallum: Yes, I am.

The Hon. the Speaker: Honourable senators, it's also close to six o'clock. Unless we agree not to see the clock, I will have to leave the chair until 8 p.m.

Is it agreed, honourable senators, that we not see the clock?

Hon. Senators: Agreed.

The Hon. the Speaker: I'll ask one more time.

Is it agreed, honourable senators, that we not see the clock?

Hon. Senators: Agreed.

The Hon. the Speaker: I hear a "no." That means, honourable senators, that we have to suspend the sitting until 8 p.m.

Senator Woo, just to be clear, if you say "no," it means the sitting is suspended until 8 p.m. We come back at 8 p.m.

Honourable senators, is it agreed that we not see the clock?

• (1800)

Hon. Senators: Agreed.

Senator McCallum: Thank you for your question. I have been to Marineland, but I did not go and see where the whales were held. However, I did ask a group of children this last week what they thought about the whales and where they lived, and they thought that they lived in aquariums. When I look at that perception of children that we are raising and that they believe that is their home, then I am concerned about it. It doesn't matter if they have the best accommodations given to them; it is unnatural.

Senator Plett: Thank you.

Hon. Thomas J. McInnis: Honourable senators, thank you for this opportunity to participate briefly on Bill S-203. Bill S-203 is the bill that just keeps on giving. As a member of the Fisheries Committee, I had the opportunity to hear the witnesses both in support and opposed to the bill. There are many diverse opinions on the issue of cetaceans in aquaria and captivity, and many founded on emotion and not necessarily fact.

Part of my difficulty with this bill is premised on the lack of or no contact at the outset with any of the federal departments or provinces that the bill involves. There are three such departments: Fisheries and Oceans, Environment and Climate Change, and the Department of Justice. It has been stated by at least one senator that with private members' bills there is no duty to consult prior to introducing the legislation. Indeed, that is true, as there is no law or policy directive that calls on senators to discuss with the departments or provinces affected by the proposed bill what the repercussions of the legislation becoming law might be.

Senators, there may not be a duty to consult, but in my opinion there is a responsibility to consult.

Early in the review of the Fisheries Committee, I asked the chair to invite the three federal departments touched by this bill, and I asked whether they were consulted. They said no. I asked whether there were laws currently in place to do what this bill purports to do, and they thought for a while and said yes. So here we are wanting to pass into law legislation that already is in place.

When I first listened to our now retired Senator Willie Moore, a person that I know quite well, and his explanation of the bill, my immediate reaction was that this is good legislation and the proper thing to do. You all know that the Senate is renowned for the work we do in committee. We bring in witnesses with varied opinions and expertise on the subject at hand. Questioning by senators on all aspects of the proposed bill is conducted, following which senators may discern as to the position they will follow as the debate moves back to the Senate Chamber. My position changed completely, partly because much of the testimony from those supporting the bill was unsubstantiated. That is to say, it was their belief or opinion. Further, much of the testimony from the proponents of the bill was contradicted by expert evidence.

Now, I wish to repeat what I said in my first speech here several months ago. Allegations of abuse of marine mammals at Marineland were made by activists and others to the Ontario provincial government, which, I argue, has the responsibility for such activities. As a consequence, numerous agencies immediately carried out thorough investigations. The Ontario SPCA, the Niagara Falls Humane Society, independent experts from the Vancouver Aquarium, the Calgary Zoo, the Minister of the Environment, the Minister of Labour and a team of independent outside experts appointed by the Government of

Ontario all conducted investigations at Marineland. After the entire process, which lasted well over a year, not a single charge was laid by anyone in relation to any marine mammal at Marineland.

Honourable senators, all of this process was carried out by the Ontario government, which brings me to the issue of jurisdiction over the cetaceans in aquaria. The provinces and territories and the municipal units have taken on that responsibility. Senators, permit me to pose a question or two. Although no one has consulted with them, are you all confident that the Senate of Canada is not interfering with provincial domain if we pass this bill? Most provinces oversee aquaria and zoos that house animals within their jurisdiction. All provinces or territories have provincial legislation putting in place Societies for the Prevention of Cruelty to Animals, commonly known as SPCAs.

Are you comfortable in passing a private member's bill without research or consultation with the province or territory jurisdictions or knowledge as to the effects on them?

Let us assume that the captivity of cetaceans is wrong and that the evidence confirms this. Do you not believe we have a responsibility to get it right, both practically and constitutionally, before we pass legislation and send it on to the other place? Quite candidly, I never imagined the Senate would operate this way. The Library of Parliament, when asked by me for an opinion on jurisdiction, had this to say:

> Provinces have the general jurisdiction over animal welfare. This allows them the ability to pass legislation like the Ontario SPCA to regulate the keeping of animals. This explains why they might commission a study on the subject . . . . The provinces also have jurisdiction over labour and employment, which is why Ontario's Ministry of Labour can carry out inspections.
>
> . . . That said, while the power to legislate around criminal law is exclusively federal, provinces have the power to administer and enforce criminal law. As a result, when it comes to the enforcement of criminal law prohibitions around animal welfare, the provincial governments are responsible. This further limits the degree to which the federal government is involved in this area.

According to the Library of Parliament, zoos and aquaria can fall under municipal purview as parks, as can be seen with the Vancouver Aquarium under the Vancouver Board of Parks and Recreation.

In fact, senators, I am of the opinion that the Canadian provinces, territories and municipal units have the primary responsibility for protecting the welfare of animals and all have laws in place to do just that. For example, Ontario has legislation that permits possession and breeding of marine mammals other than orcas. Once again, as near as I can tell, no province or territory was consulted prior to or after this bill was introduced.

Senators, to the activists behind this bill, that wouldn't matter because they wanted the publicity and to prey on the emotions of all of us and the public. However, to the Senate that must be irrelevant. We are legislators charged with the responsibility to do due diligence with the provinces, federal departments and stakeholders. Have we done that? Ask the question. The answer is a resounding no. Thank you very much.

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

Hon. Senators: Question.

• (1810)

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

Some Hon. Senators: Agreed.

Senator Plett: On division.

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

BAN ON SHARK FIN IMPORTATION BILL

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator MacDonald, seconded by the Honourable Senator Tkachuk, for the third reading of Bill S-238, An Act to amend the Fisheries Act and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (importation of shark fins), as amended.

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

Hon. Senators: Question.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker: Sorry. Senator Sinclair?

Hon. Murray Sinclair: On the advice of counsel for the Senate, I believe we have to make a minor change to this bill because we've amended one of the provisions that this bill also tries to amend. We have to renumber the bill. Am I correct?

Hon. Yonah Martin (Deputy Leader of the Opposition): On a point of clarification. Senator Sinclair, you have already spoken to —

Senator Sinclair: I'm asking on a point of clarification whether we need to correct the bill just to renumber one of the provisions so we don't have misnumbering of the bill.

The reason I say this, Your Honour and colleagues, is because we have the advice of legal counsel for the Senate that if one bill passes before the other that both bills were trying to amend the same provision of the Fisheries Act, and, therefore, one of them had to amend the amended provision that the first bill changed.

The Hon. the Speaker: Senator Sinclair, the table is certainly not aware of that. However, I should point out to the honourable senators that if, in fact, there is a parchment error, then the Law Clerk has the authority to fix it. My question was:

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

Hon. Senators: Agreed.

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

CRIMINAL CODE
IMMIGRATION AND REFUGEE PROTECTION ACT

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Ataullahjan, seconded by the Honourable Senator Wells, for the third reading of Bill S-240, An Act to amend the Criminal Code and the Immigration and Refugee Protection Act (trafficking in human organs), as amended.

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

Senator Martin: Question.

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

Hon. Senators: Agreed.

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

CANADA REVENUE AGENCY ACT

BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

Hon. Percy E. Downe moved third reading of Bill S-243, An Act to amend the Canada Revenue Agency Act (reporting on unpaid income tax), as amended.

He said: I'm on a bit of a roll here. I'm wondering if we can pass it. I won't push my luck.

Colleagues, I'll be very brief; the hour is late. I want to thank, obviously, the senators who spoke in the chamber in support of this bill when it was first introduced. I want to thank the Finance Committee, the chair, Senator Mockler, and all the members of that committee who worked so hard hearing from the various witnesses. It's a very well-respected committee. I had the opportunity to appear before it. There were some fascinating questions and very thoughtful discussion.

There was an amendment proposed by Senator Pratte. I don't want to put words in his mouth, but the basis was really to question if it was a good expenditure of funds to do every year. He proposed once every three years. I had no problem with that suggestion. This is measuring the tax cap, colleagues, for those senators who are new.

It means there would be one analysis of the tax gap within the term of every government. Once every three years is not a problem. I thank Senator Pratte for that. He has this amazing ability, from his journalistic career, to jump from file to file and do a deep dive in every one and come up with these wonderful suggestions. It's a skill I wish I had. It takes me a long time to realize the nuances of everything. He has the ability to do that rather quickly. I thank him for that amendment. It was very helpful.

Colleagues, that's all I have. If there's an appetite to pass the bill, I would be interested in that. I'm in the hands of the Senate.

(On motion of Senator Martin, debate adjourned.)

KINDNESS WEEK BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Munson, seconded by the Honourable Senator Dawson, for the second reading of Bill S-244, An Act respecting Kindness Week.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Mercer, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.)

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Wetston, seconded by the Honourable Senator Marwah, for the second reading of Bill S-250, An Act to amend the Criminal Code (interception of private communications).

Hon. Gwen Boniface: Honourable senators, I appreciate the evening hours are late. I will try to be brief.

Bill S-250, brought forward to us by our colleague Senator Wetston, amends the Criminal Code in a simple and straightforward way.

Bill S-250 intends to add section 382.1 (prohibited insider trading) to the laundry list of offences in which wiretaps can already be authorized under section 183.

This amendment to the code is small; yet the importance of the addition is substantial for both law enforcement agencies and prosecutors alike. As insider trading cases tend to rely on circumstantial evidence, this makes them difficult to prove. The amendment being sought here would allow law enforcement agencies to collect direct evidence that shows the intent — or the *mens rea* — to engage in insider trading.

As Senator Wetston informed us during his second reading remarks, insider trading can be prosecuted in three different ways. I will not go through the intricacies of each but only to remind senators that taking the quasi-criminal or criminal route of prosecution requires a standard of proof that is beyond a reasonable doubt, while the administrative route requires a standard of proof based on a balance of probabilities.

As honourable senators know, a burden of proof based on a balance of probabilities is a burden that is easier to satisfy than that of beyond a reasonable doubt. This is both an advantage and a disadvantage in the current regime.

Proceeding administratively allows a security regulator tribunal to order sanctions, which can be financial sanctions or bans on activities at a lesser standard of proof. This can be advantageous.

On the other hand, these sanctions don't always have the deterrent effect one would hope for and there is prevalent recidivism. Basically, the benefits of insider trading outweigh the potential consequences.

I would like to take some time to discuss why prosecuting criminally may be a better option, especially if this piece of legislation were to be granted Royal Assent.

• (1820)

The direct evidence that could be obtained through a wiretap would be critical information in a criminal court of proceedings because it could demonstrate the actual intent to engage in insider trading. This is a step forward from the circumstantial evidence that is predominantly obtained currently. Of course, wiretaps are not used lightly as they infringe upon Charter rights in section 8, the right to be free from unreasonable search and seizure. The word "search" in section 8 is widely defined and includes wiretaps.

Law enforcement cannot, and I repeat, cannot, intercept private communication of any kind using a wiretap without first receiving a warrant for this specific purpose. Senator Wetston informed us of this in his remarks. Without a warrant it is unconstitutional and illegal. This warrant is necessary before using any technology that may intercept private communications, including examples like wearing a wire, initiating a phone tap or bugging a room.

A warrant for a wiretap is different from other warrants in that a senior police officer must prepare a special affidavit request, and it must be approved and signed off by a representative of the Crown attorney's office. A wiretap is the only investigative technique in which both the police and the Crown submit a joint request. After the affidavit is prepared, it is taken before a judge of the Superior Court of Justice for approval — not a justice of the peace or a judge at a provincial court level, like other warrants.

There are two criteria that the Superior Court justice must consider when deciding to grant a warrant for a wiretap, which can be found under section 186(1) of the Criminal Code. I will read this section to you:

> An authorization under this section may be given if the judge to whom the application is made is satisfied
>
> (a) that it would be in the best interests of the administration of justice to do so . . .

— essentially, that the police have provided reasonable and probable grounds that the wiretap is necessary —

> (b) that other investigative procedures have been tried and have failed, other investigative procedures are unlikely to succeed or the urgency of the matter is such that it would be impractical to carry out the investigation of the offence using only other investigative procedures.

It is the first line of (b) that would be most important in insider trading wiretap approvals. Law enforcement would be required to demonstrate in the affidavit that no other investigative techniques — such as surveillance, use of informants, home searches, et cetera — were fruitful in the collection of viable evidence, and that all other options have been exhausted. The reasons as to why the other methods of investigation failed would have to be outlined in the affidavit, and an explanation as to why a wiretap would succeed instead would also require mention.

The affidavit would contain information such as who is to be wiretapped, the reason for police suspicion, the specific type of criminal activity and that the wiretap would reveal certain evidence. It is the job of the Crown to prove that the accused used the information for their own benefit and that intent was involved. It would be easier for the Crown to do so with the direct evidence gained as a result of a wiretap than by using

circumstantial evidence, which I mentioned earlier. A wiretap could be an added tool for both law enforcement agencies and the Crown to ensure that insider trading is dealt with appropriately and with more serious consequences.

This amendment would not only provide a narrow tool for law enforcement to ensure that those who are guilty of insider trading are convicted for it, but it also has the ability to restore consumer confidence in investment markets. I would agree with Senator Wetston when he stated that this illegal activity is unfair and undermines the integrity of trading in the markets. Investor confidence is eroded as well as market efficiency.

This amendment has the ability to level the playing field for the average, everyday Canadian investor who likely isn't aware that larger investors or companies are using insider information to get ahead, potentially at the cost of smaller investors. Bringing more confidence and stability to the market is achievable, and I believe that Bill S-250 can lend a hand in making this happen.

Taking the criminal prosecution route on white-collar crime, especially in cases of high-profile offenders that include prison sentences, would send a serious message to all partaking of these illicit acts. The current use of administrative sanctions leads to inadequate penalties and, in turn, reoffending, especially by those who see administrative sanctions simply as a bump in the road.

In conclusion, it is surprising to me that prohibited insider trading does not already fall within the dozens of offences where a wiretap authorization can be made. This amendment to the Criminal Code is long overdue, and I commend Senator Wetston for bringing it to our attention in this chamber. Thank you.

(On motion of Senator Dalphond, debate adjourned.)

[*Translation*]

PROMOTION OF ESSENTIAL SKILLS LEARNING WEEK BILL

SECOND READING—DEBATE ADJOURNED

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate) moved second reading of Bill S-254, An Act to establish Promotion of Essential Skills Learning Week.

She said: Honourable senators, I rise today to commence second reading of the first bill that I introduced in this chamber. I have been a senator for six years, and this is the first bill that I have introduced. I am very proud of it. It is Bill S-254, An Act to establish Promotion of Essential Skills Learning Week.

Before I begin my speech, I would like to point out that this very simple bill addresses a very complex reality. As we enter what the World Economic Forum refers to as the "fourth industrial revolution," essential skills development is a priority and an urgent matter for Canada and every country in the world.

Essential skills development is now a necessity for any individual who wants to succeed throughout their career in the labour market. However, it is a subject that no one broaches during election campaigns because it is too complicated. Our capacity to adapt to constant change over the course of our working lives is directly related to the level of our core competencies.

[*English*]

Unfortunately, Canada suffers from a shortage of essential skills that threatens our prosperity. This is mainly because the system for developing essential skills needs more coherence. It needs a concerted action plan.

[*Translation*]

In order to achieve that goal, we need political leadership at the national level.

[*English*]

This bill is the first of two aiming to build a collective will to address this issue.

[*Translation*]

Getting back to Bill S-254, which designates the week beginning on the first Monday of October as Promotion of Essential Skills Learning Week, yes, it's true that the scope of these bills aimed at raising awareness about a topic deemed important is highly symbolic. These bills do not provide for any specific actions by governments, and their scope depends largely on any persuasive impact they might have on the groups and stakeholders involved by encouraging them to take advantage of a specific time to work together and promote positive messages to the general public and other stakeholders.

[*English*]

Nevertheless, symbols aside, such a law can serve as an anchor, a moment and a place in time that will allow people, businesses, unions, institutions or governments who are interested in this issue to come together and raise awareness among the general population, call attention to the importance of the issue and create synergies around a given problem.

[*Translation*]

This bill underscores how urgent it is for all Canadians to upgrade their skills to meet the challenges of today's and tomorrow's economy. It is also designed to spark a social dialogue among the various stakeholders. The bill is also a step towards meeting the sustainable development objectives in the United Nations 2030 Agenda for Sustainable Development.

This bill is fully constitutional because it is about promoting essential skills learning. It in no way infringes on provincial jurisdictions, since it has to do with labour market information.

• (1830)

UNESCO, the United Nations Educational, Scientific and Cultural Organization, established an action plan entitled Agenda for the Future, which included the creation of the Week of Adult Learning. The countries that signed the declaration, including Canada, were to create an annual celebration of learning to promote the social gains associated with adult learning activities and encourage individuals to participate in them. In 1999, UNESCO adopted a resolution to officially launch the Week of Adult Learning in order to promote the broadened concept of lifelong education. A decade later, nearly 40 countries, including Canada celebrated learning around the world. In Canada, Adult Learners' Week was celebrated across the country for the first time from September 8 to 14, 2002. The Canadian Commission for UNESCO participated in those celebrations in cooperation with the Council of Ministers of Education Canada and various non-governmental organizations.

Unfortunately, the national promotion of this week has slowly fallen by the wayside in recent years and the commission's activity reports published after 2013 make no mention of this event.

Since then, it seems that fewer provincial activities have been held as well. For example, in my province, the last time Quebec Adult Learners Week was celebrated was in 2014.

Some organizations, such as Literacy Nova Scotia and ABC Life Literacy Canada, have continued to make efforts to celebrate adult education. In fact, a motion to celebrate an adult education week was adopted by the Nova Scotia legislature on April 5, 2018, proclaiming the week of April 1 to 7 Adult Learners' Week.

Still, efforts are being made here and there across the provinces, and some have been more active than others. It is also apparent that the dates of the celebrations have not been standardized.

Nevertheless, there are a number of major learning festivals around the world, including Lifelong Learning Week in Europe, the Festival of Learning in the United Kingdom, the SkillsFuture Festival in Singapore, and Adult Learners' Week in Australia. In the United States, the U.S. Senate adopted a motion in 2017 to celebrate literacy and basic skills training.

[*English*]

Senate resolution 277 designates the week of September 25 through 29, 2017, as National Adult Education and Family Literacy Week.

[*Translation*]

Why designate the week beginning on the first Monday in October as promotion of essential skills learning week? Because the date is close to the start of the school year and because groups I consulted, such as Colleges and Institutes Canada and the Fédération des chambres de commerce du Québec agreed with the suggestion. However, the date could be the subject of broader consultation during the committee's study of the bill, should it get to that stage, with a view to optimizing synergies.

Esteemed colleagues, it is very important to emphasize that the main goal of Bill S-254 is to engage the collective leadership we need in Canada to create the tools and a strategy to develop the essential skills of all Canadians.

At the end of its leaders forum on March 19 and 20, 2013, Colleges and Institutes Canada made the following recommendation:

> Literacy and essential skills should be a national priority. Leadership should come from governments, the education sector, literacy organizations, employers and unions.

The Advisory Council on Economic Growth released a report entitled "Learning Nation: Equipping Canada's Workforce with Skills for the Future," which was sent to the Minister of Finance in December 2017. The report recommended immediately launching a national dialogue about skills development.

You might be wondering why this bill focuses on essential skills learning instead of adult education. Essential skills, which are also referred to as basic or fundamental skills, are necessary for entering the workforce and change over time. They are not the same today as they were yesterday, and they will be different in the future too. That means a person who wants to have a decent job for their whole life will have to constantly upgrade their basic skills.

[*English*]

This bill emphasizes the fact that essential skills are a moving target and a prerequisite for lifelong learning.

[*Translation*]

Following the example of efforts made internationally, the federal government has been working on identifying the essential skills people are expected to have in order to work and have a decent life in the 21st century. As many senators have already explained, the Office of Literacy and Essential Skills, created under the banner of Employment and Social Development Canada, has identified nine essential skills: reading, document use, numeracy, writing, oral communication, working with others, thinking, digital skills and continuous learning. These essential skills are necessary to learn all other skills.

Over the past two decades, the notion of essential skills has been pervasive in the policies and initiatives of governments and various international organizations. All EU countries, Australia, New Zealand, Singapore, many Asian countries, including China, and South American countries have implemented skills-development strategies. Many of them specifically target essential skills, which are also called basic or fundamental skills in the various countries.

The international literature indicates that experts and governments alike look at essential skills as a core asset of human capital and also consider them necessary to living a good life and finding decent employment.

[*English*]

The acquisition of essential skills allows for lifelong learning and helps individuals adapt to change. Without these skills, it is much more difficult for individuals to adapt to the never-ending changes in the labour market.

As many observers and economic stakeholders such as the Canadian Chamber of Commerce and the Fédération des chambres de commerce du Québec have repeated, Canada is facing a skills crisis, and it is time to act on this issue.

[*Translation*]

The urgent need for action on essential skills reflects the magnitude of the economic and social challenges that all Canadian provinces and territories must overcome to ensure their citizens' current and future economic prosperity.

André Beaudry, vice-president of Canadian partnerships at the Association of Canadian Community Colleges, which is now Colleges and Institutes Canada, had this to say at the 2013 leaders forum:

> To become a global leader in innovation and productivity, Canada must leverage the full potential of every one of its citizens. The current skills shortage will never be resolved if we do not address the lack of essential skills.

[*English*]

Skills development in the workforce is at the heart of economic, social and environmental challenges for Canada and the provinces and territories. Future skills development relies on our level of essential skills in literacy, numeracy and capacity to work in a digital environment.

[*Translation*]

In short, it is urgent that we focus on the development of essential skills, at least for three main reasons. First, essential skills are fundamental to our individual ability to adapt to change, whether technological, economic or even environmental, and to hold a decent job throughout one's life.

Second, Canadians' performance in this regard leaves something to be desired. My inquiry, in which Senator Cormier and Senator Gagné participated, shows that, on average, almost one in two Canadians of working age does not have the minimum skills to find a decent job. This means that every second person who loses their job today risks ending up in a precarious job at a place like McDonald's or a retail store.

• (1840)

Skills shortages in Quebec and the Maritime provinces are even worse than the Canadian average. Furthermore, a recent study from the C.D. Howe Institute, which I mentioned in my inquiry, revealed that essential skill levels have been declining since 2000 for Canadians of all ages.

Third, as some economic studies have indicated, these essential skills are absolutely necessary if we want to maintain our standard of living in Canada and if we want the middle class to survive.

[*English*]

Moreover, a lack of essential skills prevents a significant segment of the population, especially vulnerable people — among them the young, immigrants and Indigenous people — from finding decent work.

Consequently, if Canada does not address the issue of essential skills, unemployment will prevail while qualified labour shortages will increase, thus weakening Canada's competitiveness in the global economy and threatening our prosperity.

[*Translation*]

Essential skills learning is not simply an educational issue. It is a real economic and social challenge.

[*English*]

All of the above reasons explain why it is so urgent to adopt an essential skills learning week. We need a national conversation on this issue that will lead us to collective action.

[*Translation*]

Canada does not actually have an organized system for developing essential skills that could help us meet this challenge.

[*English*]

To this effect, the Advisory Council on Economic Growth, created by Minister of Finance Bill Morneau and chaired by Dominic Barton, expressed the following concern in 2017:

> Canada's skills development infrastructure is simply not equipped to meet the challenges that lie ahead. Our system today rests primarily on two pillars. The first one supports the development of skills before people enter the workforce, through K-12 and post-secondary education. The second pillar supports individuals when they leave the workforce, by providing assistance to the unemployed and the retired. That leaves a large gap in institutional support and training during Canadians' most productive years — and it is in this phase that workers will be most affected by the labour market turmoil. While our system has served us well in a relatively stable environment to date, it is not set up to address the coming labour-market disruptions.

[*Translation*]

A comparative analysis of skills development systems around the world, conducted by Professor Matthias Pilz of the University of Cologne in Germany, differentiates the skills development systems according to whether they are decentralized or centralized, dominated by the state, business or individuals, or standardized or non-standardized. According to this study, there are many similarities between the Canadian and American systems. These two systems are very different from the systems of Germany, France, India, China, Japan and Mexico. The Canadian and American systems are decentralized and individualized. This means that in both systems, neither the state nor business exercise leadership in this area.

In Canada, the lifelong skills development system is associated with provincial education networks, the networks of community groups responsible for employability, personal initiative and the market of private training companies. Education networks and colleges do an excellent job with youth and collaborate with businesses. Community groups also do excellent and necessary work and address the most pressing needs. However, these institutions cannot meet the demand.

Moreover, businesses invest little compared to businesses around the world. The most recent data from the Conference Board of Canada shows that Canadian businesses invest even less than American businesses in the United States.

Daniel Munro from the Conference Board of Canada said, and I quote:

[*English*]

> Surveys of Canadian organizations for the Conference Board's Learning and Development Outlook show that employer spending on training and development has declined by about 40 per cent over the past two decades. When employers believe they can externalize skills development to formal education systems, they feel less urgency to make training investments with their own limited resources.

[*Translation*]

Not only is our skills development system decentralized, but it is also not standardized. In other words, there is no common language to describe the nature, content and level of essential skills. There are no standards or frameworks to determine what type of training qualifies, how it is evaluated and what designation is awarded. As a result, aside from the training prescribed by professional associations and the education sector, learners do not get any recognition for investing in training. In addition, when a certificate is issued, there are no official equivalencies among the various certificates in Canada, or even within the same province.

[*English*]

In fact, our system of education and skills development does not provide individuals with the possibility to establish a coherent, recognized learning plan nor the possibility for businesses to offer their employees training qualifications that are transferable and recognized equally among different provincial and territorial jurisdictions.

[*Translation*]

Another study entitled *Why Firms Do and Don't Offer Apprenticeships*, which was conducted by Robert Lerman, offered a comparative analysis of the investments that multinational firms make in training. It found that offers of apprenticeships are more common in countries where knowledge about apprenticeships is widespread, occupational standards are well developed, and governments finance training. Could these factors explain why Canadian businesses invest so little in training their workforce?

Colleagues, in my past life, I was the CEO of the Société québécoise de développement de la main d'œuvre, and I was responsible for implementing the Act to Promote Workforce Skills Development and Recognition in Quebec in 1996, which requires that businesses invest 1 per cent of their total payroll in training their employees. I was also responsible for implementing a dual vocational training system in Quebec, which was very difficult to do, so this issue struck a chord with me. My first-hand experience and my readings support the theory that businesses invest more in training and education when training is standardized and when the government is also investing in training workers.

In Canada, investments in continuing education are not standardized against a skills framework, which means that many of those investments are not recognized or certified. That obviously has an impact on private investment.

[*English*]

I will ask you a question. Would you invest in something that has no recognition, no value recognized or certified? Would you invest in that kind of an activity? I don't think so. This is why there is a lot of underinvestment in learning in Canada.

[*Translation*]

In Canada, unlike the education system, skills development receives limited public investment. Apart from funding allocated to unemployed workers who have paid enough into the EI system, not enough public investments are being made specifically to develop essential skills among unemployed youth, Indigenous peoples, immigrants and working Canadians. Is it any wonder that Canada is performing so poorly in this area?

What else can I say about why we need to establish a promotion of essential skills learning week?

Personal responsibility is often considered and often cited as a factor in continuous learning, as demonstrated by the motion adopted by the U.S. Senate.

• (1850)

In reality, it is increasingly obvious in the 21st century that lifelong development of essential skills is a shared responsibility and a public asset, in the same vein as education. In the 21st century, skills development is carried out through the education network, which must teach children and youth how to learn. However, lifelong skills development extends beyond school. It is based on a collective will that recognizes that there are different ways to learn. We can learn by working, we can learn informally, and we can learn on our own. However, the effectiveness of all these efforts requires a skills framework that will can be used to measure the results of these efforts, rather than the process followed.

There needs to be a paradigm shift about continuing education in order to make investments in this area that are relevant, transferable and therefore recognized. Does adopting a promotion of essential skills learning week go far enough to meet this challenge? Of course not. The provinces, territories and Canada as a whole will have to do much more than devote a week to essential skills. They will have to come together to develop a common strategy. As my colleagues Senators Gagné and Cormier have pointed out, it will be necessary to adopt a concerted strategy on the matter. That is why I will soon be introducing a second bill to develop a national framework for essential skills, one that respects the constitutional jurisdictions of the provinces. This second bill will also address the problem raised by the Minister of Finance's advisory council, which found the following:

> Confronting the major labour-market disruptions ahead means incorporating a third pillar into the current system of education and unemployment support: one focused on continuous upgrading of working adults' skills. It is a big challenge that will not be addressed overnight.

Until then, colleagues, I urge you to waste no time referring this bill to a committee for further study.

Thank you for your attention, and I would like to thank my team, the Library of Parliament staff and the law clerks who helped me draft this bill. Thank you very much.

(On motion of Senator Martin, debate adjourned.)

[*English*]

VISITORS IN THE GALLERY

The Hon. the Speaker *pro tempore*: Honourable senators, I wish to draw your attention to the presence in the gallery of guests of the Honourable Senator Bernard.

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

Hon. Senators: Hear, hear!

EMANCIPATION DAY BILL

SECOND READING—DEBATE ADJOURNED

Hon. Wanda Elaine Thomas Bernard moved second reading of Bill S-255, An Act proclaiming Emancipation Day.

She said: Honourable senators, I rise today to speak at second reading of Bill S-255, An Act proclaiming Emancipation Day. This enactment designates August 1 of each year as Emancipation Day to commemorate the abolition of slavery in Canada.

In 1834, the Abolition of Slavery Act was passed for the British colonies, which freed approximately 800,000 enslaved Africans. This day is important in Canadian history because it impacted the lives of those enslaved, the lives of their children, and it continues to impact the lives of African Canadians today. August 1 is historically significant, and it remains relevant to this day.

Emancipation Day is about learning our collective history — not rewriting that history, but telling a more complete history that includes the history of slavery in Canada. Emancipation Day is also about celebrating and making connections within and between our communities. It is a special day to celebrate our cultures, our resilience and our freedom. I would like to emphasize the importance of continued learning about our histories to understand systemic anti-Black racism.

I propose for Emancipation Day to be federally recognized, as this acknowledgment is a necessary step toward healing the historical trauma endured by African Canadians. Our history has been repeatedly erased. Enslaved Africans were stripped of their names in an attempt to strip them of their identities. After emancipation, our history continued to be erased by methods of segregation, murder and systemic marginalization.

In schools, we teach Canadian history from a Eurocentric perspective that omits or dilutes the human rights violation against African Canadians. Recognizing emancipation is a step forward in recognizing African Canadian history as part of Canada's story and teaches the next generation about the shameful and forgotten parts of the past that must not be repeated.

I have had the pleasure of attending many Emancipation Day celebrations over the years. In 2017, I visited Burlington, Ontario, where Natasha Henry, President of the Ontario Black History Society, was keynote speaker. She shared highlights from her book, *Emancipation Day: Celebrating Freedom in Canada*. Her speech was an important reminder of the social, cultural, political and educational practices of Emancipation Day celebrations over the years, especially in Ontario, Nova Scotia, New Brunswick, Quebec and British Columbia.

In fact, at the provincial level, once again due to the work of the Ontario Black History Society, Ontario is the only province in Canada that has passed legislation proclaiming August 1 as Emancipation Day. Bill 111, the Emancipation Day Act, received Royal Assent on December 10, 2008.

This year, to commemorate 184 years since the abolition of slavery, I attended three community events, two in Toronto and one in Owen Sound. Organizations like the Owen Sound Emancipation Festival and the Ontario Black History Society resist the erasure of Black history and the marginalization of African Canadians by ensuring that all generations of African Canadians can learn and explore their heritage in publicly accessible events.

A big part of recognizing Emancipation Day is talking about the many segments of Canada's past that often do not make it into mainstream history-class curricula. Taking the time to learn about our robust history reveals stories of resilience, victories and communities coming together. I learn something every time I read about our history.

I have actually a taught a course on African-Nova Scotian cultural history at the Halifax Public Library to a group of seniors, many of whom have lived in the province for over 65 years. Even they have not heard many of the stories of their provincial history. There are over 20,000 African Nova Scotians across the province, and their history is rarely paid any attention.

After the emancipation of enslaved Africans, a few found their way back to their mother continent. Those who did, went to Sierra Leone, not able to make it back to their family's country of origin. But many could not make that journey back to the motherland. They remained displaced. Many were brought to Nova Scotia and given a small plot of subpar rural land. This land was barely viable as farmland, filled with rocks and infertile soil. Despite these impossible living conditions, we endured and survived the harsh conditions. Yet to this day, African Nova Scotian people and communities continue to be marginalized. Their stories are erased — a people pushed to the margins.

• (1900)

In that same vein, Professor Michelle Williams, Director of the Indigenous Blacks & Mi'kmaq Initiative at Dalhousie University Schulich School of Law, appeared as a witness for the Standing Senate Committee on Human Rights earlier this year, advocating for the recognition of African Nova Scotians and Black Canadians more generally.

Professor Williams highlighted this distinctiveness as one of the many points made by the UN Working Group of Experts on People of African Descent, which reported last year on its mission to Canada. At paragraph 84(b), the report states that the Government of Canada should legally recognize African Canadians as a distinct group who have made and continue to make profound economic, political, social, cultural and spiritual contributions to Canadian society.

Recognition leads to understanding and education, which can then lead to action. For far too long, the stories of slaves and their descendants have been kept alive solely in Black communities. It is time to teach all our children this part of Canada's history so that we can begin the reparations necessary to address modern-day anti-Black racism and the impact of that racism. A step on this journey toward reparation would be an official apology to the descendants of slaves, to bring this issue to the forefront of Canadian consciousness.

Africville is an example of the erasure of an entire community. Africville was a marginalized African Nova Scotian community whose residents were forced out of their homes some 50 years ago, separated from their neighbours, families and community. Their property was bulldozed — their church was bulldozed in the middle of the night. The Halifax city leaders believed that by destroying the church it would be easier to convince the residents to leave. Social workers were used to help convince them to leave.

The people of Africville were forcibly relocated throughout the Halifax area, and some were moved on the back of city dump trucks. Lives were destroyed. The attempt to erase this entire community resulted in a trauma that for many has never healed.

The people of Africville have started an annual reunion, which creates critical hope. Research about the violence of racism and its impact has identified critical hope as a strategy to deal with racism. Critical hope helps to empower and mobilize people to develop creative actions to break through barriers caused by oppression.

The Africville reunion is a symbol of resilience and unity — a symbol of critical hope — as some members of the community have come together each year in remembrance for 35 years now. Each year people travel to Africville, coming together to celebrate the interconnectedness of our histories, despite geographic distance.

This year, people from Owen Sound and Toronto travelled to Africville. This year, in Toronto, I participated in the Freedom Ride, organized by a local bookstore, A Different Booklist. This was a ceremonial subway ride from Union Station to Bayview Station, representing the long and arduous quest for freedom along the Underground Railroad.

This year, dozens of people of African descent attended to connect with others and reflect on their ancestors' journeys on the Underground Railroad. It was incredibly moving, also energizing and inspiring. Many did not survive the Underground Railroad and many of those stories are lost, as they were sworn to secrecy to protect freedom seekers. The Freedom Ride was a deeply emotional experience as we honoured our ancestors who survived the perilous journey to freedom, and we mourned those who did not survive.

These community events allow African Canadians to come together in celebration of our heritage, in remembrance of our ancestors, while recognizing how our current circumstances were created by this history. These events are a key component in the revival of African Canadian history. Forging strong community connections helps us to build a better future.

I also attended the one hundred and fifty-sixth annual Owen Sound Emancipation Festival. This community has successfully kept alive the tradition of coming together to celebrate emancipation with food, music, prayer and education.

When I was in Owen Sound this summer, I shared the history of the Underground Railroad with my two grandsons. My older grandson asked me, "Why were Black people slaves, Nanny?" I struggled to find the right words to explain this to my 9-year-old grandson, and I told him the reason for slavery was abuse of power and capital gain, and he understood.

But most children are not given the space to explore these complex topics in school or with their families, as many people teaching them are not familiar with the concepts themselves. It is also important for the learning to include the fact that our Black history did not start or end with slavery. Emancipation Day is for people of all ages to learn about this storied history, to learn about slavery and the continued legacy of slavery that is evident in today's experiences of anti-Black racism and racist micro-aggressions.

Slavery and segregation created circumstances of marginalization, a cycle of unequal access, lost opportunities and systemic poverty. Even after slavery was abolished in Canada, African Canadians continued to be devalued and left to survive with subpar health care, education and lack of employment opportunities. Communities were legally segregated, creating significant barriers to success.

Even though segregation is no longer legal, African Canadians continue to experience systemic anti-Black racism through social exile, through significant economic disparities, through active discrimination. This history gives context to the current circumstance of poverty and violence, and with the erasure of this context, poverty and violence are dismissed as individual issues rather than being accurately understood as systemic issues.

Last spring in the Senate, I introduced an inquiry into anti-Black racism in Canada. This inquiry is based on the United Nations report, which affirms the experiences of African Canadians. Anti-Black racism is ever-present in Canada, and it impacts child welfare, education, incarceration, employment, health, well-being and poverty.

• (1910)

Senator Pate spoke to the over-representation of African Canadians in the Justice system. While Black Canadians make up only 3.5 per cent of the general population, they account for 8.6 per cent of the prison population.

Senator McPhedran spoke to the importance of understanding intersectionality. Black women are in the unique position of facing both racism and sexism, furthering their marginalization and creating the reality of double jeopardy. Senator Hartling spoke about microagressions and the importance of allyship. Honourable senators, Emancipation Day is for allies too. As we move these issues forward, allyship is one of our most important tools for creating a more equal and a more just society.

Participating in Emancipation Day events across the provinces and in different cities and towns is a reminder of how many of us are both connected and traumatized by this history.

Emancipation Day is a time to remember our past and remember the people who fought for freedom. It's a time to remember those who did not survive. It's a time to remember our ancestors, whose shoulders we stand upon — whose shoulders I stand upon.

Emancipation Day is also about reflecting on our present, taking the time to examine the current circumstances and remembering why Black lives matter. When we talk about intergenerational trauma within African Canadian families, we are looking at generations of trauma stretching back to times of slavery, pre-1834. Tying our present to our past is a way of recognizing how slavery and segregation are actually the roots of anti-Black racism.

But honourable senators, Emancipation Day is also about preparing for our future. It is in this preparation and fight for equality that we will prepare the younger generation for success. It has been 184 years since the Slavery Abolition Act was passed, and we are now in the International Decade for People of African Descent. To quote the Right Honourable Prime Minister Justin Trudeau during Black History Month of this year:

> The International Decade also offers a framework to better address the very real and unique challenges that Black Canadians face. By working together, we can combat anti-black racism and discrimination, and deliver better outcomes for Black Canadians.

We are still feeling the impact of slavery on Black communities in Canada, and I believe that it is time to annually recognize Emancipation Day as a commitment to African Canadians to continue working on repairing the damage caused by the legacy of slavery. The United Nations Decade for People of African Descent calls for recognition, justice and development. Within the recommendations for recognition, the United Nations suggests that we:

> . . . promote greater knowledge and recognition of and respect for the culture, history and heritage of people of African descent, including through research and education, and promote full and accurate inclusion of the history and contribution of people of African descent in educational curricula . . .

It also recommends to:

> . . . ensure that textbooks and other educational materials reflect historical facts accurately as they relate to past tragedies and atrocities, in particular slavery, the slave trade, the transatlantic slave trade and colonialism, so as to avoid stereotypes and the distortion or falsification of these historic facts, which may lead to racism, racial discrimination, xenophobia and related intolerance, including the role of respective countries therein . . .

I would like to extend my sincere gratitude to Dr. Rosemary Sadlier for tirelessly advocating to have Emancipation Day nationally recognized in Canada. Thank you, Rosemary Sadlier, for paving the way for me to introduce An Act proclaiming Emancipation Day.

I also want to recognize some of the trailblazers who fought for our freedom. Time doesn't permit me to name all of the significant names, but just a few: Lieutenant Governor John Graves Simcoe; Reverend Dr. Martin Luther King, Jr.; Viola Desmond; Rosemary Brown; Marie-Joseph Angélique; Dudley Laws and so many other activists for their incredible strength and tenacity in the fight for racial equality. "I am, because they were."

Honourable colleagues, this bill has tremendous support from community members across the country, from coast to coast, some of whom are here today, and many who are listening to this historic speech. I am also encouraged and humbled by the number of people who have emailed and posted to social media to show their support. One email, though, that stands apart is from a high school student in British Columbia:

> My name is Aileen Lee. I am a resident of Canada who attends Grade 10 Surrey Christian Secondary School. We are learning about politics and I found a bill named Bill S-255, An Act proclaiming Emancipation Day. My hope is that this bill is legalized through your support, such as advocating, and voting for it.

She goes on to say:

> Slavery is a great issue in Canada and it is a thing that every person should remember and think about. It is recognized to students through educating them, but what about adults? What I would like to say is that this bill deserves to be passed. It is a meaningful bill to me, and I think the sacrifices of slaves should be remembered.

I couldn't have said it any better, Aileen Lee: The sacrifices of slaves should be remembered.

Honourable senators, I hope you have learned something new about African Canadian history today, and that you can appreciate the value of recognizing Emancipation Day federally to facilitate these community celebrations, to facilitate further education and remembrance. These celebrations are often the cornerstone of communities learning about Black history, examining systemic anti-Black racism, highlighting resilience and unity and, ultimately, working to improve the lives of African Canadians. Thank you.

(On motion of Senator Martin, debate adjourned.)

UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES BILL

SECOND READING—DEBATE ADJOURNED

Hon. Murray Sinclair moved second reading of Bill C-262, An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples.

He said: Honourable senators, I'm not ready to speak on this at this time, so I'd like to adjourn the motion in my name for the remainder of my time.

(On motion of Senator Sinclair, debate adjourned.)

• (1920)

THE UNITED CHURCH OF CANADA ACT

PRIVATE BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Peter Harder (Government Representative in the Senate) moved second reading of Bill S-1003, An Act to amend The United Church of Canada Act.

He said: Honourable senators, I'm privileged to sponsor Bill S-1003, An Act to amend The United Church of Canada Act. The purpose of Bill S-1003 is to change the governance structure of the United Church of Canada, first legislated 94 years ago, and bring it into the 21st century.

The proposed legislation will reshape the church's governance to make it more suited to its current needs, with better decision making, accountability and transparency, making the church more accessible and inclusive to a greater number of Canadians while keeping the church's vision and mission clear.

The United Church was incorporated by an Act of Parliament in 1924 and came about as a result of the amalgamation of the Methodist Church, the Congregational Union of Canada and 70 per cent of the then Presbyterian Church of Canada. It was the result of 21 years of negotiation and 3 years of serious legal and political wrangling. At issue was that a significant minority of the Presbyterian Church, 30 per cent of its members, opposed the union and viewed it as a loss of their distinct identity.

Parliamentarians had to be satisfied as to the fairness of the merger and that the churches had followed their respective constitutions and procedures in entering into the union. It was understood that the decision to unite was fundamental to religious liberty and the right of churches to interpret their own constitutions.

The role of parliamentarians at the time was to ensure that procedural safeguards were met.

[*Translation*]

The bill before us is similar, but our work today is much easier than that of our predecessors 94 years ago.

[*English*]

At first glance, the original United Church of Canada Act was a simple piece of legislation. It was a private member's bill in the other place to incorporate three religious bodies: the Methodist, Presbyterian and Congressional churches in Canada. The government had intentionally chosen not to table the bill as a government measure.

A private member's bill meant greater independence for parliamentarians to vote according to their conscience, regardless of their political affiliation. Indeed, the Prime Minister of the day, the Right Honourable Mackenzie King, said:

> The government itself is very much divided on this question. . . . I have not desired that any member of parliament and particularly any member of this side of the House should in this matter vote other than as his conscience and sense of duty and right impel him to vote.

[*Translation*]

The bill generated lively and detailed debate about various issues related to religious freedom in Canada. Parliamentarians also debated the representation of women, the status of minorities, the need for religious freedom, the fight for democracy and the desire for progress.

[*English*]

Indeed, the legislative debate that surrounded the United Church of Canada Act acts as a window to the Canada of the 1920s, torn between its traditional place in the world and the desire to move forward.

It is important to note that each of the founding churches had a long history prior to 1924. In reality, the creation of the United Church is closely entwined with the history of Canada itself. The spirit of fellowship that found expression in the political union of Canada in 1867 was also reflected in the spiritual realm, with a succession of unions within various branches of the Christian church, starting in 1817 to the early years of the 20th century.

The union of the Presbyterian Church in 1875 and the Methodist Church unions in 1874 and 1884 were the precursors to a broader, ecumenical union. When the United Church came into being, it was the first union of churches in the world to cross historical denominational lines and receive international recognition.

Today, it is the largest Protestant denomination in Canada, with over 2 million people in about 3,000 congregations.

[*Translation*]

In today's debate on this bill, we will be examining legislation to amend the governance structure of the United Church of Canada.

[*English*]

With Bill S-1003, the church will be able to simplify its structure, moving from a four-court, or four-level, decision-making structure to a three-council structure.

The current four-court configuration is made up of pastoral charges, presbyteries, conferences and the General Council. This structure incorporates the different governance and oversight structures of, primarily, the three major founding denominations of the United Church. The existing four-court structure contains checks and balances in decision making that were important in 1924. The proposed three-council model places more decision making with the local ministry, with the support and oversight of a regional body that is larger than the current presbytery.

This new model maintains the identity as a "united" church through relationships and connections among the three decision-making councils, the largest being denominational, then regional, and finally community of faith levels with specific ministries and responsibilities.

Alongside the three-council structure, there will be clusters and networks.

This new structural model was approved in 2015 at the United Church's forty-second General Council. After two and a half years of conversations, consultations, research and analysis, a comprehensive review task group examined the comprehensive vision and circumstances of the United Church of Canada. The impetus for the review was both structural and financial. As a result, a three-council model was found to be a more agile and sustainable structure that better supports and enables the church's main purpose of ministry and mission.

Alongside the three-council structure are clusters and networks that, while not formal, are central to living out the faith of the United Church. Indeed, one of the goals of reducing the number of decision-making bodies in the church structure is to leave more room for communities of faith to support one another and carry out the mission.

Clusters will provide support to communities of faith in the same geographical areas. Members of the church will also connect through networks that link people with similar passions. Clusters and networks will be organically formed communities of common interests, mission and support. They will also provide a more contemporary vehicle for local ministries and members to connect and work with one another regionally and nationally.

It is important to note that the new structure will retain the conciliar model, whereby significant theological and policy initiatives originate with the local community of faith and make their way through the larger regional body and then the whole church represented in the denominational council.

The church wants clear, accountable decision-making processes that are appropriate to the size and context of the congregation. In short, it wants to use the congregation's resources thoughtfully to enable ministry to flourish.

Like many denominations, the United Church of Canada is facing social, demographic and financial pressures. As a result of these demographic and cultural trends, the church no longer has the volunteers or money to support its current structures and processes. With that in mind, this reorganization will help the church focus on its mission of making a positive difference in people's lives through faith and the moral commitments that come with faith.

In summary, honourable senators, the challenge is to imagine a new church structure that is not directly representational or conciliar in its organization but has the processes in place to be open and inclusive.

I hope you will join me in voting in support of Bill S-1003 to support the United Church of Canada's modernization initiative. With these changes, the church will be able to better focus on its core mission, helping and supporting each other through communities of faith. Thank you.

(On motion of Senator Smith, debate adjourned.)

• (1930)

THE SENATE

MOTION TO ENCOURAGE THE GOVERNMENT TO TAKE ACCOUNT OF THE UNITED NATIONS' SUSTAINABLE DEVELOPMENT GOALS AS IT DRAFTS LEGISLATION AND DEVELOPS POLICY RELATING TO SUSTAINABLE DEVELOPMENT—MOTION IN AMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Dawson, seconded by the Honourable Senator Munson:

That the Senate take note of *Agenda 2030* and the related sustainable development goals adopted by the United Nations on September 25, 2015, and encourage the Government of Canada to take account of them as it drafts legislation and develops policy relating to sustainable development.

And on the motion in amendment of the Honourable Senator Bellemare, seconded by the Honourable Senator Petitclerc:

That the motion be not now adopted, but that it be amended by:

1. adding the words "Parliament and" after the word "encourage"; and

2. replacing, in the English version, the words "it drafts legislation and develops" by the words "they draft legislation and develop".

Hon. Larry W. Smith (Leader of the Opposition): This motion is at day 15. I'd like to adjourn for the balance of my time, please.

(On motion of Senator Smith, debate adjourned.)

MOTION TO CALL ON THE CANADIAN CONFERENCE OF CATHOLIC BISHOPS—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator McCallum, seconded by the Honourable Senator Coyle:

That the Senate call on the Canadian Conference of Catholic Bishops to:

(*a*) invite Pope Francis to Canada to apologize on behalf of the Catholic Church to Indigenous people for the church's role in the residential school system, as outlined in Call to Action 58 of the Truth and Reconciliation Commission report;

(*b*) to respect its moral obligation and the spirit of the 2006 Indian Residential Schools Settlement Agreement and resume the best efforts to raise the full amount of the agreed upon funds; and

(*c*) to make a consistent and sustained effort to turn over the relevant documents when called upon by survivors of residential schools, their families, and scholars working to understand the full scope of the horrors of the residential school system in the interest of truth and reconciliation.

Hon. Murray Sinclair: This matter is at day 14 and I would like to reset the clock and adjourn this matter for the balance of my time.

(On motion of Senator Sinclair, debate adjourned.)

[*Translation*]

ROLE IN THE PROTECTION OF REGIONAL AND MINORITY REPRESENTATION—INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Seidman, calling the attention of the Senate to its role in the protection of regional and minority representation.

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, this inquiry stands at the fourteenth day. However, since I have a lot to say, but I'm not quite ready today, with leave of the Senate, I move the adjournment of the debate in my name.

(On motion of Senator Bellemare, debate adjourned.)

[*English*]

ANTI-BLACK RACISM

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Bernard, calling the attention of the Senate to anti-black racism.

Hon. Grant Mitchell: Honourable colleagues, I rise today to speak on Senator Bernard's inquiry into anti-Black racism in Canada. I want to thank Senator Bernard for bringing this crucial issue forward and giving the chamber this opportunity to discuss it. I applaud her speech this evening on Bill S-255.

The 2017 report released by the United Nations Working Group of Experts on People of African Descent states that Canada is not yet a post-racial society. Black Canadians continue to face discrimination and prejudice in their everyday lives.

It states that the legacy of discrimination can be seen in the over-representation of Black Canadians in the criminal justice system. The fact is that they are the target of 44 per cent of racialized hate crimes and the disparities are evident in access to education, health care, housing and employment.

As Senator Bernard has pointed out, in addition to its evidence at the individual level, racism manifests at cultural, institutional and systemic levels. Anti-Black racism in particular is rooted in the history of slavery and segregation creating legacies which have, in many ways, become normalized — entrenched in our institutions, policies and practices.

This issue is extremely important to all of us, to those who are its target, Black Canadians, and to each of us who cares about creating an accepting compassionate society with full equality for all its citizens.

I am, of course, a White Anglo-Saxon male. That makes me a member, simply by accident of birth, of one of the most privileged groups of people in the world. I have been accepted, promoted, respected, deferred to and supported. I have been given infinite opportunities and have been paid more money than others who are simply not of my demographic. I am repeatedly given the benefit of the doubt. It can be reasonably said that I have been on the inside track all of my life. I have always known that I belong.

I think that I literally have never been discriminated against. Even in my travels to countries where I am distinctly in the minority I have never been aware of being discriminated against or of having borne the brunt of racism. All of this is to say that I cannot and do not truly understand the experience of anti-Black racism. It would be patronizing if not arrogant for me to suggest that I do.

But I do have an imagination and so I try to imagine what the inverse of my experience must be like. Quite starkly different. You never quite feel like you belong. At times, you are explicitly made to feel that you clearly do not belong, like when you were pulled over for the umpteenth time for no legitimate reason that you can determine. You fail yet again to get that job or that promotion. You repeatedly hear hateful language, often from powerful people, sometimes from people you work with, about your race. People viciously criticize immigration and immigrants and, even if you were born here, you suffer the collateral emotional damage. Opportunities, no matter how hard you work or how smart you are, are elusive, just beyond your grasp. You are repeatedly bullied at school and on the street when you were growing up. You seldom received the benefit of the doubt. You likely earned less than you should, and you were entirely aware of that.

None of this is isolated; it can be continuous and frequent. I think this is at least some of what the experience of racism is to Black people, starting when they are often young children.

How is it that a Black child just because of the colour of her skin, and her gender, of course, will not have the same kinds of opportunities or place in our society as my children and grandchild? There is something starkly sad about these conditions that impact the life circumstances of such a child. It is also starkly sad that racism is felt disproportionately by those individuals who have intersecting, marginal identities. For example, Black trans people experience marginalization because of both their gender identity and their racial identity.

One of the most insidious features of racism is that even the most kind and thoughtful of us can be racist without being aware of it. Racism can be deceitful and horribly clever in that way. Less subtle than that kind of racism is the overt, angry and often explicitly violent kind of racism that we see on TV a lot these days. This is the kind that is perpetrated by real bullies. What I do know is that bullies are very weak people. They need to find someone different, vulnerable, to put down because they cannot find many other ways to make themselves feel better. If only they could realize that when they open their mouths to bully, they are really demonstrating their weakness to the world.

Anti-Black racism — all racism — is corrosive and horrifying and it degrades the people it targets, damaging them and their lives. It can limit their ability to realize their potential and contribute as fully as they might have to their community, to our community.

It also corrodes and diminishes each of us, however subtly, in a society that has yet to vanquish it.

What can be done? Here are some thoughts: There is much that the Senate can do. As senators, we have a particular responsibility to protect the rights of minorities. This is, of course, a seminal part of our job, and we take it seriously. We are doing it here today by discussing an inquiry that brings attention to the issue of anti-Black racism, but we can and must do more. Perhaps there is another uniquely senatorial action that we could undertake. The Senate could commission a committee study that pursues this issue in greater depth and hears the voices of Black Canadians across the country.

Giving public voice in an official and respected venue validates a person's experience, communicates it for others to consider and acts upon and lays a foundation for the redress of grievances and the ability to advance.

Anti-Black racism is entrenched in critical institutions, policies and practices that in turn sustain privilege and advantage for some and inhibit it for others.

It is critical that we are aware of the subtle and insidious nature of this process. Simply because, from our perspective, we do not see it does not mean that it is not happening. The Senate can be a leader in challenging institutional anti-Black racism of this kind.

While legislative bodies like ours are essential to dealing with anti-Black racism and achieving equality for Black Canadians, the roots of racism are found in attitudes, of course, often unrecognized personal prejudice and personal behaviour. It is at this level of personal responsibility that the solutions must

ultimately be found. This idea is captured in what is termed allyship a concept emerging from anti-Black discrimination movements. Allyship is defined as:

> An active, consistent and arduous practice of unlearning and re-evaluating, in which a person in a position of privilege and power seeks to operate in solidarity with a marginalized group.

For me, this means several things.

• (1940)

Particularly for people of bestowed-upon privilege, white Anglo-Saxon males like me, for example, it is very important not to be judgmental and to fight the thought that surely everyone could be like me and have what I have if only they worked as hard as I do. Imagining what it is like to be someone else is very important. It means being very aware that something as arbitrary as the colour of our skin gives us a tremendous advantage or inversely a tremendous disadvantage in all aspects of our lives.

We need to listen actively when people of colour speak of their experience as racialized Canadians, respecting and believing them and responding. I have not lived your experience. I do not know what you know but thank you for telling me.

Each of us can help Black Canadians give voice to their experiences, raising awareness about the prejudices they face. We need to create this space for them to be the authors of their story in Canadian history.

Part of being an ally is a lifelong process of building relationships with marginalized groups based on trust and accountability. Interestingly, parliamentarians actually do develop strong relationships with marginalized groups. This is an important element of bringing groups into mainstream respect and prominence. Over my many years in the political arena I have come to realize that in doing this, it is very important to relate not only to group leaders but to reach past them to individuals, each of whom is important and should be respected and honoured in their own right.

So there is much that we can do as an institution in righting the wrongs of anti-Black racism, and there is much that we can do as individual allies to contribute to this as well. Anti-Black racism is part of the Canadian heritage. We cannot as a society ever be truly whole until we address it and the legacy it has left. It hurts people deeply who are Canadian citizens and newly arrived immigrants, our friends and our neighbours. Fixing it, reconciling with Black people is essential.

As good as Canada is, it will be significantly better having done this. Many thanks to Senator Bernard for bringing this matter to our attention.

Hon. Senators: Hear, hear.

(On motion of Senator Omidvar, debate adjourned.)

SILVER ALERT

INQUIRY—DEBATE CONCLUDED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Wallin, calling the attention of the Senate to the Silver Alert concept, which mirrors the successful AMBER Alert system, and which is focused on helping the more than 700,000 Canadians living with dementia or Alzheimer's and their families and caregivers and is aimed at helping to locate missing cognitively impaired adults.

The Hon. the Speaker *pro tempore*: I wish to inform you, colleagues, that if the Honourable Senator Wallin now speaks, her speech will have the effect of concluding the debate.

Hon. Pamela Wallin: Thank you. Yes, and I have talked with Senator Bernard in whose name this item stands today.

Colleagues, last spring I introduced a motion with the support of every senator, especially Senator Plett, who spoke passionately about it, urging the federal government to implement a national Silver Alert strategy as part of our national emergency response system. This would enable law enforcement agencies to work with the media and local residents in locating missing persons, specifically the elderly and those with disabilities, such as dementia.

It's based on the AMBER Alert model. The motion passed on May 31. In August, my office received a letter from Minister of Public Safety Ralph Goodale indicating that he had:

> . . . asked officials to discuss the Silver Alert, as a possible new capability worth exploring further as part of an emergency management alerting continuum.

I trust that government officials in his office are working hard at this.

Colleagues, Silver Alert is something Canadians actually want. Silver Alert has been implemented in many American states, where it has a proven success for over a decade. Here at home, both Manitoba and Alberta have chosen to adopt this measure as provincial legislation. Three Canadian cities, Vancouver, Toronto and Calgary, took an independent and collaborative initiative this summer to test out Silver Alert in their municipalities.

Private organizations, such as Silver Alert British Columbia, concerned by both provincial and federal governments' lack of action, have taken it upon themselves to implement regional Silver Alerts in various communities. As recently as September, the Search and Rescue Saskatchewan Association of Volunteers

has advocated for Silver Alert as a critical tool in search and rescue operations in both rural and urban municipalities in Saskatchewan.

I am touched and motivated by these grassroots initiatives but they should not have to go it alone. When over 700,000 Canadians live with cognitive impairments, and when six in 10 dementia victims will wander, risking their lives, there is no more immediate time to act on a federal Silver Alert system than now.

I urge colleagues to consider the importance of the motion we unanimously passed and help me in promoting its importance with our colleagues in the other place.

I thank honourable senators for their time and support, and this now closes the inquiry as I have exercised my right of final reply. Thank you.

Hon. Senators: Hear, hear.

(Debate concluded.)

HUMAN RIGHTS

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES RELATING TO THE HUMAN RIGHTS OF PRISONERS IN THE CORRECTIONAL SYSTEM

Hon. Wanda Elaine Thomas Bernard, pursuant to notice of October 16, 2018, moved:

> That, notwithstanding the order of the Senate adopted on Thursday, December 15, 2016, the date for the final report of the Standing Senate Committee on Human Rights in relation to its study on prisoners in the correctional system be extended from October 31, 2018 to September 30, 2019.

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

Hon. Senators: Agreed.

(Motion agreed to.)

(*At 7:47 p.m., the Senate was continued until tomorrow at 2 p.m.*)

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