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Wednesday, November 7, 2018

The Honourable PATRICIA BOVEY,
Acting Speaker

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THE SENATE

Wednesday, November 7, 2018

The Senate met at 2 p.m., the Honourable Patricia Bovey, Acting Speaker, in the chair.

Prayers.

[*Translation*]

SENATORS' STATEMENTS

CENTENNIAL COMMEMORATION OF FIRST WORLD WAR ARMISTICE

Hon. Serge Joyal: Honourable senators, Sunday, November 11, is the Centennial of the Armistice of the First World War, the war of 1914-18. That war saw the birth of an independent Canadian Army of over 630,000 fighters, an army that was built from scratch in a few months, an army that simply did not exist on August 4, 1914, when war was declared.

[*English*]

The Centennial of the Armistice, next Sunday, should be the occasion to reflect on the last 100 days of the war, a period of exceptional bravery but also of tragic loss. During these 100 days, more than 45,000 Canadians lost their lives, equivalent to 20 per cent of all the Canadian casualties of the four years of the war.

The effort by the Canadian Forces during these 100 days involved 100,000 soldiers, the medical group with 3,000 nurses, and more than 20,000 horses. Each kilometre gained to push back the German army from France and Belgium left thousands dead and as many families to cope with the loss of loved ones.

During those three months, the Canadian Forces liberated the town of Amiens using new equipment, the tank. Without those iron horses, the German line would never have been broken. The Canadian soldiers then advanced to the city of Arras, a jewel of medieval and classical architecture, that was almost wiped out. Look above my head, in that painting, what is left of the cathedral. They pushed to free the town of Cambrai, and finally they reached the city of Mons in Belgium on the 11th day of November 1918.

The Canadian War Museum inaugurated last week an exhibition on that crucial period of the war, an illustration of the incomparable violence of the fighting and the tragedy of lost lives. You should visit it.

[*Translation*]

We cannot remember these events without appreciating the scale of the human catastrophe that was the Great War of 1914-18: 10 million dead and 20 million wounded on both sides of the conflict, millions of grieving families, widows and orphans.

We must commemorate our victories, but we must never forget the blood that was spilled to win them.

[*English*]

Honourable senators, I had the privilege of being one of the authors of a book recently launched by the Vimy Foundation, in English and French, titled *They Fought in Colour*, published by Dundurn Press in Toronto. Among the authors are historians Tim Cook, Charlotte Gray, the astronaut Rick Hansen and the well-known writer Margaret Atwood. The book, in an album format, is simply stunning with more than 100 photos, most of them never before published.

The Vimy Foundation was established in 2006, with the mission to preserve and promote Canada's First World War legacy, best symbolized by the victory at Vimy Ridge in 1917.

Honourable senators, may I invite you to look at that book? If you have a chance to offer it to a young boy or girl in your family or friends, they will learn of the sacrifice of those who fought for our freedom, to understand that peace remains fragile and that wars continue to ravage countries that were involved in the Great War 100 years ago. Thank you, honourable senators.

VISITOR IN THE GALLERY

The Hon. the Acting Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Lieutenant (Navy) Alex Metaxas. He is the guest of the Honourable Senator Boyer.

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

Hon. Senators: Hear, hear!

SASKATCHEWAN ROUGHRIDERS

Hon. Denise Batters: Honourable senators, as a proud member of Rider Nation, I am thrilled to rise today to preview Sunday's CFL Western Semi-Final playoff game. This tantalizing matchup will be held at our beautiful new Mosaic Stadium in my hometown of Regina and will feature our beloved Saskatchewan Roughriders and their archrivals, the Winnipeg Blue Bombers.

This Riders-Bombers playoff showdown hasn't been seen in Regina since 1975. That day, Roughrider legends Ron Lancaster and George Reed produced stellar offensive performances, and Winnipeg's QB Dieter Brock was sacked six times by the Big Rider D. Saskatchewan won that game 42-24.

Rider Priders are keenly aware that the last time these two teams met in the postseason was in 2007, when Saskatchewan emerged victorious in the Grey Cup game, held in Toronto. If you're wondering when Winnipeg last won the Grey Cup, well, that was way back in 1990.

The excitement of having these epic rivals battle it out in the playoffs, in Regina, cannot be overstated. If you think the Labour Day Classic is legendary, you ain't seen nothing yet. Sunday's game-day forecast calls for blustery, cold temperatures with a high of only minus 9 degrees. That won't matter. Rider Nation is ready. The watermelons on our heads might just have a little bit of ice on them.

The Riders have so many dangerous weapons at their disposal for this playoff matchup. We have the CFL's most ferocious defence. If our offence struggles a little bit, our defence or special teams will step up and score a touchdown for us.

And besides, honourable senators, the Saskatchewan Roughriders are Canada's team. Practising on the Parliament Hill lawn is now our annual tradition. I even got to throw the ball around with them a little bit this year.

On behalf of all Saskatchewanians, congratulations to everyone in the Roughriders' organization on a very successful 2018 campaign. We won the Labour Day Classic, we won the Banjo Bowl and now we're going to win the Western Semi-Final for all the rivalry marbles.

To Bomber fans, thanks for coming out. Those of us who bleed green, believe in the green and white. Go Riders go!

• (1410)

VISITORS IN THE GALLERY

The Hon. the Acting Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Shannon Benner, David Hovell and representatives of 4-H Canada. 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!

SHOW YOUR 4-H COLOURS DAY

Hon. Robert Black: Honourable senators, I have previously shared with you that a big part of why I'm here in the Senate of Canada today is because of the 4-H program. For 105 years, 4-H Canada has been one of the most highly respected, positive youth development organizations in Canada. 4-H Canada has close to 25,000 members and more than 7,600 volunteer leaders. Their goal is to help young Canadians "Learn To Do By Doing" in a safe, inclusive and fun environment. They believe in nurturing responsible, caring and contributing youth leaders who are committed to positively impacting their communities across Canada and around the world.

Today, the first Wednesday of November, is Show Your 4-H Colours Day in Canada, kicking off a month-long awareness campaign where youth members, volunteer leaders, alumni and 4-H friends and supporters wear green to demonstrate their pride in the good work of 4-H.

Show Your 4-H Colours Day is 4-H's biggest annual event here in Canada. The campaign celebrates the 4-H movement and highlights the incredible things that 4-H youth are doing in communities across Canada and how the 4-H program is helping to create responsible, caring and contributing young leaders.

Show Your 4-H Colours Day is an amazing opportunity for supporters of 4-H Canada to come together, celebrate, share experiences and build stronger communities. It is also an opportunity for Canadians to invest in our shared future by participating in activities and opportunities that empower Canada's youth and promote inclusion, dialogue and inspiration.

Show Your 4-H Colours Day is also a chance for me to share with you and others my respect, admiration for and commitment to the 4-H program. I would not be sitting in the chamber today but for this important youth development program.

In celebration of the day, 15 landmarks across Canada will be lighting up green in support of Show Your 4-H Colours Day, including the CN Tower, Vancouver City Hall and Niagara Falls.

Honourable senators, 4-H has been an integral part of Canadian communities for over 100 years with the simple mission to help 4-H members assist in developing the potential of young people across the country to become responsible, caring and contributing leaders.

As always, 4-H members pledge their heads to clear thinking, their hearts to greater loyalty, their hands to larger service and their health to better living for their club, their community and their country.

Honourable senators, for me, part of what it means to be Canadian is embodied in the 4-H pledge as it outlines values I think we can all share and believe in.

As was noted, I am joined today by a number of 4-H friends here on Parliament Hill. We had a group picture taken in front of the Peace Tower and here in the chamber earlier today.

On their behalf, I am pleased to invite you to a Show Your 4-H Colours Day reception being held later today in 256-S, here in Centre Block. I hope you might join me for a short time and take the opportunity to chat with 4-H members, volunteers, board members and staff and, if you can, share your stories of this tremendous youth program.

[*Translation*]

THE LATE BERNARD LANDRY, G.O.Q.

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Colleagues, yesterday, Quebec lost one of its great visionaries. After 50 years spent shaping Quebec's history, Bernard Landry passed away at the age of 81.

Tributes are pouring in, both in the traditional media and on social media. Friends and foes alike are acknowledging his immense contribution to the development of Quebec.

The Premier of Quebec, François Legault, has announced that Bernard Landry will be honoured with a state funeral, adding, "Quebec has lost a great man, a loyal servant of the nation, a man with a strong sense of duty."

Bernard Landry was a colleague of mine at the university. During what he called his "intellectual interludes" in between stints in the National Assembly, he taught at UQAM's School of Management, where I was also teaching. Thanks to our shared passion for economics, our paths crossed many times over the course of our respective careers. We often discussed job strategies for Quebec.

His goal was always to make Quebec stronger, and he succeeded in many respects. He was a forward-thinking leader who played an instrumental role in the development of Quebec's technology industry and its digital and video game sector, especially in Montreal.

Bernard Landry was a strong advocate for open markets. He wrote books on the topic and helped promote free trade agreements for Canada, including NAFTA. He also helped convince Quebecers of the merits of the Mulroney government's open trade strategy.

He often said that in the word "international" is the word "national" and he spoke about the Québécois nation with extraordinary open-mindedness.

He was a great orator and had such a strong command of the language of Molière that every topic he tackled became interesting.

Bernard Landry also knew how to bring people together and how to negotiate respectfully with First Nations. He was the architect of the Peace of the Braves, which, to this day, serves as model around the world.

He led about a dozen departments throughout his career, mostly related to economics. Throughout the 1990s, Bernard Landry became the most powerful minister in the history of Quebec. He served as deputy premier, Vice-Chair of the Executive Council, Minister of State for the Economy, Minister of Finance, Minister of Revenue and Minister of Industry, Trade, Science and Technology. He later became Premier of Quebec.

I commend his sense of duty, his intellectual rigour and his open-mindedness. On top of all that, Bernard Landry was straightforward and approachable — truly an exceptional man.

I offer my sincere condolences to his family and friends.

Hon. Senators: Hear, hear!

Hon. Marc Gold: Honourable senators, I would also like to pay tribute to former Quebec premier Bernard Landry, who passed away yesterday morning. He was a great builder of Quebec, a patriot, and a man of conviction, culture and vision.

It is true that, as a federalist, I do not share his nationalist convictions or his vision for an independent Quebec. Nevertheless, I have always had a lot of respect for this politician whose exceptional career helped shape Quebec for over 50 years.

Mr. Landry headed over a dozen different departments, as my colleague mentioned, and not the small ones. He was a minister under René Lévesque and deputy premier under Jacques Parizeau. As a member of Lucien Bouchard's cabinet, he headed up so many different departments it was impossible to list them all on his business card.

His economic skills and his understanding of major international issues will certainly help to raise Quebec's profile around the world.

Here is what François Cardinal said about him in this morning's edition of *La Presse*, and I quote:

> Think about the Peace of the Braves, which is so much more than a treaty signed with the Cree in 2002. . . .
>
> Think about the development of multimedia, a visionary move at the time that is still a great benefit to Montreal today. . . .
>
> Think about the battle he waged in favour of North American Free Trade Agreement in the 1980s. He saw NAFTA as an opportunity for Quebec and a solution to U.S. protectionism . . . .

A cultured intellectual, he fought in every economic, social and cultural battle.

His passing is a great loss, and Quebec is in mourning. Even though we did not share the same political vision for Quebec, the good thing about our country, Canada, is that despite our differences, we can freely and proudly express our admiration for a political adversary who left a mark on history.

I offer my sincere condolences to his wife, Chantal Renaud, his children and his friends.

Rest in peace, Mr. Landry.

[*English*]

ROUTINE PROCEEDINGS

PARLIAMENTARY BUDGET OFFICER

THE STRATEGIC PERSONNEL GENERATION MODEL (SPGM) VERSION 1.0—REPORT TABLED

The Hon. the Acting Speaker: Honourable senators, I have the honour to table, in both official languages, the report of the Office of the Parliamentary Budget Officer entitled *The Strategic Personnel Generation Model (SPGM) Version 1.0*, pursuant to the *Parliament of Canada Act*, R.S.C. 1985, c. P-1, sbs. 79.2(2).

• (1420)

ADJOURNMENT

NOTICE OF MOTION

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

> That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, November 20, 2018, at 2 p.m.

[*Translation*]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO DEPOSIT REPORT ON STUDY OF THE EFFECTS OF TRANSITIONING TO A LOW CARBON ECONOMY WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. Michael L. MacDonald: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That the Standing Senate Committee on Energy, the Environment and Natural Resources be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate, no later than November 23, 2018, an interim report relating to its study on the effects of transitioning to a low carbon economy, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Senate.

CANADA-CHINA LEGISLATIVE ASSOCIATION CANADA-JAPAN INTER-PARLIAMENTARY GROUP

ANNUAL MEETING OF THE ASIA-PACIFIC PARLIAMENTARY FORUM, JANUARY 18-21, 2018—REPORT TABLED

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-China Legislative Association respecting its participation at the 26th annual meeting of the Asia-Pacific Parliamentary Forum, held in Hanoi, Vietnam, from January 18 to 21, 2018.

[*English*]

QUESTION PERIOD

INNOVATION, SCIENCE AND ECONOMIC DEVELOPMENT

STATISTICS CANADA—PRIVACY COMMISSIONER—PILOT PROJECT

Hon. Larry W. Smith (Leader of the Opposition): My question is for the Leader of the Government in the Senate, once again on StatsCan's plans to collect detailed personal financial transactions of Canadians without their consent or knowledge.

Over the weekend, the Canadian Chamber of Commerce raised concerns that this plan may jeopardize opportunities for Canadian businesses under CETA, our new free trade agreement with Europe, due to the high standards of privacy laws in Europe. These privacy rules not only apply to European businesses but to all businesses that want to offer goods and services to citizens of the European Union.

Does the Government of Canada agree with the trade concerns raised by the Canadian Chamber of Commerce? If so, will it ensure that StatsCan does not proceed with the plan?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. It is further to other questions on the subject that were raised last week.

Let me reassure him and all senators that the Government of Canada is of the view that the actions taken by Statistics Canada are both consistent with the Statistics Act and the Privacy Act. I note that the Senate Banking Committee is holding hearings on exactly this matter with the relevant officials to assure themselves of this compliance.

With regard to the suggestion that this is inconsistent or at risk with our CETA obligations, it is the government's view that that is not the case.

Senator Smith: Thank you for your answer.

[*Translation*]

The concerns raised by the Canadian Chamber of Commerce about business opportunities lead us to wonder whether the government has considered other possible effects that could result from the complaints about Statistics Canada's plan to collect this highly personal financial information without prior consent.

Senator Harder, did the government conduct any sort of analysis of possible unintended consequences if this plan moves forward?

If so, could that analysis be presented to our chamber?

[*English*]

Senator Harder: I want to assure the honourable senator that it is the view of the government that Statistics Canada is operating entirely within its mandate. The actions being taken are a reflection of the changing nature of the Canadian business environment in which technology is playing a greater part, and to assure that the adequate data is assembled so that public policy decisions can be made on the basis of up-to-date research.

Statistics Canada has undertaken this approach. It is entirely one that we should be celebrating for an organization that has world esteem as one of the leading, if not the leading, statistical organizations. It is important, of course, that we do so, recognizing its obligations to be compliant with the Statistics Act and other relevant acts of Parliament, including the Privacy Act.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

TARIFFS—DUTY RELIEF

Hon. Carolyn Stewart Olsen: My question is for the government leader in the Senate. It concerns a matter that I raised with him in September regarding Canada's retaliatory tariffs in response to the tariffs on our steel and aluminum industries by the United States.

Our Finance Department has revealed that as of October 1, it has paid out $110 million in tariff relief to Canadian companies hurt by this action. However, we know that the government has collected over $430 million since the tariffs came into effect on July 1.

Senator Harder, when does the federal government expect that the other $300 million it has collected will be paid out to Canadian companies currently experiencing great difficulty due to the imposition of the tariffs?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her question and ongoing interest on this matter. She will know that the relevant department — it used to be called Industry Canada; now it's Innovation, Science and Economic Development Canada — has an ongoing, dedicated group to support the steel sector through this period. That group is in regular contact with the affected industries and is ensuring that the appropriate funding is provided on the basis of the needs that are identified within the industry itself.

I'd be happy to provide an update on the disbursements of the funds so far, and what, if any, public information is available, to assure the honourable senator that the Government of Canada takes this measure very seriously.

That doesn't, of course, mean that we have reduced in any way the concerns that we are expressing as a government, at the highest level, to eliminate this tariff. That's the objective of the Government of Canada.

Senator Stewart Olsen: The Canadian Manufacturers & Exporters association has said that the process to get this funding out to businesses is very slow and that small- and medium-sized businesses have found the process to be complicated.

Thank you for your explanation of the group that is consulting with people. Perhaps they're not consulting quickly enough.

What is the government doing to ensure that small businesses, in particular, are better able to access this tariff relief?

• (1430)

Senator Harder: I want to assure the honourable senator that the department officials have been proactive in ensuring that small businesses in particular are aware of the funding that's available. Again, I will make inquiries with respect to the reach of that work so that the honourable senator can be assured that the Government of Canada continues to take this very seriously.

DEMOCRATIC INSTITUTIONS

SENATE APPOINTMENTS

Hon. Wanda Elaine Thomas Bernard: Honourable senators, my question is to the Government Representative in the Senate. It is a follow-up to the question I raised with the Minister of Democratic Institutions on October 23 regarding the lack of representation for people of African descent in the Senate. The Independent Advisory Board for Senate Appointments' assessment criteria clearly states that priority consideration will be given to applicants who represent "minority and ethnic communities, with a view to ensuring representation of those communities in the Senate."

Senator Harder, I remain one of only two senators who are women of African descent. This does not accurately reflect the African Canadian community. Ontario has the largest Black population in this country, and many community members in Ontario have expressed that they do not feel represented in this chamber.

Another gap in representation, as Senator Mockler indicated to the minister on October 23, in my home province of Nova Scotia, is the lack of an Acadian senator.

Senator Harder, how does the government plan to address this lack of representation of senators of African descent and Acadians with the appointment of new senators?

Hon. Peter Harder (Government Representative in the Senate): I thank the senator for her question and her reference to Senator Mockler's comments a few weeks ago.

The Government of Canada takes very seriously the appropriate representation nature of Senate appointments and, indeed, appointments of the Governor-in-Council to a broad range of organizations. I think you will find in the 45 nominations to the Senate a broad reflection of Canadian society. It is right for senators to point out where gaps continue

to exist, and it is right for the government to continue to assure itself, as appointments are made, that it is addressing over time the gaps that continue.

It is in that spirit that I'm happy to ensure that the government is aware of this and Senator Mockler's question so that the issue of appropriate representation is uppermost in the minds of the government.

[*Translation*]

Hon. Percy Mockler: My question is for the Government Representative in the Senate and follows up on Senator Bernard's question.

Honourable senators, looking back at our history, in 1907, the then Prime Minister of Canada, Sir Wilfrid Laurier, appointed the first Acadian from Nova Scotia to the Senate. Historically, every prime minister since has continued the tradition of appointing an Acadian senator from Nova Scotia.

Dear colleagues, Nova Scotia has not had an Acadian senator since the departure of Senator Gerald Comeau in 2013. However, Senator Harder, I have been told that several Acadians from Nova Scotia have applied since 2015 in the hope of being appointed to the Senate by the Trudeau government. The fact is that Prime Minister Trudeau has ignored the request of Nova Scotia's Acadians.

Honourable senators, at this time, there is a vacancy in Nova Scotia. Prime Minister Trudeau must act now and appoint a representative of Nova Scotia's Acadian minority to the Senate of Canada to defend the interests of this people. Acadians are concerned and dismayed. Why is there no Acadian from Nova Scotia in the Senate?

My question to the Government Representative in the Senate is the following: Could you convey this message directly to Prime Minister Trudeau and stress the importance of immediately appointing a representative of the Acadian people from Nova Scotia?

[*English*]

Senator Harder: I thank the honourable senator for his speech. Let me say that the government would welcome new openings to the Senate, should anyone wish to provide the opportunity for broader representation.

I will undertake to ensure that this position is understood by the appointing powers; I'd be happy to transmit it.

PUBLIC SAFETY

ISLAMIC REVOLUTIONARY GUARD CORPS

Hon. David Tkachuk: My question is for the Leader of the Government in the Senate, as well. A motion was passed in the other place on June 12 called upon the government to immediately designate the Islamic Revolutionary Guard Corps as a listed terrorist entity under the Criminal Code of Canada. About four and a half months have since passed, and we still have not heard anything definitive from the government.

Could the government leader please tell this place when the government will list the IRGC as a terrorist entity, and will it commit to doing so before the end of 2018?

Hon. Peter Harder (Government Representative in the Senate): I thank the senator for his question. I will make inquiries and return with an answer.

Senator Tkachuk: Last month, the government also indicated in the other place that, to be listed under the Criminal Code, a criminal or security intelligence report is drafted, which documents the entity's activities. The report is reviewed by independent council at the Department of Justice. Then, if the Minister of Public Safety agrees that the test is met, he may recommend to cabinet that the entity be listed.

Could Senator Harder also find out if Minister Goodale received this report on the IRGC, and if so, has his recommendation gone to cabinet? Where exactly are we in this process?

Senator Harder: Again, I will make inquiries and report back.

[*Translation*]

PUBLIC SERVICES AND PROCUREMENT

BILATERAL AND MULTILATERAL AGREEMENTS

Hon. Claude Carignan: Honourable senators, my question is for the Leader of the Government in the Senate. After the last federal budget was tabled, VIA Rail announced that it would be acquiring a new fleet of trains to replace the existing rolling stock in the Quebec City-Windsor corridor. This is a $1.5-billion investment. However, according to available information, there is no requirement for local content. This means there is no guarantee that at least part of this investment would create jobs in Canada.

Why isn't the Trudeau government imposing a local content requirement on VIA Rail's $1.5-billion investment?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I will take the question under advisement in order to make inquiries. I could only speculate that the Government of Canada has to comply with procurement agreements we have signed on to as a country, but that may not be the reason. I will be happy to respond.

[*Translation*]

Senator Carignan: Many European and Asian countries have local content requirements for this kind of project. In the United States, the Buy American Act mandates 65 per cent American

content. This means, for example, that vehicles must be assembled in the United States. It's even rumoured that the local content requirement will increase to 70 per cent in 2020.

Can you also ask the government why Canadians are being taken for a ride with a bidding process that never requires local content, while Canadian companies abroad have to fight and contend with local content requirements?

[*English*]

Senator Harder: Again, I'm happy to make inquiries, but I would remind all honourable senators that public procurement has become part of bilateral and multilateral agreements, and Canada is in the forefront of championing open competition so that Canadian manufacturers and workers can take full advantage of public procurement through those agreements.

• (1440)

Again, I will make inquiries as to whether that is at play here, but I think it's important that we not speak out of both sides of our mouths in terms of wanting to have access through public procurement regimes in multilateral and bilateral agreements on the one hand, and then complain when we are compliant with what we negotiated.

[*Translation*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that as we proceed with Government Business, the Senate will address the items in the following order: Motion No. 226, followed by second reading of Bill C-76, followed by all remaining items in the order that they appear on the Order Paper.

[*English*]

BUDGET IMPLEMENTATION BILL, 2018, NO. 2

CERTAIN COMMITTEES AUTHORIZED TO STUDY SUBJECT MATTER

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of November 6, 2018, moved:

> That, in accordance with rule 10-11(1), the Standing Senate Committee on National Finance be authorized to examine the subject matter of all of Bill C-86, A second Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures, introduced in the House of Commons on October 29, 2018, in advance of the said bill coming before the Senate;
>
> That the Standing Senate Committee on National Finance be authorized to meet for the purposes of its study of the subject matter of Bill C-86 even though the Senate may then be sitting, with the application of rule 12-18(1) being suspended in relation thereto;
>
> That, in addition, and notwithstanding any normal practice:
>
> 1. The following committees be separately authorized to examine the subject matter of the following elements contained in Bill C-86 in advance of it coming before the Senate:
>
> (*a*) the Standing Senate Committee on Aboriginal Peoples: those elements contained in Divisions 11, 12 and 19 of Part 4;
>
> (*b*) the Standing Senate Committee on Banking, Trade and Commerce: those elements contained in Divisions 3, 4, 6, 7 and 10 of Part 4;
>
> (*c*) the Standing Senate Committee on Energy, the Environment and Natural Resources: those elements contained in Division 5 of Part 4;
>
> (*d*) the Standing Senate Committee on Foreign Affairs and International Trade: those elements contained in Division 13 of Part 4;
>
> (*e*) the Standing Senate Committee on Transport and Communications: those elements contained in Divisions 22 and 23 of Part 4;
>
> (*f*) the Standing Senate Committee on Legal and Constitutional Affairs: those elements contained in Division 20 of Part 4; and
>
> (*g*) the Standing Senate Committee on Social Affairs, Science and Technology: those elements contained in Divisions 8, 15, 16 and 21 of Part 4;
>
> 2. That the various committees listed in point one that are authorized to examine the subject matter of particular elements of Bill C-86 be authorized to meet for the purposes of their studies of those elements even though the Senate may then be sitting, with the application of rule 12-18(1) being suspended in relation thereto;
>
> 3. That the various committees listed in point one that are authorized to examine the subject matter of particular elements of Bill C-86 submit their final reports to the Senate no later than Tuesday, December 4, 2018;
>
> 4. That, as the reports from the various committees authorized to examine the subject matter of particular elements of Bill C-86 are tabled in the Senate, they be placed on the Orders of the Day for consideration at the next sitting; and

5. That the Standing Senate Committee on National Finance be simultaneously authorized to take any reports tabled under point four into consideration during its study of the subject matter of all of Bill C-86.

She said: Your Honour, I would ask that the question be put, please.

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

Hon. Senators: Agreed.

(Motion agreed to.)

ELECTIONS MODERNIZATION BILL

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Dawson, seconded by the Honourable Senator Cordy, for the second reading of Bill C-76, An Act to amend the Canada Elections Act and other Acts and to make certain consequential amendments.

Hon. Donna Dasko: I am pleased to rise today to speak at second reading of Bill C-76, an act to amend the Canada Elections Act and other Acts and to make certain consequential amendments, otherwise known as the Elections Modernization Act.

In my comments today, I will focus on one theme in this bill, that of accessibility to voting, which is an important and major component of Bill C-76.

Bill C-76 is about elections and it's about voting. It has been said many times by historians, philosophers, political scientists, and others that the right to vote is a fundamental feature and perhaps the fundamental feature of a democracy. We can take this one step further to say that the right to vote in free and fair elections is the fundamental principle. Let me also remind my colleagues that the Canadian Charter of Rights and Freedoms states in section 3:

> Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

This is a principle that Canadian women and men have worked hard to achieve, often facing huge obstacles.

Considering this, the guiding principle for public policy, in my view, should be to try to maximize the ability of Canadians to exercise this right.

This goal may seem non-controversial, but throughout the world today we see concerted efforts by political authorities and factions to curtail the ability of citizens to vote. In some countries, voters face danger or even death as they try to exercise their voting rights.

South of the border, we have seen an explosion of efforts to suppress voting in the lead-up to yesterday's mid-term elections. According to the *New York Times*, 24 states had put in place enhanced voting restrictions since 2010, including cutbacks to early voting, tougher identification provisions, removal of polling stations, and many other measures. Studies show that these efforts have suppressed voter turnout even before yesterday.

For example, in Wisconsin, a strict identification requirement in 2016 turned away approximately 23,000 people from voting, and African-Americans were more than three times more likely than White voters to be turned away, according to University of Wisconsin researchers. In Kentucky, another very tough identification law resulted in a 2-point decrease in turnout in 2012, again with African-American and young voters the most affected. In North Dakota, Indigenous voters were kept off the voting rolls because of identification requirements. There are many other examples. These efforts are supposedly undertaken to reduce large-scale voter fraud, but study after study in the United States has found that voter fraud is exceptionally rare.

I give these examples from south of the border, not to say that Canada has moved in this direction, but to say that we must be vigilant and make every effort not to go down this road. These are examples of what we must not do.

Now, in a perfect country, all citizens would exercise their right to vote, but we do not live in a perfect country. The fact is that many Canadian citizens, in a country that does not mandate voting, choose not to vote. The reasons may be traced to individual attitudes and individual circumstances and to institutional barriers, oversights and lack of resources.

It is helpful for us to consider who does and who does not vote in Canada today. My many decades spent conducting public opinion research on Canadian elections reveals a consistent pattern. Affluent and older Canadians vote in large numbers in almost every election. Highly educated, high-income people vote in large numbers because they may share certain values about voting, but they also vote to advance their interests. They believe that voting is important and that it makes a difference.

Well, who does not vote in Canada today? Again, the research is consistent. A survey conducted after the 2015 federal election by Statistics Canada, on behalf of Elections Canada shows lower than average turnout among younger Canadians, those with lower levels of education, the unemployed, single Canadians with young children, and recent immigrants. A separate study conducted for Elections Canada found lower levels of voting among Indigenous Canadians on reserve.

In addition, Statistics Canada looked at reasons for non-voting among those who did not vote in 2015. A total of 7.6 per cent of these non-voters cited reasons related to electoral processes, and this figure was higher among youth and among Indigenous urban voters. Elections Canada estimates that this percentage, 7.6 per cent, adds up to approximately 479,500 potential voters who were not voting for this election. Of this number, 172,000 mentioned specific problems proving identity or address as a reason for non-voting.

• (1450)

By any measure, these are significant numbers. In addition, another 12.5 per cent of non-voters mentioned they did not vote for reasons of illness or disability. Considering these facts, a number of provisions in Bill C-76 should help convert these non-voters into voters.

The bill proposes to reintroduce voter identification cards and vouching. The use of the ICs as one piece of identification to establish residency was not permitted in 2015 but will be permitted under Bill C-76. Concerns about the card include inaccurate information and cards being sent to wrong addresses, thus raising the spectre of voter fraud. However, in situations where the card had been permitted in the past, that is, before 2015, the Commissioner of Canada Elections has never laid a fraud charge and has entered into only two so-called compliance agreements in respect of cases of double voting, that is specifically using the voter identification card.

Vouching will enable voters to vote with a qualified voucher if they cannot provide documentation or proof of identity. Vouching should help older Canadians who may require the assistance of caretakers to vote. It may help students living on campus who would find difficulty proving their residence, and it may also help Indigenous urban voters. Those who take on vouching for another person will be required to make a declaration.

In addition, to assist in encouraging young people to vote, youth between the ages of 14 and 17 years will be able to join the national register of future electors to pre-register to vote. Their information will automatically be added to the voter list when they turn 18 years old.

The bill should also encourage more Canadians living with physical or intellectual disabilities to vote. They will have greater assistance at the polling station. They will be able to transfer to another polling station, or they will have the option of voting at home if they cannot get to the polling stations. Candidates can also be reimbursed for providing accessible services such as Braille or the use of sign language interpretation at their campaign offices. Candidates with disabilities will be able to use personal funds to pay for related costs and to be eligible for reimbursement at an increased level of 90 per cent.

For other categories of voters and candidates, candidates with children will also be able to use personal funds to pay for child care and to be eligible for reimbursement at the level of 90 per cent. This surely will assist female candidates with children who are running for public office.

Under this bill, Canadians living abroad will be able to vote even if they have been away for over five years and even if they do not declare an intention to return, as long as they have lived in Canada at some point in their past. And in considering this extension of voting, I ask my colleagues to please consider section 3 again.

This bill also gives more flexibility to Armed Forces voters as to where they may vote.

When it comes to voting processes, increasing the hours of advanced polls from 9 a.m. to 9 p.m. should help voter accessibility to the polls, especially when considering that almost one quarter of non-voters complained they were too busy to vote in that Stats Canada survey I quoted earlier. Increasing the flexibility of the tasks of the staff at voting stations should also help bottlenecks and line-ups.

All of these provisions in Bill C-76 should create more opportunities for Canadians to vote and to run as candidates. I want to mention one more aspect: the enhanced mandate for Elections Canada to undertake public education campaigns.

Since being sworn into this chamber in June, I have listened with great interest to the enthusiasm expressed by my senatorial colleagues on this side of the chamber, those up chamber, this side of the chamber. I've listened to their enthusiasm for public education campaigns, especially with regard to the cannabis file. I too am an enthusiast for public education. I see that in this bill, Elections Canada will be empowered to undertake larger public education campaigns related to elections. All of those non-voters who say they are too busy to vote and maybe even some of those who say they are not interested in politics — and that includes almost one third of non-voters — might just be persuaded to vote if they hear or see interesting, timely and relevant notices and advertising about an upcoming election from Elections Canada. Campaigns can also be targeted to segments of the voter population who are less likely to vote and hopefully we will find positive results.

The committee will want to look at these aspects of the bill and to look at other ways to engage disadvantaged voters , such as homeless and Indigenous urban voters. This will be very important for the committee to look at.

For me, one thing is sorely missing from this bill. There is nothing here that would move to increase the representation of women in the House of Commons. This bill might have included either financial penalties or rewards for political parties to nominate more female candidates, but it includes nothing along these lines. Only 27 per cent of members of the other place are women. It is clear we are not going to achieve gender equality in the other place unless we take concerted action. This is our opportunity to take action.

I have focused on voter participation in Bill C-76 but, of course, this bill includes much more than this. The committee will want to look closely at a number of other issues, topics and provisions of Bill C-76. In particular, the committee will want to look closely at the new pre-writ period, which is created by this act, and at the resulting restrictions placed on third parties in this pre-writ period. The committee will want to make sure our fundamental rights to freedom of speech and expression are not violated by the new provisions of the act.

Remember, almost all Canadians are third parties when it comes to elections.

I would like to make one final comment about the bill. Experts who study elections in other countries, I have heard, are looking to Canada to be a leader in dealing with the many important and contentious issues involved in cyberinformation and cyberthreats

during election campaigns. In this regard, I'm very disappointed we have been given so little time to examine these issues in this chamber and in our committees.

I look forward to the next steps and thank you very much.

Hon. Linda Frum: Honourable senators, I rise today to speak on Bill C-76 which, as you know, seeks to modify the Canada Elections Act. Before I get into the details of the bill itself, please allow me to make a few general remarks on the process set out by the Trudeau government to change the rules that govern our democratic process.

After the 2015 election, a large number of formal complaints were received by the Commissioner of Canada Elections, drawing attention to serious flaws and weaknesses in our electoral regime, specifically around the use of foreign funding of election activities and overspending by third parties.

While the commissioner did not act on any of these complaints, I do note that we heard from the commissioner yesterday in the Committee of the Whole, where he acknowledged that there were "some shortcomings surrounding the regulation of third parties, some of which had been particularly active during the last general election." These shortcomings were already much publicized when the Trudeau government assumed office in November 2015.

• (1500)

In November 2016, they tabled Bill C-33, a bill that contains many of the changes included in Bill C-76 to bring changes to our Elections Act. That bill languished on the Order Paper of the House of Commons for two years and still sits there.

On April 30, 2018, Bill C-76 was introduced. Rather than consulting the other political parties and seeking consensus, the Liberal government used time allocation to pass their last-minute election bill through the house.

Last week, in November 2018, Bill C-76 arrived in the Senate. It is currently in second reading here. This is only the third speech in this chamber debating this bill. Yesterday we heard from the Chief Electoral Officer that in order for the bill to be implemented in time for Election 2019, we must dispatch this bill with haste.

Colleagues, that is where we are now. An atmosphere of urgency and speed has been created on a bill regarding a fundamental pillar of our democracy, the integrity of our election process. We are being asked to push through Bill C-76 ASAP.

I should not need to say this is not the appropriate atmosphere to study a bill of profound significance to our parliamentary democracy. Why the rush? The Liberals have been in power now for over three years. They have a majority government. But they demand we study a complex, 150-page election bill in only three committee meetings. Is this mismanagement? Is it incompetence? Or is there something else at play? Was there deliberate intent to force the hand of the opposition parties on Bill C-76? Or force the hand of the Senate? Were changes to the rules brought in so late in the game to ensure that foreign funds could still flow until the very last minute?

I will not speculate on the answers, but the questions do present themselves.

That being said, Bill C-76 does contain changes to the Elections Act that are desirable. Changes in technology, in the ways Canadians communicate with one another, plus lessons learned in each electoral cycle makes it necessary to update the Elections Act every four years or so. Protecting and preserving the integrity of our elections is crucial to the functioning of our democracy.

Bill C-76 improves our electoral system in some aspects. I do not deny that. However, there are also some provisions of this bill that are very worrisome. Let me review the most important of those.

The first, voter identification. I fully subscribe to the principle that all Canadian citizens who have the right to vote should be able to vote. Voter suppression is an attack on democracy and should not be tolerated. However, usurping the identity of someone else or voting more than once are also damaging to the democratic process. If one pillar of our democracy is a fact that every voter duly qualified may vote, the integrity of the results is another pillar. The Elections Act must seek to strike a balance between these two principles.

I am not confident that changes introduced by Bill C-76 actually strike that balance. After yesterday's testimony by the CEO and Commissioner of Canada Elections, I still have doubts about the precision of the information that is the voter identification card and whether they should be legal sources of ID, given that they're often sent to the wrong address.

As we know from Election 2011, there were one million cards issued with the wrong information. Yet we are returning to a system that allows voter identity cards to be used as ID. I am not suggesting the use of voter ID cards could lead to massive fraud across the country, but it could open the door to abuses here and there. Is it enough to tip the results in any given riding? We all know elections in some ridings are decided by only a handful of votes. Potentially the answer is yes.

We need to be reassured the 10 per cent error rate on voter ID cards in the past is not considered an acceptable standard for the future. I believe the Legal Committee should take a hard look at how these cards are produced and handled.

Next, electors resident outside of Canada. Bill C-76 will change the criteria used to determine if a Canadian citizen living outside the country has the right to vote. Under the current act, only citizens non-resident in Canada for five years or less and who are willing to attest to their intention to return to Canada may vote in a federal election. There are some exceptions for federal employees. The principle is that to enjoy the right to vote, you must have a connection to Canada and to the riding in which you are voting.

With Bill C-76, the only requirement for a non-resident citizen to be able to vote is simple: You must have previously resided in Canada. The act is silent on how long you must have stayed in Canada. There is no limit on how long ago you have left. You

don't even have to attest that you have somewhere in your heart even the faintest intention of ever returning to Canada. Colleagues, these changes merit more attention.

As you heard at the Committee of the Whole yesterday, we don't know how many Canadian citizens will be eligible to exercise this new right to vote. The number of 2 million people has been suggested by Mr. Perrault. To put this in perspective, in the last election, 1.3 million people voted in the four Atlantic provinces. It was surprising to hear Mr. Perrault try to explain that while there will be millions of potential new voters, his guess as to the number who will exercise that right is between 14,000 and 30,000.

The message seems to be that Canadians living in Canada should not fear their voices will be diluted because these non-resident folks will not be exercising their new-found franchise.

I don't know how many taxpaying Canadians will be comforted by the assurance that not very many of their non-taxpaying, non-attached, non-resident fellow citizens will be bothered to register themselves to vote in the next election.

Let me ask you, how does the government defend its position that someone who resided in Canada 30 or more years ago and has no intention of ever returning here should be eligible to vote, but the child of an expatriate, who may never have resided here but plans to come to Canada to study or make Canada home, should not have a right to vote? How can it be said that one has a vested interest in the future of the country but the other does not?

The Supreme Court is currently deliberating on these very questions. The government decided it would not wait for that decision but rather set its own arbitrary rules. I find it surprising from a Liberal government that so often prides itself on following to the letter the provisions of the Charter. Why not wait for the decision of the Supreme Court? The current system regarding non-resident voters has been in place since 1993. Liberal and Conservative governments were elected under this system. What is the urgency to change the system before the Supreme Court has ruled?

All of this is being done quietly, presented as technical changes, with very little scrutiny by Parliament or the media. Let me repeat: We are potentially increasing the number of voters in the next Canadian election by more than the number of votes cast in the four Atlantic provinces in 2015.

The government has offered us a half-baked solution. It will not allow all citizens to vote. It will not adopt the solutions of countries like France and Italy where citizens living abroad have their own representatives in Parliament. It does not care whether or not the eligible voter has a connection to Canada. It has not set a limit for the time spent away by the eligible voter, unlike most other democratic countries.

Beyond the legal principles, I have serious reservations about the ability of Elections Canada to properly monitor the registration of these new electors. The answers we received yesterday from Mr. Perrault and Mr. Côté were clear. There will not be any proactive investigation into self-declared former places of residence, given that proving the surrounding facts about a citizen's previous residence in Canada, at the very least, is extremely difficult to investigate.

In the short time we have, the Legal Committee will need to inquire whether the registration system of non-resident Canadians should be improved. Bill C-76 claims to make elections more secure. We have a duty to ensure it actually does.

Next, third parties. It is true Bill C-76 contains some distinct improvements on how the actions of third parties can be limited and monitored. I still see large loopholes.

The ability of third parties to influence results in an election remains a concern. After Election 2015, we saw how some deep-pocketed groups bragged about how they had influenced the final election result. The Supreme Court ruling in the *Harper* case stated there should be a level playing field between political parties and third parties. It's hard to argue that's what we had in 2015 or will ever have again without changes to our electoral laws not contemplated by Bill C-76.

Political parties have strict rules to follow regarding their fundraising and caps for electoral expenses. Third parties only have caps for their expenses. Corporations and unions are barred from financing political parties, but they are given the ability to influence elections through third parties. Is that really what Canadians want? Aren't we falling into the trap our American friends are in, where money flows so freely into election super PACs the political discourse is hijacked by special interests?

Between 2011 and 2015, the number of third parties that participated in the election went from 55 to 115. Their expenses rose from $1.2 million to $6 million. We can expect even more money to flow in the 2019 election. Even with the new caps on spending allowed for third parties that are contained in Bill C-76, we should expect to see tens of millions of dollars being spent lawfully by third parties to influence the next election. I deeply regret the government will not allow the Senate more time to reflect on what this means for our democracy and to consult with Canadians on their thoughts about the influence of special interest groups and lobbies in our elections.

• (1510)

I wish our committee would have more time to think about this issue and to learn what is done elsewhere, but with the time frame given to us by the government, it is an impossible task.

Furthermore, it is one thing to set rules; it is another thing to have them enforced. Mr. Côté repeated several times yesterday that his is a complaint-based organization and that he has limited resources. This does not bode well for his ability to monitor third parties, investigate, act in real time to stop illegal actions and make sure the cheaters get caught and prosecuted. The Legal Committee will want to make recommendations on how the act can be used more effectively.

Finally, influence by foreigners: Canadians are wary about possible outside meddling in our elections. What happened in 2016 in the U.S., during the Brexit campaign and in several elections in Western democracies should worry us all. While it improves our system, Bill C-76 will, sadly, not prevent the influence of foreigners in the next election, in my opinion. There are two possible sources of foreign influence: special interest groups and foreign governments or their surrogates. After Bill C-76, money from foundations and other foreign third parties will still easily flow into Canada to be used to influence the election. In fact, Bill C-76 just codifies how and when foreign money can be transferred to Canada and how and when it can be used to influence the election.

It is now clear which third-party activities can be financed by foreign money and when that money can flow. While I respect Mr. Perrault and Mr. Côté's trust in the new anti-circumvention clause of proposed section 349.3, I have doubts about their ability to react in real time during the actual campaign and not months afterwards. I also have doubts about their ability to catch culprits from abroad violating our undue foreign influence laws.

To quote the Commissioner of Canada Elections, Mr. Côté, in his testimony yesterday:

> . . . to the extent that the individual was outside the country, it might be difficult to force that individual to face Canadian justice. So practical enforcement would become a real difficulty.

Beyond financing, there are other ways for foreigners to influence the election. Senator Woo mentioned yesterday the challenge regarding foreign-owned media, how they could become a megaphone for special interests from abroad or even a foreign government.

Speaking of foreign governments, one thing is clear: Bill C-76 will not prevent foreign powers from trying to influence the result of our election or use the electoral period to sow discord in Canada. In fact, surprisingly, Bill C-76 even clarifies what foreign governments can lawfully do to try to influence the election.

The topic of foreign influence will certainly have warranted a thorough study, including how other countries are facing up to the challenge. Unfortunately, the timeline we have with Bill C-76 will not allow for that.

While reading Bill C-76, I thought about the old saying that generals always plan to fight the last war. Clearly, some of the new provisions contained in Bill C-76 will be helpful in combating the abuses we saw in 2015 by groups like Leadnow. Most of what they did back then would now be explicitly illegal under Bill C-76. But, colleagues, it is one thing to try to correct the past; it is another thing to plan for the future. If Canadians think for one second that the election of 2019 will not be influenced by lobbies, special interest groups and billionaires from the U.S. or China, or by other foreign governments, they are wrong. Bill C-76 is, I believe, only a timid answer to what is rapidly becoming a vast problem for Canada and its allies.

I modestly tried to initiate a debate on this issue two years ago with Bill S-239. I would have liked Canadians to reflect on how money, especially foreign money, can corrupt democracy. Sadly, this debate did not go forward. Now, five minutes before midnight, we are invited to put in place stop gaps, cross our fingers, hope for the best and see what happens in 2019 to figure out how we can do better for the election after that.

Colleagues, Bill C-76 and the issues I just outlined deserve a thorough study by the Legal Committee. That will not happen, but I am sure that all of my colleagues on the committee will work hard to see that Bill C-76 can be improved. Thank you.

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

Hon. Senators: Question.

The Hon. the Acting Speaker: It was moved by the Honourable Senator Dawson, seconded by the Honourable Senator Cordy, that this bill be read a second time.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

The Hon. the Acting Speaker: In my opinion, the "yeas" have it.

And two honourable senators having risen:

The Hon. the Acting Speaker: Do the government liaison and opposition whip have advice as to the length of the bells?

Senator Mitchell: Thirty minutes.

Senator Plett: Thirty minutes.

The Hon. the Acting Speaker: Is there leave that the bells ring for 30 minutes?

Hon. Senators: Agreed.

The Hon. the Acting Speaker: The bells will therefore ring for 30 minutes, and the vote will be at 3:45 p.m.

Call in the senators.

• (1540)

Motion agreed to and bill read second time on the following division:

YEAS
THE HONOURABLE SENATORS

Bellemare	Hartling
Bernard	Joyal
Black (*Alberta*)	Klyne
Black (*Ontario*)	LaBoucane-Benson
Boehm	Lankin
Boyer	Lovelace Nicholas
Christmas	Marwah
Cordy	Massicotte
Cormier	McCallum
Coyle	Mégie
Dalphond	Mercer
Dasko	Mitchell
Dawson	Miville-Dechêne
Day	Moncion
Deacon (*Nova Scotia*)	Munson
Dean	Omidvar
Dupuis	Pate
Dyck	Petitclerc
Forest	Pratte
Forest-Niesing	Ravalia
Gagné	Simons
Gold	Sinclair
Greene	Wallin
Griffin	Wetston
Harder	Woo—50

NAYS
THE HONOURABLE SENATORS

Andreychuk	Mockler
Batters	Neufeld
Beyak	Ngo
Boisvenu	Oh
Carignan	Patterson
Dagenais	Plett
Frum	Poirier
Housakos	Richards
MacDonald	Seidman
Maltais	Smith
Manning	Stewart Olsen
Marshall	Tannas
Martin	Tkachuk
McInnis	Wells—29
McIntyre	

ABSTENTIONS
THE HONOURABLE SENATORS

Nil

REFERRED TO COMMITTEE

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

(On motion of Senator Dawson, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs, on division.)

• (1550)

IMPACT ASSESSMENT BILL
CANADIAN ENERGY REGULATOR BILL
NAVIGATION PROTECTION ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

Leave having been given to proceed to Government Business, Bills, Second Reading, Order No. 6:

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. Paula Simons: Honourable senators, I rise today to speak to 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.

I want to speak to you today as an Albertan, because I am an Albertan, right down to the marrow of my beefy, beefy bones. I'm sure that many of you have been receiving a barrage of letters and emails imploring you to kill Bill C-69. Indeed, the phrase "Kill Bill" so dominates my inbox, I have visions of Uma Thurman springing fully formed out of my computer screen, rather like Athena bursting from the forehead of Zeus. Given how many Bill C-69 letters you must have received, you might be forgiven for starting to lose patience with the seeming hysteria around this legislation.

However, today I do not rise to address specific elements of the bill itself. Instead, I crave your indulgence to try to explain to you why so many Albertans, from all walks of life, are so concerned by what Bill C-69 represents.

[*Translation*]

When Alberta joined Confederation in 1905, it did so under conditions that were quite different than when the other provinces joined, for the others were allowed to maintain ownership and control of their natural resources. Alberta, Saskatchewan and Manitoba did not have that privilege. In some respects, those three provinces were regarded as colonies within Canada.

[*English*]

It was not until 1930 that Alberta and the other Prairie provinces finally won the right to control their own resources, and that didn't happen without a hard fight. Since then, every Alberta provincial government, from the left and the right, from the United Farmers of Alberta, to the Social Credit, to the Progressive Conservatives, to the New Democrats, has zealously and jealously guarded those resource rights.

In the wake of the National Energy Program, a policy debacle that plunged Alberta into an economic cataclysm, Peter Lougheed fought to ensure that the new Constitution, repatriated and amended in 1982, would include specific protections for provincial resource rights. For Albertans, those constitutional protections helped define our identity, just as much as the clauses around language rights help to define Quebec's.

[*Translation*]

Today, Albertans are being subjected to a whole new form of injustice. Yes, we control our oil, our natural gas and our bitumen, but since we are land-locked, our fellow Canadians are holding us hostage. Our ability to get our oil, especially our bitumen, to new markets outside Canada, particularly to Asia, is being hindered.

[*English*]

Energy East, Northern Gateway, Trans Mountain — it seems as though every time we see a way to get our oil to tidewater, we are stymied by a broken regulatory model. Small wonder if Albertans are starting to feel that Confederation itself is broken, at least for them. Many Albertans feel throttled, and if you think you're mad about Acadian senators, well, you need to hold our Alberta craft beer.

That brings us to Bill C-69. Believe me, Albertans know that the status quo is not working. There has been a loss of faith in the National Energy Board right across the political spectrum. We need a better, more transparent and more nimble process to approve new pipeline infrastructure. We need an efficient, effective regulatory regime that gives investors some assurance that projects can actually be built.

But that doesn't mean running roughshod over environmental concerns or over Indigenous sovereignty. Indeed, the only way we can create a regulatory system that provides investor confidence is by having an open, comprehensive and comprehensible template to ensure that the environment is protected and that First Nations and Metis settlements are respected partners in the collaborative process.

• (1600)

[*Translation*]

Make no mistake, the majority of Albertans care deeply about the environment. Our close connection to the earth is one of our defining characteristics. We have seen with our own eyes the impact of man-made climate change, with the floods in Calgary and the forest fires that devastated Slave Lake and Fort McMurray.

[*English*]

It was a Progressive Conservative premier, Ed Stelmach, who first put a price on carbon in Alberta a decade ago — making Alberta the first jurisdiction in Canada to price carbon.

And three years ago, Albertans surprised the country — and perhaps themselves — by electing a majority NDP government, led by Rachel Notley, which has implemented a comprehensive carbon levy, capped CO_2 emissions from Alberta's oil sands, and moved aggressively towards eliminating all coal-fired electrical generation in the province.

Pundits told Albertans we needed to make those sacrifices to gain the necessary social licence to pipe our oil to market. Indeed, up until three weeks ago, I was one of those pundits. And to a certain extent, the trade-off worked. When the Prime Minister announced the approval of Trans Mountain, he explicitly cited Alberta's climate leadership plan as one of his reasons.

But right now, it's the pundits — myself included — who feel slightly foolish.

You can hardly blame Albertans if they feel they've bought a pig in a poke, because when Albertans look at Bill C-69, they don't see an improved, streamlined regime for regulating energy infrastructure. They see a shaggy and complicated bill that encroaches on areas of provincial sovereignty and which, they fear, will make the timely approval of any large project all but impossible.

And Albertans are afraid. My email inbox isn't just full of form letters about C-69 — although they are plenty of those. It's also full of powerful, personal, heartfelt stories from Albertans who are sincerely worried about losing their jobs, their businesses, their homes, their futures.

But with apologies to Quentin Tarantino fans, a blunt "Kill Bill" strategy isn't the right one, at least not at this moment. Spiking Bill C-69 now won't guarantee investor confidence — quite the opposite. Going right back to the drawing board certainly won't speed the pace of pipeline approvals.

Instead, we in the Senate have the opportunity to offer meaningful amendments, practical amendments that help to provide the clarity and certainty that the bill, as written, currently lacks.

I want to send this legislation to committee for thoughtful, tough analysis. I hope to see us use our collective wisdom and our collective courage to help craft a better piece of legislation, one that works for all Canadians. While I stand before you today as an Albertan, I also stand before you as a Canadian. And as a Canadian, I want to see Confederation work. I want to see the parliamentary process work.

I haven't been in the Senate for very long, but I can already see that this is a watershed moment in the history of this chamber. This body has a sort of political capital and moral authority now to suggest amendments in a way that it simply didn't have before. I may be naive — after all, I have been a senator for precisely three and a half weeks — but I'd like to hope we might work together to shape Bill C-69 into the sort of legislation that respects both First Nations sovereignty and the constitutional rights of provinces, into a bill that protects our shared environment as an integral part of ensuring our shared economic future.

[*Translation*]

This is not simply about a short-term plan and breaking ground. We are talking about building national infrastructure for the 21st century. While pipeline construction continues to be delayed, oil is still being transported by rail. This involves burning fossil fuels and monopolizing our rail capacity, which could be used to transport other products, like grain. I want to add that transporting oil by rail involves an increased risk of derailment, which could pollute waterways and cause dangerous explosions.

I hope that Bill C-69 will be referred to committee soon. We will then be able to work together to fine-tune it to create the bill Alberta and Canada need.

[*English*]

Albertans need to hear the message that their days as a colony within Confederation are well and truly over. They need a signal from this chamber that their voices and concerns have and will be heard. Thank you.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: Honourable senators, I congratulate Senator Simons on her eloquent speech.

I rise today at second reading of Bill C-69. When I read this bill, I see several broken Liberal promises, such as the promise to respect provincial jurisdiction and the pledge to balance the environment with economic development, the way the Conservatives have always done.

First off, with regard to provincial jurisdiction, as a senator from Quebec, I want to explain why it is impossible for me to support the bill in its current form, because it would lead to a full-scale confrontation between Quebec and the federal government. It is clear that Bill C-69 would create a conflict between the rights of provinces like Quebec to develop and manage their own natural resources and the federal government, which could try to meddle in areas of provincial jurisdiction.

Bill C-69 clearly infringes on the provinces' jurisdiction and violates the division of powers set out in the Canadian Constitution. Furthermore, then Quebec Premier Philippe Couillard shared the Quebec government's concerns with the National Assembly on May 29, 2018, saying, and I quote:

> . . . we are putting the pressure on, we are fighting for the provinces' prerogatives to be recognized, even in the context of projects that fall under the federal environmental impact assessment regime.

He refers directly to Bill C-69.

He also said before the Quebec National Assembly that he wanted to put pressure on the federal government in order to ensure, and I once again quote:

> . . . that Bill C-69 includes the statement that the prerogatives and jurisdictions of Quebec and the other provinces apply. We will continue to make representations to that effect.

The former Quebec minister responsible for Canadian relations and the Canadian francophonie, Jean-Marc Fournier, also commented on and voiced concerns about Bill C-69 in a letter published in the media on April 14, 2018, entitled "Le fédéral doit respecter les lois provinciales." The minister referred specifically to the tentacular approach of Bill C-69. He said, and I quote:

> . . . how can one hope to secure social acceptability in situations where a community has no guarantee that the laws adopted by the provincial parliament it has elected, including laws governing environmental protection and land use, will be enforced?
>
> A federally-imposed solution cannot resolve this matter.

[*English*]

Fears of federal invasion of provincial jurisdictions in the context of environmental assessments have also been highlighted by many commentators. For example, Grant Bishop, Assistant Director of Research at the C.D. Howe Institute, wrote in the *National Post* on October 3, 2018:

> . . . Bill C-69 expressly requires consideration of impacts beyond federal jurisdiction. Bill C-69 raises the prospect that a federal minister might prohibit . . . [a] project on the basis of an environmental impact unconnected with a federal power.

[*Translation*]

This is not the first time that the federal government's environmental measures have infringed on provincial jurisdictions. Constitutional experts often refer to the Supreme Court's 1992 ruling in *Friends of the Oldman River Society v. Canada*. In this decision, Saskatchewan's Attorney General characterized the federal environmental review as a "Trojan horse." The federal government sometimes has a tendency of meddling in areas of provincial jurisdiction that are unrelated to federal responsibilities.

• (1610)

Honourable senators, Bill C-69 could mean that decisions currently under provincial jurisdiction will henceforth be made in Ottawa in the office of the Minister of the Environment. Bill C-69 is a Trojan horse that will turn the federal government's backrooms into the nerve centre where decisions about major Quebec energy projects are made.

[*English*]

Bill C-69 allows too much discretion and arbitrary decision. Martha Hall Findlay from the Canada West Foundation wrote in the *Globe and Mail* on August 23:

> There remain too many opportunities for arbitrary political discretion. Particularly troubling, incomplete discretion on the part of cabinet. Even just the Minister of Environment to approve or deny any major project, regardless of what the regulator might recommend at the end of what could be a very long and costly review process.

[*Translation*]

In other words, Hydro-Québec may have to go to the Minister of the Environment in Ottawa to ensure the survival or future of its energy projects, in particular those related to electricity exports and dam building. This is unprecedented in Quebec.

We need to be wary of arbitrary political discretion and decisions made behind closed doors in Ottawa, especially since current ministers are susceptible to pressure from unelected interest groups.

In reading clause 36 of the Impact Assessment Act, we can easily discern that it gives discretionary authority to the federal government to authorize projects that are in the "public interest." This provision reflects the broadened scope of the new legislative framework of the federal bill.

The federal government has also explicitly committed to changing the list of designated projects, a list that already includes large wind parks and could include hydroelectric projects that are important to Quebec. Bill C-69 is a one-sided solution imposed by the federal government that quashes all the experience, expertise, assessment processes and environmental follow-up that Quebec has developed over the past few decades.

That is no way to respect the provinces' important contributions to the Canadian economy. Having worked at the Quebec environment department for years, I took part in reviewing many projects that now would be subject to this legislation. Let me tell you that Quebec does not need Bill C-69 to achieve its environmental objectives when it comes to projects that have nothing to do with the federal government. Quebec is very knowledgeable about the subject.

What is more, as far as the other broken Liberal promise is concerned, we need to emphasize the devastating economic impact of Bill C-69. It is clear that this bill will blow up schedules and budgets and cause headaches when it comes to getting the required approval for new major energy projects.

Allow me to quote Martin Ignasiak, national co-chair of the Osler Regulatory, Environmental Aboriginal and Land Group:

> [T]here is nothing in these legislative proposals that suggests future assessments [of designated projects] will be in any way streamlined, more efficient, or more effective.

In other words, these changes will do nothing to get energy projects approved any faster.

He adds on the Osler firm's website, on February 9, 2018, and I quote:

> The timelines in the IAA are very long and can be extended by the [Environment and Climate Change] minister and by the cabinet repeatedly.

That is bad news for Canada because inefficiency doesn't help anyone. It doesn't help industry, the environment or Canadian workers. Doubly appalling is the fact that the federal government is pressuring us to pass Bill C-69 when we can no longer compete with the United States on taxation and regulation as it is. This government is clearly not interested in helping our businesses compete or in the future economic prosperity of Canadians and especially Quebecers.

Bill C-69 will not only make it harder for Quebec to compete, it will also make it harder for provinces to achieve their goals of using energy projects to spur growth for small- and medium-sized businesses. Canada could have become one of the world's energy superpowers, but Bill C-69 will undermine that potential.

[*English*]

According to the Prospectors and Developers Association of Canada, there are signals Canada is starting to fall behind its competitors in a number of areas, indicating its decline in attractiveness as a destination for mineral investment.

[*Translation*]

In closing, honourable senators, this bill creates uncertainty and puts an additional burden on businesses and provincial governments that want to move forward on an energy project. Bill C-69 will make approval more complex, and the provinces will have to deal with the arbitrary and discretionary actions of the federal environment minister of the day.

If a Quebec Liberal government, which is normally in alliance with its federal cousins, has some concerns about Bill C-69, then clearly, Quebec should be very concerned about the impact of this Ottawa-centric bill; the situation is completely unacceptable.

That is why, as a senator from Quebec, I cannot support this version of Bill C-69, which I would even call a federal Trojan horse. I would urge all senators from Quebec to do the same.

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

I obviously share your concern about protecting provincial jurisdictions, which I also mentioned in my own speech. However, in looking at this bill, I have a hard time seeing the Trojan horse you're talking about. I'm concerned, but I have a hard time finding it. For example, I see that the bill's main purpose is to protect the components of the environment and the health, social and economic conditions that are within the legislative authority of Parliament. This is clearly stated as one of the bill's purposes.

Could you tell me where you see a Trojan horse in the bill? If we can both locate it, then I will fight to protect provincial jurisdictions, including Quebec's.

Senator Boisvenu: As Mad Dog Vachon would say, you don't need a dictionary to understand. I worked for Quebec's Department of the Environment for about 15 years. Every time Quebec made any kind of progress and the federal government wanted to muscle in, it would try to sneak in with a Trojan horse. The environment is an important issue these days; it wasn't so much the case in 1867, but today it is, just like victims of crime. It's an area of jurisdiction that has evolved over time.

For about 20 years, ever since paper mills and other industries started cleaning up polluted rivers and modernizing their equipment, the federal government has been itching to get involved in the field of environmental protection. We saw it with the eastern pipeline project. The federal government wanted to do its own environmental assessment, even though Quebec was already doing one. This duplication of work is costly for taxpayers and private enterprise, creates inefficiency and draws out timelines. At the end of the day, who suffers? Businesses and economic development.

What I mean by Trojan horse is an intrusion into areas already overseen by the provinces. Since this bill doesn't specifically define the boundary between the federal and provincial jurisdictions, I consider it to be a Trojan horse.

Senator Pratte: Thank you for your answer. The Government of Canada also has environmental responsibilities. The Supreme Court recognized that this is a shared jurisdiction. Respecting provincial jurisdictions therefore does not mean preventing the federal government from enforcing its own jurisdiction over environmental protection. I agree with you that a distinction must be made, but do you not think that the Government of Canada also has jurisdiction over environmental matters as recognized by the Supreme Court?

Senator Boisvenu: Of course. When a project involves more than one province or has an impact outside the country, the federal government's jurisdiction can be recognized, but the federal government must not infringe on areas of provincial jurisdiction. This bill infringes on provincial jurisdiction to some degree. If a project is liable to impact the country as a whole, of course, the federal government's jurisdiction must be recognized, but when it comes to a strictly provincial endeavour, then I disagree. I think that sort of thing should fall solely under provincial jurisdiction.

• (1620)

Hon. Pierre J. Dalphond: Would Senator Boisvenu take another question?

Senator Boisvenu: Yes.

Senator Dalphond: I listened closely to the debate about asserting jurisdiction and provincial sovereignty. With reference to the pipeline issue my Alberta colleague raised, how do we reconcile provincial autonomy and the fact that a province is landlocked and needs to export its energy resources?

Senator Boisvenu: In this case, I think the problem is more political than environmental.

Senator Dalphond: If we're talking about a pipeline to the country's West Coast, aren't there environmental aspects to consider?

Senator Boisvenu: I think an interprovincial pipeline is a matter of shared jurisdiction, unlike the construction of a hydroelectric dam in Quebec, which is not.

(On motion of Senator Martin, debate adjourned.)

[*English*]

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. Carolyn Stewart Olsen: Honourable senators, I rise today to speak to second reading of Bill C-48, the Oil Tanker Moratorium Act.

The bill before us imposes a total ban on oil tankers carrying more than 12,500 tonnes from transiting the northern coast of British Columbia. If you're not familiar with these units of measurement, this is a very small amount of oil, only enough for periodic resupply of small communities.

Deepwater ports located along the northern coast of British Columbia have the potential to become major export points of Canadian oil to Asia. That means Bill C-48 eliminates a multi-billion dollar business opportunity for communities in northern B.C. and Alberta.

Thus, Bill C-48 is a major bill, one of the most consequential bills we have seen from this government. With that context in mind, I want to focus my remarks today on a single issue: consultation.

One definition of consultation is "the process of discussing something with someone in order to get their advice or opinion about it." In the past, the government has not always been consultative. History provides us with many instances of the federal government ignoring and overruling the wishes of distant communities without a second thought.

That has changed in recent years. The importance we place on consultation has evolved, just as our country has evolved over the past 150 years. Now when the government in Ottawa makes a major policy decision that will heavily impact particular communities in Canada, we believe those communities themselves must be consulted. I do not view this as a partisan issue. Particularly in this chamber, I would expect nearly everyone to agree on that essential point. One of our main duties as senators is to keep the best interests of our regions at heart.

The federal government routinely acknowledges the importance of what I have just said. Every time this government announces a policy initiative, they make a point of declaring they consulted widely before arriving at their decision.

Bill C-48 is no exception. In the House of Commons, the sponsor of this legislation, the Minister of Transport, said:

> These comprehensive measures are the result of extensive consultations . . . We listened closely to Canadians . . .

In Canada, the term "consultation" takes on additional meaning that does not apply to every country in the world. Here, the consultation is interwoven into our relationship with First Nations and carries specific legal obligations. The Minister of Transport claims that Bill C-48 meets these obligations as well.

The minister said:

> . . . I have spent a great deal of time speaking to various coastal nations in the affected area . . . [including] the Nisga'a in the very north around Dixon Entrance; the Metlakatla; the Lax-kw'alaams; the Haida . . . the Heiltsuk; the Haisla; and various other groups as well, including some first nations that are inland.
>
> . . . the majority of the indigenous peoples that we consulted . . . felt very strongly that it was important to protect this pristine area of Canada.

The government has claimed it has applied a principled consultation to Bill C-48. It is clear there are serious concerns about how they went about it.

First, there is the simple issue of timing.

Then-candidate Justin Trudeau announced the oil tanker moratorium as a campaign promise in September 2015. Bill C-48 was introduced in May 2017. When the government talks about the consultations they performed, they are referring to meetings they held during the year and a half period between their victory and the introduction of the bill.

Colleagues, that is not consultation. It is not consultation when the end result is ideologically determined before the Prime Minister has talked to anyone about what the end result should be. The participants in these consultations never had a chance to influence the decision, no matter what facts they brought to the table, no matter how well they made their case. The outcome was decided by Justin Trudeau and his campaign advisers in the middle of an election campaign.

There are people in this government who fundamentally do not believe in our resource sector.

In that context, calling the subsequent conversations with affected groups "consultation" is an injustice to the real meaning of the word. The government conducted a series of meaningless meetings to check off the consultation "box" to divert responsibility from themselves when the very real consequences of this bill are felt.

Second, there is the claim made by the government that a majority of affected First Nations support this moratorium. We have not seen much evidence to back up this claim. What we have seen is furious opposition to this bill from the First Nations communities that are actually affected.

The Lax Kw'alaams of northern British Columbia have said:

> Shutting out oil tankers imposes an unfair limitation on Lax Kw'alaams' prospects of economic development, and unfairly discriminates against one region of the country.

The Gitwangak and Gitsegukla have said:

> . . . Bill C-48 directly and harmfully restricts what activities and projects we can execute . . . We are staunchly opposed to Bill C-48 . . .

Eagle Spirit Energy, a joint venture involving 35 northwestern First Nations, said:

> The community leaders of the Chiefs' Council strongly disagree with statements made in Parliament and by the Minister of Transport that extensive consultations have been made with impacted First Nations . . . There has been no consultation with those communities harmfully impacted in the interior of British Columbia or those in Alberta . . .

Bill C-48 actually rips away an economic opportunity from those First Nations, and they are fighting it.

Lax Kw'alaams have already filed a civil claim against the Government of Canada in the Supreme Court of British Columbia. That raises a third issue with the government's consultation on this bill. Implicit in our modern understanding of consultation is an emphasis on place.

When considering a policy, we must prioritize the views of those communities who will be most affected over those whose communities will not be affected. Bill C-48 fails in this regard. I acknowledge some communities impacted by the bill may support a full tanker ban. It is equally clear that many do not.

Consider one interesting fact, colleagues; then-candidate Trudeau announced this moratorium in Vancouver, not in northern British Columbia. If the bill came about as the result of extensive regional consultation, why wasn't the press conference held in northern B.C.? If this moratorium had strong majority support in northern B.C., why did they hold the press conference 1,000 km to the south?

• (1630)

The answer is painfully obvious. Bill C-48 is not about the best interests of northern British Columbia. It was written to please southern voters who will not be affected by the moratorium and who oppose resource extraction at any cost.

The Liberals needed to take key NDP ridings on Vancouver Island and in the Lower Mainland in 2015. Anti-pipeline politics works in those ridings and that is why the Liberals promised Bill C-48. It was, unfortunately, a cynical political calculation.

The Liberals can make political calculations like that if they want, but it is truly misleading to claim they are doing it in the best interests of local First Nations.

The First Nations are talking about are dealing with the effects of long-term poverty. In their brief on Bill C-48, Eagle Spirit Energy spoke about this. They tried to explain the widespread disease, lack of infrastructure and social issues their people face. They are trying very hard to solve these problems, but that costs money. Bill C-48 takes away a major opportunity for their economic development. We can't square that circle.

The government's statements on consultation and Bill C-48 don't add up. The concept of consultation should be taken very seriously. On Bill C-48, the government has co-opted the term for their own purposes. That's self-serving and disrespectful.

I want to make one final point. In their brief on Bill C-48, Eagle Spirit spoke of the need for self-directed economic development in their region and the long history of:

> . . . solutions imposed on them by outsiders that have never worked . . .

Colleagues, how is a moratorium imposed on northern communities by the federal government any different than the Ottawa-knows-best policies of the past? How will it advance reconciliation? How will it help bring jobs and opportunities to communities living in abject poverty?

I hope you will consider these questions when it comes time to vote on the bill.

Thank you.

Hon. Douglas Black: Honourable senators, I also rise today to add my comments with respect to Bill C-48, the so-called tanker ban. I want to thank my colleagues who have spoken on this issue before me. All of them have added some real substance to give senators the thoughts they need when they're considering how to vote.

Our job, as Senator Simons indicated in her inaugural speech, which I thought was a very powerful representation of the point of view in Alberta today, is to represent our regions. We all agree on that. Unfortunately, from my point of view, speaking on behalf of my province of Alberta, this legislation takes direct aim at the oil sands of Alberta.

The purpose of the act is to limit the development of this resource by restricting the ability to move product from Fort McMurray to markets, the most natural markets being on the northern coast of British Columbia, in Kitimat and Prince Rupert.

The legislation, in my opinion, is prejudicial and capricious. I'm not alone in that view. The Nisga'a Nation, in their letter to the Prime Minister of April 17 of last year, said:

> "This tanker ban legislation is not only unique; it is arbitrary and discriminatory. This legislation damages the economic prospects of Alberta, it damages the economic prospects of Canada and as importantly, it damages economic prospects for First Nations."

What the legislation proposes to do is prevent oil tankers from picking up products from the northern coast of British Columbia. We should note it does not affect cruise ships, which are single-hulled and carry between 1 million and 2 million gallons of oil. It does not affect container vessels, which normally carry about 4.5 million barrels of oil and are also single-hulled.

For any of you have either been on a cruise on the northern coast of British Columbia or even visited the coast, the sight of cruise ships and container ships is a regular event. No consideration was given to that. It gives no consideration to and overlooks the fact that immediately to the north end of the moratorium area is the Port of Valdez in Alaska. More on that later.

I would say there are four tankers that leave the Port of Valdez every week. Since 1977, when the Port of Valdez opened, over 20,000 tankers have left Valdez. Those tankers don't immediately go out to the Pacific. Where the majority of those tankers from Valdez go is down the coast of British Columbia to Washington State and northern California. There are already

tankers on that coast. It's important we understand — and we're going to talk about this in a moment or two — the improvements made since the terrible incident in Valdez 30 years ago.

This ban is not science-based. As my colleague Senator Stewart Olsen has indicated, this ban has not benefited from consultation. I would say to you that when Senator Jaffer introduced this bill, I asked her the question which was still unanswered. Perhaps someone can answer it for me today: Is there any other oil tanker ban in the world? I've not been able to find one. No one has been able to identify one for me.

There is nothing unusual about the northern coast of British Columbia. It is stunningly, magnificently beautiful, as is the coast of Atlantic Canada, the Gulf of St. Lawrence and the coast of Nunavut, and there are no proposed oil tanker bans in respect of those areas. Have we considered banning tankers from Halifax? From Saint John? From Conception Bay? From Nunavut? From the Gulf of St. Lawrence?

Some Hon. Senators: No.

Senator D. Black: The answer is no, we have not. Indeed, how would we get our 800,000 barrels of oil per day from Saudi Arabia down the Gulf of St. Lawrence if we had a tanker ban?

Senator Jaffer did a very good job in both her comments in this chamber and in her op-ed in the *Globe and Mail*. The rationale put forward for the ban is the coast is beautiful — and we agree it is ravishingly beautiful — and we cannot have another *Exxon Valdez*. Of course we agree; the *Exxon Valdez* was a terrible tragedy.

But to talk about the *Exxon Valdez* today in the context of the industry is to say that cellphones of 30 years ago are using the same technology as cellphones today. They are not. The *Exxon Valdez* tragedy was 30 years ago. Since that time, dramatic changes have been made in the carriage of oil by sea.

To start, principally and most importantly, all tankers that leave Valdez and all tankers that would leave the north coast of British Columbia are double-hulled. All tankers are escorted by two tugs, one at the front of the vessel and one at the end of the vessel. All tankers are monitored by the Coast Guard's GPS monitoring system.

There is a unique program in place in the State of Alaska whereby fishermen and those who live along the coast have been provided with resources to assist if there should be an incident. All boats are piloted out from Valdez to where they're going or out beyond the west coast of Vancouver Island. They have learned from that terrible experience, and we will learn from that terrible experience as well.

• (1640)

I would also point out, because economics have to play a role here, that the carriage of oil continues from Alaska. Alaska is one of the wealthiest states in the union. They pay no income tax in Alaska, and each Alaska citizen gets, on an annual basis, a remuneration cheque from the Government of Alaska based on oil revenue. They have managed their challenges.

There are a couple of other points, senators, that I wish to leave with you as you consider your response to this bill.

First is the data on oil spills. Nobody likes oil spills and nobody wants oil spills, but you need to know — and my source here is Dr. Kenneth P. Green, Resident Scholar and Chair in Energy and Environmental Studies at the Fraser Institute — the simple fact that the number and size of oil spills have fallen dramatically over the last decades. In fact, according to Transport Canada, there has only been one major oil spill in the last 20 years off Canada's West Coast. This is Transport Canada — only one spill in the last 20 years, and it happened when the *Queen of the North* ferry sank with 240 tonnes of oil. It was not an oil tanker; it was a ferry run by the Government of British Columbia. So you need to know that that happened. It's the only one in 20 years, according to the Government of Canada. If that had been an oil tanker, had been double-hulled and had the precautions I've already indicated as existing in Alaska, it's unlikely that would have happened.

My colleague also informed this chamber of the opposition that First Nations have to this ban. My research tells me that the chief's council, which represents over 30 communities engaged in the First Nations-led Eagle Spirit Energy corridor, are opposed to the ban, as is the Lax Kw'alaams; the Gwich'in Nation; Aboriginal Equity Partners, which represents 31 First Nations chiefs and Metis leaders; as is Eagle Spirit Energy Holdings Ltd.; and as is the Nisga'a Lisims Government. These are the very nations that stand to benefit from economic development in northern British Columbia and that are being denied that opportunity.

I referred earlier, honourable senators, to a letter provided to the Prime Minister of Canada by the Nisga'a Lisims Government dated April 4, 2017, directed to the Prime Minister. It has been provided to me by the nation. I'm going to quote from the conclusion, and I'd be happy to provide this to anyone who is interested. The conclusion reads:

> We —

— being the signatory of the letter, who is Eva Clayton, the president of the government —

> — have attempted on many occasions since the November 29 announcement to persuade Minister Garneau and your Cabinet colleagues to continue with the process of consultation on this immensely important initiative and to preserve the opportunity for the Nisga'a Nation, coastal First Nations and local communities to work with your government to build a strong economy on the north coast without compromising the environment, our culture or way of life. But at no time since the November announcement have we been given the slightest indication that your government is prepared to pursue consultations or to continue the dialogue that we commenced last summer.
>
> We regret that on this issue that has such immense implications to the Nisga'a Nation and to all Canadians, your government appears poised to proceed —

— without further consultation with them.

> . . . your government will be slamming the economic development door shut for the Nisga'a Nation and the First Nations on the north coast —

— of British Columbia.

Honourable senators, I just cannot think that is a desirable goal.

Indeed, the federal Government of Canada, in its response to a call for input from the Government of British Columbia — B.C. called it their *Intentions Paper for Engagement: Activities Related to Spill Management*, the Government of Canada filed a brief. The summary points of the brief from the Government of Canada to the Government of British Columbia are, one, the Government of Canada says it has invested heavily over the last number of years in better understanding oil spills and the behaviour of diluted bitumen in water.

Importantly, two, federal research has found that "diluted bitumen behaves similarly to conventional crude oils" in the unlikely event of a spill. That is an important point, because it is widely suggested that diluted bitumen, which is the product from the oil sands, behaves differently in water and is less likely to be cleaned up. The Government of Canada is saying, "No, that's not the case."

Finally, the Government of Canada tells us that the marine spill prevention regime has been highly effective in responding to any marine pollution incidents in all regions of Canada. The Government of Canada itself is saying that we should not be concerned about our ability in the unlikely but terrible chance of any kind of spill.

So I would say to you, senators, when you consider how to vote on this matter that this ban is not based in science. I think there's no adequate consultation. I think others share that view, including the very people who should be consulted.

There is no other oil tanker ban in the world. When you strip away all the rhetoric and all the disguises, this is legislation aimed at capping the ability of product from Canada's oil sands to safely and responsibly get to markets.

I urge you, senators, to consider these points when you decide how to vote on this legislation. Thanks very much.

The Hon. the Acting Speaker: Senator Mockler, do you have a question?

Hon. Percy Mockler: I have a question.

The Hon. the Acting Speaker: Your time is almost expired. Are you asking for five more minutes, Senator Black?

Senator D. Black: Yes, that's fine.

The Hon. the Acting Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Mockler: I will be short.

Since the honourable senator has quoted from a letter that he shared with us in this chamber, would he table the letter so it could be distributed to all senators for factual information?

Senator D. Black: Absolutely.

The Hon. the Acting Speaker: Senator Black, I understand you'll need leave to table the letter.

Is leave granted?

Hon. Senators: Agreed.

Senator D. Black: Thank you.

(On motion of Senator Martin, debate adjourned.)

[*Translation*]

BILL TO AMEND CERTAIN ACTS AND REGULATIONS IN RELATION TO FIREARMS

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.

Hon. René Cormier: Honourable senators, I rise today to voice my support for Bill C-71 and share with you my thoughts on it, particularly with regard to licensing.

[*English*]

Human beings focus on what we value. We spend our time on the things we value the most.

[*Translation*]

That quote is from *Stop C-71*, a guide that you are all no doubt familiar with. It is inspiring since I truly believe that our thinking should be guided by both the objective analysis of statistics and studies that show the importance of gun control and the desire to protect that which we cherish most, our fellow citizens.

On January 3, 2017, 10 years after his return from Afghanistan, Lionel Desmond, a 33-year-old veteran, tragically took the lives of his wife, daughter, and mother before taking his own life with a gun. That act is extremely sad in and of itself, but the story surrounding it is even sadder. This veteran, who was based in Gagetown, New Brunswick, was suffering from severe post-traumatic stress and depression after his deployment to Afghanistan in 2007. The people around him and his superiors were aware of his mental state.

In late 2015, Mr. Desmond's wife contacted New Brunswick law enforcement because her husband had told her he was planning to commit suicide and was in possession of a firearm. However, less than three months later, this man applied for, and

was again granted, a licence. His application included a medical certificate stating that he was no longer a danger to himself or to others, in spite of his medical history. Mr. Desmond attempted to overcome his mental health issues by checking himself into the hospital for treatment in the summer of 2016, but just two days after asking for help at St. Martha's Regional Hospital on January 1, 2017, he went on to commit this tragic act.

• (1650)

[*English*]

An investigation was ordered in May 2018 to look into the circumstances of this event. One of the goals of the investigation will be to understand why this man was able to get his licence less than three months after the authorities were alerted to his suicidal thoughts. Why was he able to keep that licence in spite of the treatment and care he needed during 2016?

Some may see this tragedy as a heinous crime. Personally, I see it more as a human tragedy that is unacceptable in our society, one that created four victims and four wasted lives, not forgetting the family and friends of each of the victims. It is a tragedy that we must try to prevent by enacting much more effective gun control legislation.

[*Translation*]

That is not unique in and of itself, but it shows just how complex the debate surrounding gun control is, given the many parameters that must be considered and the many sectors of society that have a stake in the matter. This story is further statistical evidence of an alarming situation that has already been described by a number of my colleagues. I must admit that I was shocked by the statistics. According to Statistics Canada, of the 738 deaths caused by firearms in Canada in 2016, 77 per cent were the result of self-inflicted injuries. In 77 per cent of deaths, crime was not the main factor, but rather human distress, mental health problems and vulnerability.

That is why I applaud the amendments to the Firearms Act made in Bill C-71, especially those that expand the background checks required to get a licence. This will allow for checks going further back than the initial five-year period.

This provision provoked some strong reactions, as many people feared that youthful misdeeds that led to criminal charges would prevent them from getting a licence. However, under the Youth Criminal Justice Act and depending on the offence committed, once the access period is over, the youth record is destroyed or sealed. Accordingly, unless the individual commits another crime as an adult, the information in the record remains inaccessible, even in the case of a background check under the Firearms Act.

As we all know, there is more to a person's background than a criminal record or the absence thereof. "Threatening conduct" and medical history criteria are crucially important parts of a person's verification prior to being granted the privilege of possessing a firearm. I want to emphasize that, here in Canada, owning a firearm is a privilege, not a right.

[*English*]

Many witnesses who appeared before the House of Commons Standing Committee on Public Safety and National Security talked about gun control as being as much a question of public health as of public safety, and I join them in that today.

It is obvious that no legislative amendment alone can eliminate all the problems associated with mental health and firearms suicide. We must therefore adopt mechanisms that will ensure effective collaboration and co-operation among all agencies concerned, whether it is emergency services, hospitals, social services or others. Co-operation and information sharing will ensure that the verification done for issuing or revoking a licence is effective. This will prevent vulnerable individuals with mental health issues from having access to firearms.

[*Translation*]

This prompts me to highlight Anastasia's Law, which came into force in Quebec in 2008 and compels professionals, teachers and anyone working in designated institutions to notify authorities when they have reason to believe that a firearm is on the premises. Furthermore, it authorizes professionals such as doctors, social workers, psycho-educators and psychologists to disclose information that is subject to client confidentiality when that information is needed to notify the authorities that a person's behaviour suggests that they will harm themselves or others with a firearm.

Although this legislation was passed by Quebec in an area falling within its jurisdiction, it could certainly serve as a template. In its twenty-fourth report, the House of Commons Standing Committee on Public Safety and National Security recommended that the Minister of Public Safety work with the provinces and territories to determine when health care professionals have a "duty to warn" that an individual is a danger to themselves or others.

The purpose of subsection 5(2) of the Firearms Act, as amended by Bill C-71, is not to crack down on all firearms owners. Let's be clear. This is not about preventing someone who suffered from depression ten years ago from owning a firearm for hunting. Each application will be evaluated individually, and evaluations will take into account both the general and specific characteristics of an applicant's diagnosis.

The committee that studies this bill will be able to help us understand how the "duty to warn" principle should apply and identify which complementary measures the government should implement from a prevention standpoint and to support vulnerable individuals.

[*English*]

Second, the tragedy I have described also highlights the connection between gun control and spousal or family violence. The importance of this issue has been clearly laid out by our colleague Senator Miville-Dechêne in her speech.

This is one of the investigation questions surrounding the tragic act committed by Mr. Desmond to be examined: Whether the family members were given the help they needed in relation to spousal violence. We will wait for the results of the investigation to tell us more on that specific issue.

However, connections between the presence of a firearm and violence in the family home can be drawn based on certain data available at present.

A New Brunswick study of spousal homicides or homicides followed by suicide showed that 46 per cent of those homicides were committed by firearms and these crimes were more widespread in rural locations than in urban areas.

[*Translation*]

The results of another study conducted by a research team at the University of New Brunswick show that the normalized presence of firearms in family homes in rural New Brunswick and Prince Edward Island contributed to reducing the perception of firearms misuse. As a result, the public becomes desensitized to situations of abuse and violence against women, children, and animals involving firearms, or because of the presence of firearms in the home.

The study also found that in a home that exhibits characteristics of domestic violence, the mere presence of a firearm can reduce women to silence even if the threat is indirect. These arms contribute to maintaining a climate of fear and intimidation in the home. In all these situations, the overall socio-economic and socio-cultural context of the home has to be taken into consideration.

In order to address the issue of domestic abuse, Bill C-71 would deny licences to applicants who are or have been subject to an order to protect the safety of another person. The same goes for a weapon prohibition order in relation to an offence where violence was used, threatened or attempted against the applicant's intimate partner. These new provisions will certainly prevent many tragedies and will remove, in part, one stress factor from families living in constant fear and under constant threat.

As some colleagues have pointed out, we are not denying that gangs are a problem, especially in some of our country's urban areas. This is not about pitting urban areas against rural ones. That said, as Senator Gagné pointed out, the numbers clearly show that gun-related safety issues are more prevalent in rural areas. We need to continue examining this issue to understand the realities in rural areas so that we can help prevent crime, while remaining sensitive to the role firearms have in Canadians' lives.

People in the regions often believe themselves to be immune to such events, but between 2013 and 2017, there was a 56 per cent increase in gun-related violent crimes in New Brunswick alone. Everyone should be concerned by this.

[*English*]

As we know, recently four of our fellow Canadians lost their lives to gunfire.

In 2014 in Moncton, Constables Douglas Larche, David Ross and Fabrice Gévaudan were gunned down in the street.

• (1700)

The common denominator in these two incidents is that the assailants were in possession of a licence and a legally obtained weapon. Firearms licences were issued to people who should never have had the privilege to obtain them.

[*Translation*]

Many of the provisions of Bill C-71 that have already been mentioned would definitely have a positive impact, not only by reducing the crime rate, but also by mitigating the dangers associated with guns being in the hands of vulnerable individuals. That being said, we must not overlook the screening that needs to happen earlier in the process to prevent these incidents from happening, such as analyzing applicants' online behaviour. It might be challenging, but we need to be able to detect the early warning signs that an individual is planning to commit an irrevocable act. For instance, the Moncton shooter had developed a fascination with weapons and a bitter hatred for police. Other attackers have had a history of advocating violence online. Anyone who witnesses threatening or troubling behaviour is urged to contact authorities and cooperate fully.

The committee that will be studying this bill will certainly hear from qualified witnesses who have the expertise to break down this bill's technical dimensions for us. I hope the committee will keep the issues I raised today in mind and will be able to answer these outstanding questions.

Esteemed colleagues, I support this bill because, in my humble opinion, it is a step in the right direction for protecting Canadians and for public health. I hope my speech has inspired each and every one of us to reflect on what we value most, our families and our communities, and on the best way to protect them. As Senator Dalphond so eloquently stated, if this bill saves the life of just one person or prevents just one person from being injured, it will have achieved its purpose.

[*English*]

I forgot to tell you that a few days ago a man opened fire in a big-box store in Miramichi, before turning his firearm on himself, following a police car chase. His mother is devastated. Today, honourable senators, my thoughts are for her. Thank you.

[*Translation*]

Hon. Raymonde Gagné: I have a question for my colleague Senator Cormier.

The Hon. the Acting Speaker: Senator Cormier, are you prepared to accept a question?

Senator Cormier: Yes, of course.

Senator Gagné: Honourable colleague, thank you for your speech, during which you spoke of the relationship between gun control and mental health. At the end of your speech, you suggested that the committee study complementary measures the

government should implement from a prevention standpoint and to support vulnerable individuals. Can you tell us more about the measures you propose?

Senator Cormier: Thank you, senator —

[*English*]

The Hon. the Acting Speaker: Senator Cormier, your time has expired. Would you like to ask for five minutes?

Senator Cormier: Yes, five minutes, please.

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

Hon. Senators: Agreed.

[*Translation*]

Senator Cormier: Obviously, I am not an expert in the field, but I think the federal government needs to work very closely with the provinces and territories in promoting this bill, as suggested in certain situations, to see how to best take into account the social conditions in which people apply for a licence. In the federal-provincial relationship, how can we effectively ensure, on the ground, that there are mechanisms in place to detect potential problems? Part of that, of course, is education, awareness and communication, but collaboration is also needed, because it would allow schools or hospitals, for instance, to communicate immediately with law enforcement in the event that potential problems are detected.

You raise an important point, and I think it needs to be at the centre of the committee's deliberations.

[*English*]

Hon. Mary Coyle: Thank you so much for your very interesting and disturbing presentation, Senator Cormier.

Lionel Desmond, who you made reference to, is from my area, and the family members are very close to many of us in the community; so it touched me.

In its brief to the other place, Women's Shelters Canada stated that it applauds the government's efforts to tighten and toughen licensing and screening provisions in Bill C-71. Given the research that you've done, and also the research of others and the speeches we've heard before, do you agree with Women's Shelters Canada, an organization that brings together 14 provincial and territorial shelter organizations representing over 400 shelters across Canada, that, in their view, this bill will better protect women? There were three women killed in that particular incident — a wife, a mother and a daughter.

If you believe it will do that, how do you think it will protect those women?

[*Translation*]

Senator Cormier: Thank you for the question, senator. The New Brunswick Silent Witness Project has been in place for many years. It is a travelling exhibit of women's silhouettes made of wood. A picture of the victim's face can be added to the silhouette. Unfortunately, the exhibit is growing. Among the victims, there are many New Brunswick women who have been killed with a firearm.

I believe that the answer to your question is that, of course, this bill will help, but I also believe that there is very important work to be done to stop normalizing the presence of firearms in our communities. In rural areas, for example, where people go hunting — and I absolutely respect those who hunt legally — there are firearms present and this somewhat normalizes guns in our culture. When used to harm someone, these firearms are quite horrific.

I believe that there is a lot of work to be done with respect to awareness, communication and education. The bill may not address this aspect, but in our education system and our schools we must raise awareness of this issue among the young and the not-so-young.

[*English*]

Hon. Tony Dean: Thank you for drawing our attention to the rural aspects of firearms-related violence. In your view, does Bill C-71 address, and is it responsive to, approaching the risks of harm associated with firearms violence in rural communities?

[*Translation*]

Senator Cormier: Thank you for the question, senator. As I clearly stated in my speech, I think that this bill is a first step in that direction. I do not believe that it seeks to penalize people in our rural communities who use firearms legally and safely for hunting. I believe that this bill — and there should be no confusion on this — seeks to keep the public safer, especially women and children in the context of domestic violence.

(On motion of Senator Martin, debate adjourned.)

(*At 5:09 p.m., pursuant to the orders adopted by the Senate on February 4, 2016, and October 31, 2018, the Senate adjourned until 1:30 p.m., tomorrow.*)

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