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(HANSARD)

Tuesday, December 4, 2018

The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Tuesday, December 4, 2018

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

Prayers.

SENATORS' STATEMENTS

THE LATE KIM RENDERS

Hon. Mary Coyle: Colleagues, the flags were lowered to half mast on July 17 at the National Arts Centre in Ottawa and on July 19 on the campus of Queen's University to honour the passing of an iconic Canadian artist, a brilliant pioneer in Canadian theatre, a beloved professor, a relentless and creative challenger of the patriarchy: Kim Renders.

Kim was my high school friend, that person who was clearly otherworldly in her talents, whom our schoolmates and I loved and admired. Her Dominion Drama Festival Award-winning performance in the play "Chamber Music" — Kim was Joan of Arc — was an early harbinger of what was brewing inside this uniquely creative woman. Always a trailblazer, in 1979 Kim was a founding member of Nightwood Theatre, the oldest professional feminist theatre company in Canada. A writer, director, actor, musician and designer, Kim Renders worked in Toronto at the Factory Theatre, Tarragon Theatre, Canadian Stage Company, Volcano Theatre, Theatre Direct and Nightwood.

Kim performed and directed at theatres from coast to coast, from the Belfry Theatre in Victoria; the Royal Manitoba Theatre Centre; the Grand Theatre in London; the Grand Theatre in Kingston; the Universities of Guelph, Waterloo and Queens; and the LSPU Hall in St. John's, Newfoundland.

Her one-woman show, "Motherhood, Madness and the Shape of the Universe," was performed across Canada and Britain, and was adapted for CBC Radio. Kim Renders was made an honorary member of the Canadian Association for Theatre Research, and was awarded the Maggie Bassett Award by Theatre Ontario for distinguished service in 1995.

"Go to that place that terrifies you. Stand there and breathe. And then dismantle that terror piece by piece." That is what Kim Renders taught and challenged her adoring students to do at Queen's, and the Universities of Guelph and Waterloo. Kim was always breaking down internal and societal walls, whether she was working with inmates in a federal correctional institution or the Chipped Off Performance Collective, a feminist, queer company that brought together local artists and community groups in Kingston.

Kim Renders described herself as an optimist misdiagnosed as a pessimist. Kim was a fierce crusader. Her drive to make a difference was contagious. Tove Jansson said:

> A theatre is the most important sort of house in the world, because that's where people are shown what they could be if they wanted, and what they'd like to be if they dared to and what they really are.

Kim understood the power of live theatre. Kim's dear family, her awestruck friends, her beloved students and the greater theatre community will remember this female force of nature as one of a kind. As her obituary states, "Kim Renders will be remembered for her art, her fire and the impact she had on all of us that were lucky enough to know her." I'm so glad I was one of the lucky ones.

Hon. Senators: Hear, hear!

[*Translation*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Sister Rachelle Watier, SCO, who is accompanied by Robert and Daniel Niesing and Anne Sirois-Niesing. They are the guests of the Honourable Senator Forest-Niesing.

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

Hon. Senators: Hear, hear!

[*English*]

UKRAINIAN FAMINE AND GENOCIDE ("HOLODOMOR") MEMORIAL DAY

Hon. Donald Neil Plett: Colleagues, last Friday, I was privileged to take part in an event commemorating the eighty-fifth Holodomor genocide.

Hosted by Sisler High School in Winnipeg, this annual commemoration event began in 2009 under the leadership of teacher Orysya Petryshyn, and has since been held every year.

As you know, Holodomor was a horrific tragedy, a genocide of the Ukrainian people by starvation carried out by Joseph Stalin in 1932 and 1933. Many of my relatives were among the millions of people who died in that genocide.

Today, colleagues, I would like to read a poem commemorating Holodomor, which was written in 2009 by Mila Panaskevich and recited by her at the Sisler High Holodomor

commemoration on Friday. Mila dedicated this poem to her grandmother, Hanna Panasyuk, a Holodomor survivor. It is called the "Unspoken Truth," by Mila Panaskevich.

The hardship of their tragic past was always left untold
Controlled by one man Joseph Stalin, all were afraid to let the truth unfold.
Millions were imprisoned, innocent people in Ukraine
For Stalin had ordered the whole nation to be part of his killing game.
One decision of this man let people suffer and starve in 1932
No choice to leave, to flee, get away, strength and bravery in people was all that was left to do.

• (1410)

Among these people was my grandma, a free-spirited little girl.
A ten-year-old wanting to know: who would do such a bad thing in this world?
Not the only one to misunderstand why it must be this way,
Why innocent lives were taken until there were none to take away.
To eliminate the people was the Soviet party's goal,
To erase their culture, belief, ideas, that gave the Ukrainian nation its soul.
Some did live through this tragedy that ended in 1933,
But they were not allowed to share their story in the times of the Soviet Union regime.
And in the recent years the world has come to know,
That the Holodomor, not only a mass murder, but a genocide was grown.
Many stories already gone with the people that were left behind,
But we can now commemorate those that suffered the horrid times.
We will remember all the children, all the hard-working people we'll cherish.
We will remember all the innocent lives that weren't ever meant to perish.
We will let our knowledge help us to prevent similar tragedies in our world,
For all we need to peace to keep us sustained and not in peril.

Thank you.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the north gallery of Susan Hardie, Laurie Paquet and Marc-Antoine Fleury. They are the guests of the Honourable Senator McPhedran.

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

Hon. Senators: Hear, hear!

DISABILITY RIGHTS

Hon. Marilou McPhedran: Honourable colleagues, in 1992 the UN proclaimed the International Day of Persons with Disabilities:

> . . . to promote the rights and well-being of persons with disabilities in all spheres of society and development, and to increase awareness of the situation of persons with disabilities in every aspect of political, social, economic and cultural life.

I rise to salute local, national and international leaders in disability rights, beginning with our own senators Chantal Petitclerc and Jim Munson. Please join me in welcoming leaders Bonnie Brayton of Dawn Canada, Roberto Lattanzio of the Arch Disability Law Centre, Jewelles Smith of the Council of Canadians with Disabilities and Christine Switzer and Susan Hardie of the now former Canadian Centre on Disability Studies, based in Winnipeg, which launched its new all-lingual name, Eviance, today.

Yesterday, at the groundbreaking conference co-hosted by Eviance and the Arch Disability Law Centre, Minister Qualtrough announced Canada's accession to the Optional Protocol to the Convention on the Rights of Persons with Disabilities after years of advocacy by disability rights activists.

[*Translation*]

We also welcome Marc-Antoine Fleury, with his JACO arm, which was created for him by Kinova, and Laurie Paquet from Kinova, also the creators of the Canadarm.

This year's theme focuses on the inclusion and equality of persons living with disabilities. Women living with a disability are the most vulnerable in times of war and conflict, since they face triple discrimination because of their intersectionality. Women and children with disabilities are among the most affected victims of conflicts.

[*English*]

No one knows better than those on the front lines of communities in conflict how disability exponentially increases risk, too often with fatal results. This past weekend, I was in New York for a board meeting of the Global Network of Women Peacebuilders with board colleagues from South Sudan, Nepal, Jordan and the Philippines.

We received reports on the GNWP program, Young Women for Peace and Leadership, pioneering peace literacy in communities in the Democratic Republic of the Congo and in refugee camps for Rohingya in Bangladesh and for South Sudanese in Uganda.

The leader of the Young Women for Peace and Leadership in South Kivu, DRC is Ariane Moza, who lives with a visible disability and is working to bring down the many barriers exacerbated by the conflict in the DRC.

Colleagues, every example I've given is backed by visionary courage and the determination to enable people living with disabilities to actually live their rights.

Thank you, *meegwetch*.

THE LATE BRENDAN O'GRADY

Hon. Michael Duffy: Honourable senators, I rise to pay tribute to an eminent Islander, Professor Brendan O'Grady, who passed away last week at the age of 93.

Brendan O'Grady was born in New York, the son of Irish immigrants. He grew up with a profound appreciation for the value of education. He graduated from the University of Notre Dame with a Bachelor's Degree in English Literature and went on to earn a Master's Degree at Columbia and a PhD from the University of Ottawa.

In 1948, Professor O'Grady answered the call to teach at St. Dunstan's University, which is now the University of Prince Edward Island. He was a popular and well-respected teacher. His most enduring scholarly project was his book *Exiles and Islanders*. Published in 2004, this is the definitive account of the Irish settlers on Prince Edward Island.

The book is a true labour of love and was an adventure in research and writing the professor shared with his wife, Leah. *Exiles and Islanders* provided future generations with a road map to our past. After all, we can't know where we're going as a people if we don't know from where we've come.

In 1990, he was awarded an honorary degree by UPEI in recognition of his scholarly work. In 2012 I was honoured to present Professor O'Grady with the Queen's Diamond Jubilee Medal marking his long career as an educator and scholar.

Exiles and Islanders might be considered his gift to the Island that he adopted as home and that adopted him in return.

All Islanders are deeply indebted to Dr. O'Grady for his groundbreaking research and for his generous teaching of our history to generations of Islanders.

Today, we extend our thanks for his remarkable life. Our sympathies go out to Dr. O'Grady's family.

Thank you.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of a delegation of elders and chiefs from the First Nations of the Pacific Northwest. They are the guests of the Honourable Senator Harder.

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

Hon. Senators: Hear, hear!

THE LATE GEORGE H.W. BUSH

Hon. Percy Mockler: Honourable senators, I hope this citation will not take part of the seconds I have. It's a quote:

> To all of Canada, I salute you. Because we will always be friends. Always. Never can be driven apart.

Those were the words of former U.S. President George H.W. Bush at the 1999 McGill conference on the Canada-U.S. Free Trade Agreement, called Free Trade at 10.

[*Translation*]

I am certain that you, like me, were saddened by the news last weekend of the death of one of Canada's friends, former U.S. President George H.W. Bush.

[*English*]

Honourable senators, thank you for letting me share a true fishing story that a group of us had with President Bush on the great Restigouche River in 2002. As Minister of Intergovernmental and International Relations, Minister responsible for La Francophonie and Minister responsible for the Immigration and Repatriation Secretariat for New Brunswick, Premier Lord summoned me to his office and said:

> Can you put a team together in place for a fishing trip on the Restigouche at Larry's Gulch Lodge, the government lodge?

Honourable senators, lo and behold, the group would be comprised of President George H.W. Bush, Prime Minister Mulroney and Premier Lord. This three-day Atlantic salmon fishing trip in the great Restigouche River also included a round table with the businesses from North America that came from across Canada and the U.S.A. to partake in these discussions.

Honourable senators, I remember these evenings and going into late nights where the two strongest leaders of the G7 entertained us about the world order of things, reflecting on the world economies, different types of government, freedoms, the role of Canada and the U.S. within the challenges of world security, world health and the divide between the rich and the poor. We detected they were still concerned about the environment, climate change, new technologies and social disturbances within countries.

• (1420)

After this great evening around the table, someone said — and I could name him but I will not — that it could have been called the World Economic Forum on the Restigouche River in New Brunswick rather than in Davos, Switzerland.

President Bush loved chatting with the guys and telling them stories. He would also say, "Tight lines. We'll catch the king, the Atlantic salmon." The guys would love it and have a laugh. The

locals, the cooks and the maids all said, "He's like one of us." As an avid fisherman — in between attending the Restigouche summit — he would master his fishing rod with a tight line. Everyone would have a laugh and take pictures.

Honourable senators, President Bush was a genuine person, a husband, a father, a grandfather, a leader among leaders. Mr. Mulroney, no doubt, has lost a great friend. For Canada, he was synonymous with friendship, loyalty and a man of principle committed to a better world.

To the Bush family, on behalf of all honourable senators, please accept our condolences. We share your grief.

To you, Prez — he would love us calling him "Prez" — rest in peace, our friend George H.W. Bush, from the Senate of Canada.

ROUTINE PROCEEDINGS

BUDGET IMPLEMENTATION BILL, 2018, NO. 2

TWENTY-SIXTH REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON SUBJECT MATTER TABLED

Hon. Douglas Black: Honourable senators, I have the honour to table, in both official languages, the twenty-sixth report of the Standing Senate Committee on Banking, Trade and Commerce, which deals with the subject matter of Bill C-86, A second Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures.

(Pursuant to the order adopted on November 7, 2018, the report was deemed referred to the Standing Senate Committee on National Finance and placed on the Orders of the Day for consideration at the next sitting.)

FOURTEENTH REPORT OF TRANSPORT AND COMMUNICATIONS COMMITTEE ON SUBJECT MATTER TABLED

Hon. David Tkachuk: Honourable senators, I have the honour to table, in both official languages, the fourteenth report of the Standing Senate Committee on Transport and Communications, which deals with the subject matter of Bill C-86, A second Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures.

(Pursuant to the order adopted on November 7, 2018, the report was deemed referred to the Standing Senate Committee on National Finance and placed on the Orders of the Day for consideration at the next sitting.)

CUSTOMS ACT

BILL TO AMEND—TWENTIETH REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE PRESENTED

Hon. Gwen Boniface , Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Tuesday, December 4, 2018

The Standing Senate Committee on National Security and Defence has the honour to present its

TWENTIETH REPORT

Your committee, to which was referred Bill C-21, An Act to amend the Customs Act, has, in obedience to the order of reference of October 23, 2018, examined the said bill and now reports the same with the following amendment:

1. *Clause 2, page 3*: Replace line 18 with the following:

"collected under sections 92 and 93 shall be retained by the Agency for a period of not more than 15".

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

Respectfully submitted,

GWEN BONIFACE
Chair

(*For text of observations, see today's* Journals of the Senate*, p. 4143.*)

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

Senator Boniface: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(f), I move that the report be placed on the Orders of the Day for consideration later this day.

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

Hon. Senators: Agreed.

(On motion of Senator Boniface, report placed on the Orders of the Day for consideration later this day.)

PARLAMERICAS

GATHERING OF THE PARLAMERICAS PARLIAMENTARY NETWORK FOR GENDER EQUALITY, MAY 22-24, 2018—REPORT TABLED

Hon. Mobina S. B. Jaffer: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Parliamentary Delegation respecting its participation at the 10th Gathering of the ParlAmericas Parliamentary Network for Gender Equality, held in Port of Spain, Trinidad and Tobago, from May 22 to 24, 2018.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, pursuant to the motion adopted in this chamber Thursday, November 29, 2018, Question Period will take place at 3:30 p.m.

ORDERS OF THE DAY

CUSTOMS ACT

BILL TO AMEND—TWENTIETH REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the twentieth report of the Standing Senate Committee on National Security and Defence (*Bill C-21, An Act to amend the Customs Act, with an amendment and observations*), presented in the Senate on December 4, 2018.

Hon. Gwen Boniface moved the adoption of the report.

She said: Your Honour, the amendment adopted was to clarify that the retention period is not more than 15 years. This was a recommendation of the Privacy Commissioner when he appeared before our committee. It was adopted unanimously by the committee.

• (1430)

The Hon. the Speaker: Is there any more debate on the report?

Are honourable senators ready for the question?

Hon. Joseph A. Day (Leader of the Senate Liberals): We just received the report. Was there not a suggestion that we get some explanation of an amendment? Is that it? Is that the explanation?

Senator Boniface: Yes, it's actually a very simple amendment because it had to do with wording that said up to 15 years. The intention was to be not more than 15 years. The amendment reflects the exact wording that the Privacy Commissioner gave. We had officials there. They said it has no impact on the agreement or the bill and it actually assists with clarification.

Senator Day: Thank you very much for this, and since I've just received it, I see you had several observations in addition to that one amendment. But you would like us to adopt the report and then proceed to third reading at this stage; is my understanding correct?

Senator Boniface: That would be my wish.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

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

Hon. Mary Coyle: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(b), I move that the bill be read the third time now.

The Hon. the Speaker: It was moved by the Honourable Senator Coyle, seconded by the Honourable Senator Moncion, that this bill be read the third time now. On debate — sorry, Senator Day, did you have something to say?

Senator Day: I wonder if we could have an explanation as to why we're proceeding with such haste on this particular matter when we haven't had a chance to review the observations.

The Hon. the Speaker: Senator Coyle, obviously leave is needed in order to proceed right now. Did you wish to respond to Senator Day's question or shall I ask if leave is granted?

Senator Coyle: I would be happy to answer Senator Day's question before I speak. Why do we want to move to third reading today is the question.

Well, we are ready to move to third reading today. The critic of the bill is prepared and I am prepared. The report, which has just been submitted, has been agreed to and we see no reason not to proceed today.

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

Some Hon. Senators: No.

The Hon. the Speaker: Leave is not granted.

Honourable senators, when shall this bill be read the third time?

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

[*Translation*]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF EMERGING ISSUES RELATED TO ITS MANDATE

Leave having been given to revert to Notices of Motions:

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

> That, notwithstanding the order of the Senate adopted on Thursday, December 7, 2017, the date for the final report of the Standing Senate Committee on Energy, the Environment and Natural Resources in relation to its study on emerging issues related to its mandate be extended from December 31, 2018 to September 30, 2019.

[*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. Peter Harder (Government Representative in the Senate): Honourable senators, I rise to speak in support of Bill C-48, the oil tanker moratorium act. This bill would enshrine in law the long-standing moratorium on bulk shipments of crude oil along the northern coast of B.C.

At the outset, I would like to thank our colleague and friend Senator Jaffer for her sponsorship of this legislation and for her excellent second reading speech in June.

It's a delight to see you back in the Senate Chamber, Senator Jaffer.

Hon. Senators: Hear, hear!

Senator Harder: I would also like to recognize in the gallery, as His Honour has, our leadership from the coastal communities. I will be referencing their participation and views on this matter shortly.

I want to briefly describe the context of this government legislation before sharing with you a letter of support and justification from the First Nations leaders of the Pacific Northwest, some of whom we are honoured to have with us here today.

I would also like to describe the extraordinary and pristine ecosystem that Bill C-48 seeks to safeguard and the effects a major oil spill would have in a remote region where oil spills are more difficult to prevent and contain.

Let me start by saying that Bill C-48 is about formalizing an important and long-standing risk management policy for B.C.'s northern coast, based on appropriate ecological and geographic distinctions. As well, Bill C-48 balances strong environmental protection with opportunities for economic development, such as those described by Senator Cordy in her speech of yesterday.

The moratorium on crude oil shipments along the northern B.C. coast has been in place since 1985, with the voluntary tanker exclusion zone. The zone has been successfully and fully respected since its inception and was created in response to the completion of the Trans-Alaska Pipeline system in the early 1970s. The exclusion zone's status was further formalized in 1988 by agreement between the United States and the Canadian Coast Guards under then-Prime Minister Brian Mulroney and then-President Ronald Reagan.

In 1989, the *Exxon Valdez* oil spill in Alaska underscored the moratorium's importance, reminding the world that accidents can always happen, with that disaster covering 2,100 kilometres of coastline and 28,000 square kilometres of ocean with crude oil.

For decades, the voluntary exclusion zone has extended about 100 kilometres west of the islands of Haida Gwaii, covering an area from Alaska to the southwestern coast of Vancouver Island. The offshore range of the exclusionary zone was calculated based on the Canadian study of the worst possible drift of a disabled tanker, versus the time required for sufficiently powerful tugboats to respond and prevent a spill on the coast.

The long-standing effect of the exclusion zone has been that tankers servicing the Trans-Alaska Pipeline system between Valdez, Alaska and Puget Sound, Washington travel west of the exclusion zone. This is the status quo and, as I said, it has been in place since 1985 and it is, in fact, fact-based.

Bill C-48 complements the exclusion zone by formally banning the stopping, loading or unloading of crude or persistent oils from tankers from the northern end of Vancouver Island up to Alaska. The bill enforces this moratorium with penalties of up to $5 million.

An important point that I wish to emphasize is that the moratorium will not apply to vessels carrying fewer than 12,500 metric tonnes of persistent oils to provide for community and industry resupply. On this point, I recall that Senator Black of Alberta raised on debate the oil-carrying capacity of cruise and cargo ships to argue, I take it, that Bill C-48 is arbitrary. However, I would note for the record that cruise ships and cargo ships carry significantly less oil than this limit. For example, a relatively large cruise ship carries 3,200 to 6,400 metric tonnes of

oil for fuel. A Panamax container ship of average size in coastal B.C. waters would carry 4,800 to 6,400 metric tonnes of oil; again, about half of the limit proposed by Bill C-48.

By comparison, the largest tankers calling at ports in Canada have the capacity to carry 20 times more crude or persistent oil than would be allowed as cargo in northern B.C. under the moratorium. Again, for comparison, in the *Exxon Valdez* disaster, approximately 37,000 metric tonnes of oil spilled into the ocean — about three times the size of the limit!

• (1440)

Honourable senators, the facts confirm what common sense tells us: oil tankers can carry massive amounts of oil compared to the limit established by Bill C-48 and, therefore, pose a much greater risk of catastrophic oil spills if allowed in the affected region.

Risk of the probability of an event multiplied by the magnitude of its effect. More oil, more risk. Given the ecological importance of the region, the government's goal is to minimize risk, subject to the reasonable allowances for coastal communities I have described.

Honourable senators may be interested in Bill C-48's path to this chamber. In the 2015 federal election, the Prime Minister made a commitment to Canadians and, in particular, to those on the northern B.C. coast, to give the crude oil tanker moratorium the strength of law, if elected. The Minister of Transport's mandate letter reflected that commitment.

Bill C-48 subsequently passed in the House of Commons in May of this year with a vote of elected members of Parliament of 204 yeas to 85 nays. Support for the bill in the other place came from the government's majority caucus, as well as the New Democrat Party, the Green Party and the Groupe parlementaire québécois, comprising 67.4 per cent of the popular vote in the last election.

With this expression of public support and democratic will, I hope senators will advance Bill C-48 to committee soon and that senators will give due consideration to the fact this bill implements a major electoral commitment to Canadians.

Here in this place, I have been surprised by the arguments on second reading debate that have questioned the ecological importance of northern B.C.'s coastal ecosystems. As well, some senators have downplayed the risk of oil spills due to human error or mechanical malfunction as though the possibility was non-existent. Just last week, Senator Wells indicated his opposition to even the voluntary Tanker Exclusion Zone of 1985. With arguments being made on the floor to move backwards, I think this is all the more reason to move forwards.

Moreover, our debate has not reflected the strong support for Bill C-48 of the Indigenous peoples along the northern B.C. coast, who know best the region's inherent natural value and who must live most closely with the Senate's decision on this matter.

[Senator Harder]

With this in mind, I would like to add to the record a letter of support and justification for Bill C-48 from the chiefs and leaders of the northern B.C. coast, which I understand senators have received. I'd like to quote from the record and put it on our Senate Hansard:

> Dear Senator ...
>
> We are writing to honourable members of the Senate on a matter very important to all of us.
>
> We are the hereditary chiefs of the Allied Tribes of Lax Kw'alaams, the Chiefs and political Leaders of the Haida Nation, Metlakatla, Gitga'at, Gitxaala, the Heiltsuk Nation, Kitasoo-Xai'Xais, the Nuxalk Nation and Wuikinuxv, appeal to you, to stand with us 10,000 strong, as do the Canadians who live in the communities who care for and love the lands and marine systems of the northern B.C. coast as we do.
>
> We compel you to seize upon this opportunity to check the unbridled industrialization that is destroying this planet and provide safe passage of the Oil Tanker Moratorium Act through your esteemed house, that we all do right for the earth and for the following generations.
>
> The people of this time are witnessing the consequence and troubles we ourselves have reaped upon this planet. We can only imagine the struggles coming in the following generations should we fail to do what we can.
>
> Our Nations have worked with the Government of B.C. in setting aside natural areas and bringing logging to more sustainable levels to protect the natural balance. We are currently working with the Government of Canada to provide sustainable harvests in the seas and to conserve Marine Protected Areas. We entered into an historic Ocean Protection Reconciliation Framework Agreement with the Prime Minister in Prince Rupert in June 2018.
>
> Canadians have already celebrated the announcement of the oil tanker moratorium that would protect the jewel that is the Northern B.C. Coast. Within this region is the Great Bear Rainforest and the mystical islands of Haida Gwaii, known as the Galapagos of the north. A few of the species dependent upon the natural balance are the Spirit bears, Black Bears, Grizzlies, otters, marten and wolves. The richness of the marine life including humpback whales and Northern Resident Orcas, Pacific halibut, oolichan, herring, many species of shellfish and all species of salmon is a diversity as rare as any bioregion on the globe.
>
> These are not simply the lives with whom we cohabit; this is our identity and our culture.

We understand that governments are pressed by the costs of the services provided to the citizens they serve, including our own people. We also know that the issues of climate change have to be addressed in our villages right through to the international levels in breaking free of a fossil fuel based economy. We are giving our attention to developing economies that are sustainable and compatible with the natural systems that have looked after us for so long.

We know that the Senate has heard from people claiming to represent a unified voice in the North West, whose intention is to undermine the implementation of the moratorium. In our communities, we have seen corporate money dividing our families and reputations spoiled. We ask for an opportunity to speak with you, honourable members of the Senate, that any impressions of the will of our people are not based on the well-financed efforts of those who see only financial gain as their objective.

We hope a successful outcome and implementation of the tanker ban will bring our people finally beyond any fears and insecurity and to the place of knowing that the earth itself will continue to provide, not only for the people of the region, but far beyond as it has previously.

We cannot confuse self-interest with the responsibilities that we carry, nor can we confuse economic interests with the sacred trust that we, the Senate, and all persons of influence must observe, which is our duty to attend to the well-being of this planet and the legacy that we hand off to future generations.

Respectfully

Chiefs and Leaders of the Northern BC Coast

Represented in our gallery.

Honourable senators, if you hear these words as I do, this letter is a call to action. In this time of mass extinction and climate change, this letter is a reminder we all have an obligation to save what can be saved for the next generations. We must meet this challenge head on. For those of us fortunate enough to serve in this chamber, Bill C-48 represents just one such opportunity.

I would like to spend some time now describing the ecology of the area affected by Bill C-48. I know some senators have expressed skepticism about its relative natural value.

The Raincoast Conservation Foundation is a charitable research organization of conservationists and scientists that bases its work in peer-reviewed literature. According to the raincoast, coastal B.C. has the greatest biodiversity in Canada, and is quite unlike any in North America. About 44 of the 62 vertebrate subspecies and significant populations endemic to coastal B.C. occur on coastal islands; two thirds of the mammal species and subspecies found only in B.C. only occur near the coast.

All of the bird subspecies that breed only in B.C. do so exclusively on the coast. In addition, these habitats contain over 200 species of coastal birds, and more than 5 million seabirds use the B.C. coast for breeding, with 1.5 million alone on the islands of Haida Gwaii. Indeed, the Pacific north coast supports 95 per cent of the total breeding seabird population in B.C. More than 400 species of marine fish live off the coast. The region is home to three of five of B.C.'s major herring populations, 88 per cent of spawning rivers for eulachon in B.C.; and 58 per cent of spawning habitat for West Coast salmon in Canada. Over 25 species of marine mammals inhabit the coast, including whales, orcas, dolphins, porpoises, sea otters, seals and sea lions.

The Pacific north coast provides a crucial habitat for very rare and vulnerable species, with 39 of its species listed as threatened, endangered or of special concern by the Committee on the Status of Endangered Wildlife in Canada.

In 1987, in the deep waters near Haida Gwaii, scientists discovered 9,000-year-old glass sponge reefs thought to have died out 40 million years ago. Glass sponges are the world's oldest multi-cell organism. The reefs in this place can extend 18 metres in height from the sea floor and collectively cover an estimated 1,000 square kilometres.

• (1450)

The northern B.C. coastal region includes the Great Bear Rainforest, often referred to as Canada's Amazon. This is one of the world's largest remaining intact coastal temperate rainforests, representing one quarter of this habitat left in the world, which is found in only 11 regions globally.

The Great Bear Rainforest lands are veined by one of the world's last clusters of large, undammed wild salmon rivers, supporting spawning sites for all five species of wild Pacific salmon — that is, Chinook, sockeye, Coho, pink and chum. These rivers, in turn, flow into one of the world's most productive cold-water seas. In this rainforest, cedars can live for 1,000 years and grow to 70 metres in height. Sitka spruce can grow to 93 metres tall. Eighty per cent of the nitrogen in the trees growing along the salmon rivers comes from salmon nutrients, demonstrating the deep interconnectedness of the temperate rainforest with a marine ecosystem.

The predators that spread the fish about the forest include coastal sea wolves, which are unique to the region and genetically distinct from their inland cousins, as well as bald eagles, cougars, grizzly bears and Kermode, or "spirit bears," which are white variants of black bears, found almost exclusively in the Great Bear Rainforest. Their pale coats provide great cover against the sky and make them superior salmon hunters.

You might not have known this, but bears are my favourite animals, as you can see from my office. So I offer this knowledge to you as, shall I say, a bear fact.

Some Hon. Senators: Oh, oh!

Senator Harder: I know, I know.

Given this rich and unique diversity, the Great Bear Rainforest merits strong legal protections, which it has received provincially. Bill C-48 would now formalize existing federal protections against the risk of catastrophic oil spill.

On the Coastal First Nations' website, an excellent resource for those interested in this bill, you will learn that 85 per cent of the rainforest has been protected through the Great Bear Rainforest Act, passed by the provincial government in 2016. In Coastal First Nations' own words:

> Led by First Nations with government, environmental and industry sectors, this agreement ended 20 years of conflict and put 3.1 million hectares of coastal temperate rainforest off limits to industrial logging.
>
> The agreement formally protects 85 per cent of the coastal temperate rainforest on the British Columbia coast. It provides for government-to-government decision-making with the Province of BC and reflects a vision for healthy First Nations communities, a diverse sustainable economy and a protected rainforest.
>
> The Great Bear Rainforest is home to 74,000 square kilometres of coastal First Nations territory; ancient First Nations burial and cultural sites; old growth valley bottoms that sustain the most biomass of any terrestrial ecosystem on earth; and temperate rainforest that stores more carbon than any rainforest system in the world . . .

These centuries-old western red cedars and diverse ecosystem are dependent on the recurrent upriver migration of salmon.

In addition, senators, the Great Bear Rainforest is bounded by the Great Bear Sea, containing dense kelp forests and an abundance of marine life, including recovering populations of orcas, humpbacks and fin whales, the second-largest living creature on earth.

Of importance to Bill C-48, the northern coastal waters are among the most treacherous in the world, known for heavy weather, strong currents and rough, unpredictable seas. These features make cleaning up an oil spill even more difficult than further south, where conditions are calmer and response capacity is far greater, particularly being close to Washington State.

Honourable senators, Bill C-48 balances environmental protection with economic opportunity. That is why it is important to understand that the region's sustainable economy, particularly its fisheries and tourism, is intertwined with its ecology. Perhaps the economic benefits of strong environmental protection are why the municipalities of Prince Rupert, Kitimat, and the North Coast Regional District support Bill C-48.

As Senator Jaffer told this chamber in her speech earlier, the commercial fishery on the north coast of B.C. catches over $100 million worth of fish annually. Over 2,500 residents along B.C.'s northern coast work in the fishery, and the processing industry employs thousands more.

The West Coast wilderness tourism industry is now worth $782 million annually, employing some 26,000 people full time and roughly 40,000 people in total, in activities like sport fishing, whale-watching and sea kayaking.

Coastal First Nations indicate that they have been partnering with government, industry and other groups to develop non-traditional economic sectors such as renewable energy; carbon credits; ecosystem-based forestry management; ecotourism; non-timber forest products, such as essential oils; shellfish aquaculture; and commercial shipping.

Coastal First Nations are also engaged in the sustainable aquaculture of shellfish, particularly sea scallops, which are best suited to the cold, clean waters of the Great Bear Rainforest.

For example, in 2011, Coastal Shellfish, a commercial venture, was established with a multi-million-dollar investment in Prince Rupert. Commercial success followed in 2013 with the help of aquaculture experts from Chile. Since then, the company has expanded rapidly, with a goal to increase production from 500,000 to 15 million scallops per year. This hatchery has the capacity to support other First Nations' plans and has successfully spawned the giant geoduck clam, affording additional commercial opportunities in the future.

Honourable senators, what would a major oil spill do to this natural wealth and this sustainable economy, which has so much potential for growth?

With a major spill, immediately we would see catastrophic threats to endangered and rare species and populations, including fin whales, northern resident orcas, glass sponge reefs and Kermode bears. We would see loss and damage of habitats; wildlife population declines, particularly in the top predators and long-lived species; and the transformation of natural landscapes. Socially, we would see negative effects on human health and quality of life.

We would see shrinkage in the coastal economy and underemployment; we would see detrimental changes to the land and resource use by struggling communities; and we would see loss or serious damage to commercial species. Over time, this loss could figure in the billions of dollars.

However, senators, if we think about the damage of an oil spill purely in monetary terms, we should think again. The natural world has inherent value.

Consider that the *Exxon Valdez* oil spill killed approximately 250,000 seabirds, 2,800 sea otters, 300 harbour seals, 250 bald eagles, up to 22 orcas, and billions of salmon and herring eggs in and around Alaska's Prince William Sound. Two years after the tragedy, mortality rates of salmon eggs were 96 per cent higher than before the spill. Such a tragedy is so immense that the suffering and loss of wildlife populations and individual animals may be obscured.

Take orcas, for example. They tend to die in an oil spill by ingesting or inhaling oil, and are particularly vulnerable to spills due to their small populations, low reproductive rates, dietary specialization, long lives and complex social structures.

Two pods of orcas were devastated by the *Exxon Valdez* disaster. A pod of fish-eating resident orcas lost 14 of its 36 members. Another pod of 22 transient orcas — which are a distinct population and feed primarily on marine mammals — lost all females capable of breeding. Now, almost 30 years later, this unique population will soon die off as a result of a spill 30 years ago.

With the *Exxon Valdez* spill, both pods of orcas were spotted surfacing in the oil slick, and the transient orcas were sighted off the stern of the wrecked tanker as it gushed oil into the surrounding waters.

Oil spills on wildlife populations in the Pacific Northwest have varied, potentially deadly effects, including hypothermia in sea otters and fur seal pups, whose fur loses its insulation; skin lesions on dolphins and whales from swimming through oiled areas; eye irritation in all mammals; increased vulnerability to predators, particularly for seal pups and seabirds; starvation due to food insufficiency and contamination; the fouling of baleen in surfacing feeding whales, such as humpback and grey whales; weakened immune systems, creating vulnerability to parasites and bacterial pneumonia; lung congestion and organ damage; gastrointestinal ulceration and hemorrhage; anemia; and damaged mucous membranes.

As evidenced by the *Exxon Valdez* numbers, along with sea otters, seabirds are particularly devastated by oil spills. They die of hypothermia because oil reduces or removes the waterproofing and insulating properties of their feathers. They can also sink, unable to trap the air to stay buoyant, and they can starve, unable to dive for food. Their organs are damaged by ingested oil as they try to preen their feathers, and their reproductive capabilities become compromised, producing thin eggshells and dooming the next generation even before it is born.

• (1500)

As devastating as this is, these more visible tragedies put aside the cataclysmic efforts of a spill on salmon and herring reproduction and survival — the lifeblood of ecosystems like the Great Bear Rainforest. With the *Exxon Valdez*, the herring fishery in the Sound collapsed three to four years after the spill. Decades after the spill, oil remains on intertidal beaches and subtidal elements.

Honourable senators, I find these effects hard to describe. Yet these are the effects of a major oil spill in an ecologically rich and pristine area like the northern coast of B.C. The need to minimize the risk of a disaster like this drives Bill C-48, the oil tanker moratorium act.

As the letter from the chiefs and leaders of First Nations from the Pacific Northwest tells us, we must remember what we as senators and as Canadians hold in precious trust for future generations. We must meet a greater challenge of our time — to protect the environment that is in peril and to think of those who will come in the future as much as we think of ourselves. With Bill C-48, this is what Canadians have asked us to do and what we ought to do. Now is the time.

[*Translation*]

Hon. Renée Dupuis: Would Senator Harder accept a question?

Senator Harder: Of course.

Senator Dupuis: I listened carefully to your speech. If I understand correctly, you are asking for leave of the Senate to table the letter of support addressed to the chiefs of First Nations from the northern coast of British Columbia.

Senator Harder: I quoted the letter, but it has not been translated into French. I could table it now and request translation after the fact.

The Hon. the Speaker: Leave of the Senate is needed to table the letter.

Honourable senators, is leave granted?

Hon. Senators: Agreed.

Senator Harder: I therefore table the letter.

[*English*]

Hon. David M. Wells: Thank you, Senator Harder. Would you take a question?

Senator Harder: Of course.

Senator Wells: Were you expecting my question?

Senator Harder: I'm always expecting your questions.

Senator Wells: I won't get into whose coast is more pristine or biodiverse or beautiful or important. You've stated that the Government of Canada's position is that the West Coast of British Columbia is that.

Senator, did you seek letters of support from the unemployed petroleum workers of Alberta or those communities who are disadvantaged because of the low price of oil due to the stranding of one of Canada's most valuable natural resources?

Senator Harder: Honourable senator, the purpose of my speech today is to make the case for this bill, which, as I repeat, puts in legislation a moratorium that has been respected by all governments of Canada up to now since 1985.

The case for the need for legislation is made stronger by the comments made by, frankly, you and other senators who oppose this bill. It is not my task to make the case against the bill. That is your task.

Senator Wells: Thank you, Senator Harder. I have another question. Would you take it?

Senator Harder: Absolutely.

Senator Wells: Because of the reasons you gave — the important Indigenous communities, which we all recognize and respect in Newfoundland and Labrador, also in Nova Scotia and New Brunswick, the humpback whales and, of course, the minke whales; there is much marine biodiversity there — would you be in favour of a similar tanker ban in Placentia Bay or anywhere else on the East Coast of Canada?

Senator Harder: Again, senators, the moratorium developed in 1985 was done in consultation with the communities affected, the stakeholders, the Governments of Canada and British Columbia, and, as I noted, in agreement with the United States. Should there be such a consensus on the needs of the East Coast, of course, we should consider that, but at this point, I have not heard that there is such consensus or, frankly, a need as acute as the one I've just described.

Senator Wells: Senator Harder, I have one final question. If the voluntary ban has been successful since 1985, given the new technologies that have come in since then, such as double-hull tankers, vessel monitoring systems and satellite tracking, why put in a legislative ban?

Senator Harder: By your own words, senator, you, on behalf of your party, have said that you oppose the voluntary ban. Surely, it's incumbent upon us working with the stakeholder and the community groups to ensure that legislation as opposed to a voluntary moratorium is a stronger statement of the will of Canada and is absolutely necessary in the face of your stated position.

Hon. Mobina S. B. Jaffer: I have a question for you, Senator Harder. First of all, thank you for your compliments about my speech. I appreciate that.

You have spoken about all the pristine species and everything, but this morning you and I were at a meeting with the community, and what hit me really hard was the impact on the people in this area. Can you explain to senators what you heard about the tremendous impact it will have on the people themselves?

Senator Harder: Thank you, senator. I do know that there are other briefings with Senate groups across and around the chamber, so I hope there is an opportunity for senators to participate in further interaction with the elders and the elected chiefs.

What we heard from the elected chiefs were the consequences of even small oil spills. There was an oil spill, I believe, two years ago in October 2016, proximate to a shellfish breeding harvesting area that destroyed and has now closed that fishery for over two years. It will be going into the third winter. That is a winter fishery.

There were other examples cited of smaller oil spills that have had consequence.

What I've described is the consequence of a great oil spill and the impetus for us all to take substantial action.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: Honourable senators, since we are at second reading stage, I think that we should look at all aspects of the bill, both positive and negative.

After working for almost 15 years as a senior official at Environment Canada, I would argue that there needs to be a balance in every bill, and I do not think that this bill strikes a balance.

Honourable colleagues, many senators and I have serious concerns about this bill. Today, my speech will focus on the impact this bill will have on Canada and will address the international context of the economy and natural resource development.

First, I would like to shed some light on the place of Canada's crude oil on the international market. As you know, the price of Western Canada Select, the type of crude oil produced in western Canada is plummeting. Right now, Western Canada Select is selling at a very low price compared to American crude oil, which means that a barrel of crude oil produced in Texas is selling for a higher price than a barrel produced in Alberta. Under the current government, the price gap between Canadian and American oil has widened dramatically.

Last week, Western Canadian Select was trading at $12 a barrel compared to $53 a barrel for American oil. That is a gap of $41 a barrel.

The reason for that gap is the location of our extraction sites, which are far inland, particularly in Alberta and Saskatchewan, making it difficult to transport our oil via pipeline toward the two coasts. Another reason is that it is hard to connect these pipelines to ports and maritime export routes. That makes it difficult for us to get our oil to international markets. We are forced to sell it to our only client, the United States, at a discount.

• (1510)

In an editorial published in the *Edmonton Journal* on November 29, Jason Kenney described the energy crisis that Albertans are going through. He wrote the following:

> We have struggled through four difficult years. Over 180,000 Albertans are still out of work. Unemployment has climbed for six straight months. We have seen near-record bankruptcies and insolvencies. People have lost their homes, and in too many cases, their hope.

The lower price for Western Canadian Select is a reality. It is a growing problem that is jeopardizing the economic future of certain regions of Canada and endangering thousands of jobs. Sooner or later, the other provinces will start to feel the effects of the economic slowdown happening in Western Canada.

Saskatchewan is another example. The provincial government estimates that it will lose $500 million a year in royalties. The province desperately needs money from energy exports to pay for its schools, hospitals and social services. This situation will also lead to less investment in Saskatchewan.

Why invest in an energy project when you know in advance you'll have to sell your oil at such a low price? We will probably never know the true cost of that discount because it is difficult to measure the impact of an unrealized investment, jobs that will never be created, and so on.

That brings me to another international aspect of Bill C-48: the ban that will completely block our oil's access to the biggest market in the world, the Asia-Pacific market, by closing the most logical energy export route.

Oil industry experts know that Bill C-48 will not solve the problem of low Western Canadian Select oil prices and that the situation will keep getting worse. Once the ban is enacted, it will become irreversible.

In a *Globe and Mail* article published on October 31, 2017, Martha Hall Findlay, a Toronto businesswoman, entrepreneur, lawyer and politician who is currently CEO of the Canada West Foundation, asked this very good question:

> Why a ban on specific tanker traffic along a specific section of Canada's West Coast when there are no similar bans on any traffic along any other Canadian coastline?

In other words, why introduce a bill that pits one region against another? Why legislate a ban for one region but not another?

In the words of Don Braid from the *Calgary Herald*, and I quote:

> But it's not a tanker ban at all. It's a product blockade. And most of the blocked products are from Alberta.

Senator Black, who studied the issue at length, is also concerned about this moratorium. This is a selective regional ban formalized through legislation. The simple act of enshrining this regional ban in legislation complicates the amendment process thereafter.

I know full well that there was a moratorium in the past. However, it is not necessary to tie it up in a legislative straitjacket that will complicate any amendment or repeal.

What is more, the bill contains no measure for reducing global greenhouse gas emissions. It will simply increase the flow of wealth, jobs, and tax revenues to the United States to Canada's detriment, because our neighbours to the south are still able to get energy projects up and running. They are also able to transport their oil to global markets using not only pipelines, but also safe and effective shipping lanes.

Our federal government seems to disagree with the very idea of the oil industry. First, it buys a pipeline for $4 billion, and then it stops resource development in a Western province. It is doing everything it can to undermine our oil companies and force our capital out of the country.

With this in mind, we must consider the global context, which evolves independently of our government. The economies in Asian countries are firing on all cylinders. These countries have lifted millions of people out of poverty. To sustain this development, they need more and more oil. The International Energy Agency estimates that by 2040, in 20 years, oil consumption will increase by 4.1 million barrels a day in China and by 6 million barrels a day in India. That amounts to more than 10 million additional barrels per day in the Asia-Pacific region in just 20 years.

The agency also predicts that in 2040, the global demand for oil will have increased by more than 10 million barrels a day compared to 2015. Let's be clear: Those countries will buy their oil elsewhere, from allies such as the United States or Norway but also Iran, Venezuela and Russia, countries that do not meet the high standards in environmental protection and labour conditions that we have in Canada, and whose regimes oppress the population and support dictators.

I want to raise the example of Norway, which is quite interesting because it is a country that is often cited and admired by Canadians. As everyone knows, Norway's oil production sites are located in the North Sea, in very environmentally fragile places. That country is the largest oil producer in Western Europe, and its production surged in October 2018. According to the OECD, the accumulation of oil revenues has put Norway in a financial position that enables the country to act quickly to stimulate its economy and accelerate growth. We could replace that oil with Canadian oil, which would create jobs and wealth here at home, while eroding the revenues of dictatorships around the world.

Exporting oil to Asia through northern British Columbia would have a dual advantage for Canada in terms of domestic and foreign policy. We have a natural advantage because of our deep water ports in northern British Columbia. These ports, such as Prince Rupert, are well developed, safe and connected to sophisticated supply chains. They have far fewer natural hazards to navigation than many areas with a high volume of marine traffic, such as the Strait of Malacca, in Indonesia, which is a strategic route for the world's oil.

Canadian ports on the Pacific coast are also closer to Asia. For example, an oil tanker from Asia could reach Prince Rupert three days before arriving at the continental United States. Bill C-48 ignores all that. It goes against the national strategic objectives and the realities of the international oil market. It does not take into consideration the international standards that have proven to be effective in preventing marine incidents. It sacrifices several billions of dollars and thousands of jobs. It seems to be intended to inflict pain on Western Canada.

Colleagues, Bill C-48 is an unreasonable piece of legislation that will impede Canadian objectives for energy development. I trust that we will carefully study the bill and consider all related aspects, both environmental and economic.

Thank you.

[*English*]

Hon. Mobina S. B. Jaffer: Will Senator Boisvenu take a question?

Senator Boisvenu: Yes.

Senator Jaffer: Thank you for your presentation. I appreciate what you had to say. Senator, you talked about the millions of dollars we will be losing if we look at this moratorium. Don't you think it is the time to listen to the communities in that area who are saying, "Give us the protection because that's part of our livelihood?"

[*Translation*]

Senator Boisvenu: Absolutely. I'm also factoring in the demands of Indigenous peoples, but I think we need to look at the oil production situation in Canada, where exports to the east are blocked because there is no pipeline. We also need to consider the environmental hazards of doubling the amount of oil transported by rail. We are set to go from 400,000 cars a year to 800,000 cars a year in 2022. This poses a risk to the environment and to public safety.

If you look at both of these aspects, I think the government needs to make a decision. This decision has to be made together with Indigenous communities, and everyone has to be aware of the potential benefits. As always, we have to look at whether this bill can really benefit Indigenous communities economically and whether it can benefit Canada.

• (1520)

Right now, the situation in Canada's oil sector is threatening our social programs and a whole revenue stream for the federal government and provincial governments. For example, Quebec currently receives $10 billion in equalization payments, but that could shrink by half because of gas prices. Provinces such as Quebec might be forced to make cuts to their social programs.

I think this bill ignores that balance, and that is dangerous.

[*English*]

Senator Jaffer: Thank you very much for your explanation. Senator Boisvenu, I understand what you're saying very clearly, but the concern I have is that it's not one or the other. We look at this moratorium and the problems in the East. When the community is saying this voluntary moratorium needs to be legislated, why would we say that the other groups are suffering? Why don't we look after both problems? First look after this moratorium, pass this bill and then look at the issues in the East.

[*Translation*]

Senator Boisvenu: Senator, a moratorium can be implemented by decree and does not necessarily require a piece of legislation.

What I'm saying is that this bill will be studied at second reading. I think Indigenous communities will come before the committee and share their views, and so will people from the oil industry. I hope the provinces will also agree to come and speak to us about the potential impact of keeping a product landlocked in a province given limited tools to export its wealth to countries that want to buy it. I believe the debate must also take place from that perspective, and not just from that of the Pacific coast, although I do recognize that this could have serious environmental repercussions.

However, we must not be overly traumatized by the past. I sometimes have the impression that people are still traumatized by the *Exxon Valdez* accident, which happened 30 years ago. I hope that once the bill is studied in committee, companies will come and tell us about the new technology that exists in this area.

On one of our recent committee trips, we visited an oil company in the Maritimes, and they showed us where they are building an oil spill containment ramp in the bay for oil tankers. The technology used in 2018 is completely different than the technology used 20, 30 or 40 years ago.

I hope that when the committee studies this bill, it will examine all aspects of it, from transshipment safety to environmental issues, and look at how we can meet any related challenges today in 2018-19.

(On motion of Senator Martin, debate adjourned.)

[*English*]

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, the minister has arrived, albeit a little bit early. Rather than proceed to the next item on the Order Paper and have to interrupt a senator in the

middle of a speech, may I ask for leave to proceed early with Question Period, bearing in mind that it will still last 40 minutes?

Is leave granted, honourable senators?

Hon. Senators: Agreed.

QUESTION PERIOD

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, please join me in welcoming the Honourable Bill Morneau, P.C., M.P., Minister of Finance.

Pursuant to the order adopted by the Senate on December 10, 2015, to receive a Minister of the Crown, the Honourable Bill Morneau, Minister of Finance, appeared before honourable senators during Question Period.

MINISTRY OF FINANCE

FALL ECONOMIC STATEMENT 2018—NET FISCAL EFFECT OF NON-ANNOUNCED MEASURES

Hon. Larry W. Smith (Leader of the Opposition): Good afternoon, minister, and welcome. My question for you today concerns an item found on page 107 of the Fall Economic Statement under the heading "(Net) Fiscal Impact of Non-Announced Measures."

We see that over $9.5 billion has been set aside through the period of the 2023-24 fiscal year. We're simply told that the massive amount of money is for cabinet decisions not yet taken and for funding decisions to be made under the very broad categories of national security, commercial sensitivity, trade agreements and litigation.

The omnibus bill, Bill C-86, also gives the Minister of Foreign Affairs and the Minister of International Development the power to enter into financial arrangements without consulting Parliament.

A simple question: How do you justify setting aside $9.5 billion without articulating what specific programs this money will be directed towards?

Hon. Bill Morneau, P.C., M.P., Minister of Finance: Thank you very much for having me here today. It's a pleasure to be here in this chamber for the fourth time for Question Period and to have the opportunity to answer your questions.

I'm very pleased you brought up the Fall Economic Statement. It gives me the opportunity to talk not only about the state of our economy but some of the things we're moving forward on.

Broadly speaking, of course, the thing that's most important in the Fall Economic Statement is the update on the state of the country's finances, which as you will have seen having looked at it that closely — because obviously you got to page 107 — is very positive. Our economy is doing well. We have the lowest rate of unemployment we've seen in 40 years. On the path that we're on right now, we will likely see the highest wage growth in the last decade.

Of course, as we look forward, we need to make sure we put in place the sorts of measures we think will make a difference moving forward. Clearly the most significant things we put in the Fall Economic Statement were initiatives around ensuring businesses have the capability of investing in the future. We also have an expectation, of course, in challenges that we expect we will face in the coming years, and we want to make sure that we have provisioned appropriately for those challenges, some of which are certainly to come in the case of us dealing with international challenges, as you represented.

What we have done in the Fall Economic Statement is provisioned in a way that will give confidence to people that we're able to maintain an appropriate fiscal balance while making investments that we think are important for the country today and tomorrow.

Senator Smith: You didn't exactly answer my question. In my 40 years in business, I have been lucky enough to run some big companies and corporations with boards of directors. I know you come from a very strong business background yourself, dealing with boards.

Do you think a board would support, without any information, expenses made by senior executives? And let's transfer that over to ministers. We know with history there have been incidents under extraordinary circumstances that governments have taken action without having the consent of Parliament.

Do you at least acknowledge that once again removing Parliament's ability to question whether this government's funding is properly spent, should it not be making sure that the government has the ability to understand where you're spending your money?

Mr. Morneau: Thank you again. The question, of course, is appropriate. We recognize that we should come under appropriate scrutiny as we put forward the accounts of the country.

What we've done is ensure that Canadians can see that we are allowing businesses to invest and keep ourselves competitive with the United States. We can also see that we're able to keep our fiscal track allowing us to reduce debt as a function of our overall economy. And yes, we have also made sure we have provisions for challenges that we expect to come up in the coming years because Canadians would expect us to provision in a way that ensures we have the capability of dealing with those issues. What we have shown is that we can deal with them while maintaining a fiscally prudent approach in managing the country's finances.

GENDER-BASED ANALYSIS

Hon. Denise Batters: Minister Morneau, a few days ago in Argentina, Prime Minister Trudeau shared his vision for what gender-based budgeting looks like. He said," Looking at how every different decision can have an impact on women in a positive or negative way, even big infrastructure projects." He also said:

> You might say, "What does a gender lens have to do with building this new highway or this new pipeline or something?" Well, there are gender impacts when you bring construction workers into a rural area — there are social impacts because they are mostly male construction workers.

• (1530)

What are exactly the nefarious gender impacts the Prime Minister implies these mostly male construction workers bring into a rural area?

I can tell you what I see as the impact of construction workers in a rural area, minister. I see projects like pipelines providing jobs for hardworking, taxpaying construction workers in the rural areas in my province of Saskatchewan. Those male and female construction workers build their families in our local communities. They contribute to and sustain our local economies and, indeed, the entire Canadian economy. We want more construction workers in Saskatchewan's communities, not less.

Minister, can you please explain what in the world the Prime Minister was talking about when he painted all male construction workers as hazardous to women.

Hon. Bill Morneau, P.C., M.P., Minister of Finance: I'm happy to answer that question and I think there were a couple of questions embedded in there.

First and foremost, of course, one of the most fundamental things we look towards in ensuring our country is doing well is that people are employed and we have jobs. This was one of the big challenges we faced when we came into office. We had a 7.1 per cent unemployment in Canada rate back in 2015. We're now in a position where we've been able to work together with Canadians and create about 550,000 new full-time jobs over the last three years, meaning our unemployment rate is at the lowest it has been in 40 years. That is a positive situation for Canadians across the country. Our goal, of course, is to have positive employment situations in every part of the country, and that is something we need to work to continue to do.

With respect to how we go about making investments, we've come to the conclusion we need to make sure all Canadians experience positive outcomes as we make investments. We're looking carefully at how we can ensure women have positive outcomes from the kinds of investments we make in our economy. That is why we put in place a gender-based approach to budgeting.

In the case of infrastructure, a good example would be that we may well put in place an approach where we look at an infrastructure project and ask, "What are the differential advantages of this project for women versus men?" Public transit might be an example where it could have positive impacts on women. The kinds of things we might consider are how you might put in place a subway station to ensure there's appropriate lighting so it has similar impacts on women and men.

These are important analytical tools we've taken in order to make sure we consider how our investments impact different parts of the population. Among the things it will consider are those impacts to give us a roadmap on what we should do and the kinds of investments we should make to ensure we continue with the positive success we're seeing.

I would add one of the things we're seeing, while we've increased the employment of Canadians, is increased participation rates for women as part of that positive outcome. That, we know, is part and parcel with our approach to considering the differential impacts on different parts of our society.

Hon. Mobina S. B. Jaffer: Minister, I want to thank you for being here. You've made yourself available many times. I appreciate your presence here today. I also have a gender-based analysis question for you.

Before I ask the question, I want to recognize Senator Nancy Ruth who had done tremendous work on gender-based analysis. When I ask you this question, I think of her because she spent years trying to get governments to look at this issue, so I commend you for looking at this issue.

In the National Finance Committee, I asked you if you had started the gender-based analysis and I said that there was no transparency. We, as parliamentarians, cannot assess what kind of work you're doing, how you are assessing it and what kind of information you're gathering. Minister, at the Finance Committee you said — and I have your quote, but I won't take the time to read it — you said these things take time and transparency will come as you go along.

May I ask: When will you be able to share with us, the parliamentarians, how you are assessing the work you're doing, what you are doing, and how is it affecting the lives of women, gender-plus and the other communities affected by gender-based analysis?

Mr. Morneau: First of all, let me thank you for the question. I think it's an important opportunity for me to address not only what we're doing but how we're communicating it.

We have taken the view, as I mentioned, that we believe this is an important analysis which will help us to move forward in a positive way to deal with some significant gaps in terms of things like workforce participation and value for work of equal value for women and men.

We have been doing this work for a few years now. I think the quote you may be considering is one that would be from a previous opportunity to be here at the Finance Committee, but we've been getting the opportunity to get more and more expert along the way.

In the most recent Fall Economic Statement, if you take a look — and the honourable senator may have looked at it because she looked up to page 107 — you would have seen that we have outlined some of the gender analysis we've done. In our most recent budget, we gave an explicit understanding of the gender-based analysis we did in the actual budget document. It is there in black and white.

This year I asked each and every one of the cabinet ministers, in preparing their submissions to me, to make sure they have done that gender-based analysis so I could take what they did and put it right into the budget document itself.

We've given a great deal of transparency. Of course, we will always be able to do better. I expect Budget 2019 will have an even greater level of clarity on the understanding of the analysis. If you have advice for us on how we can do better, we'll be open-minded to that advice.

COOPERATIVE CAPITAL MARKETS REGULATORY SYSTEM

Hon. Howard Wetston: Welcome, honourable minister. I am standing behind you. I am sorry about that.

You will know on November 9, the Supreme Court of Canada unanimously upheld the constitutionality regarding the implementation of the pan-Canadian regulation under the authority of a single regulator using a cooperative system. Basically, the decision validated the establishment of the Cooperative Capital Markets Regulatory System.

On the day of that decision, a spokesperson from your office indicated that the government will continue to work with the participating provinces and territories to develop a cooperative system that will enhance investor protection and the ability to address systemic risks in capital markets.

Minister, could you update the Senate on the next steps in the implementation of the cooperative securities regulator? I might just say as an aside, and I think you're aware of this, the first effort to do this was over 80 years ago.

Hon. Bill Morneau, P.C., M.P., Minister of Finance: It does beg the obvious question.

First of all, we were waiting to see the results of that decision in order to help us to get a sense of the appropriate next steps. We were encouraged by that decision to recognize that we will have the ability to move forward with a cooperative approach to a national system.

Our next steps will be to work with the provinces who have decided they want to be part of this initiative. We will also endeavour to work with those provinces who have decided they do not want to be a part of it. The next step will be to get together with my colleagues, which I am doing a week yesterday. We are getting together to talk about this issue among many others, and we'll think about our next steps together.

Then we'll have to think about the important issue of how we actually ensure the cooperation between the participating and the non-participating provinces so there is an approach where we can deal with our national issues together.

Importantly, as you can imagine, in our next set of discussions, we will discuss funding for the national system, which has been led by the federal government. While we continue to be supportive, we'll at least be talking with the other provinces to determine their level of interest in participating on that level as well.

So much more to say, but the next steps are now imminent based on that court decision.

PHARMACARE SYSTEM

Hon. Donna Dasko: Thank you, honourable minister, for being with us today. My question to you is about national pharmacare.

The minister is well aware that all provinces in this country have some form of public coverage and dozens of widely differing pharmacare programs currently exist.

In light of the anticipated report of the federal advisory council on pharmacare, I want to ask the minister whether his officials in the Department of Finance have begun any discussions with the provinces on the fiscal arrangements regarding the main option or options his government is considering for a future pharmacare program.

Hon. Bill Morneau, P.C., M.P., Minister of Finance: Thank you very much for the question. As you said, we've tasked an advisory committee with looking at the possible paths forward in dealing with gaps in the pharmaceutical delivery system in our country. That report has not yet been prepared. I have not, nor has anyone in the Department of Finance, actually seen the outcome of that report.

• (1540)

As you would imagine, we are, of course, taking a look at different financial models in order to make sure that we understand potential cost implications of various ideas. But at this stage, we're not far enough along, either in terms of getting a report from the advisory committee or following the delivery of that report and the considerations of what that might mean to be at a stage where we could talk with the provinces. That would be a next step in any process because we would, of course, have to consider implications for provinces but also for other organizations that are involved in the current delivery of pharmacare, including employers and providers that are involved and think about the issues of delivery and how we can ensure people are actually covered. And issues of cost will be important as well.

So those will be the next steps. There will be more to say. It will, in my estimation, be likely in the first quarter of 2019 that we'll have more information from the advisory committee, and at that point we'll make it more transparent.

[*Translation*]

REFUGEES AND ASYLUM SEEKERS

Hon. Jean-Guy Dagenais: Minister, I think it is very unfortunate that we had to find out the real cost of the illegal immigration triggered by a prime ministerial tweet from the Parliamentary Budget Officer rather than from you. One billion dollars is nothing short of $16,000 per refugee. That amount doubles when there are delays, because of your government's inefficient application processing procedures. To make matters worse, Ontario is seeking $200 million, Quebec will likely seek the same amount and you think you can solve this problem with $50 million. Where is the money in your economic update to pay for this political decision? Will this cost be added to the unacceptable deficit of $19 billion that you are putting on Canadians' credit card?

Hon. Bill Morneau, P.C., M.P., Minister of Finance: Thank you. We feel it's very important to have an immigration system that works and to have enough funding, at both the federal and provincial levels, to ensure that our system can accommodate those who want to live in Canada. We're currently in talks with the governments of Quebec and Ontario to find a solution that would be acceptable to both levels of government.

We need to consider not just the impact, but future collaborations as well. We want to create an immigration system that's relatively open, but we also need to make sure it works for those people who are here and are making asylum claims. That's really important. We will keep working with the provinces to make sure we have enough funding to support our approach.

QUEBEC—CONSUMER PROTECTION

Hon. Pierre-Hugues Boisvenu: Welcome, minister. Much like my colleague, I would like to start by informing you that at the end of the federal Liberal government's term, the sad state of our national debt will mean that every Canadian will be leaving a debt of $100,000 to their grandchildren.

You received a letter from the Quebec justice minister and the Quebec finance minister about Bill C-86. The ministers are very concerned about the federal government's interference in consumer protection, which is a provincial jurisdiction. Under this bill, which we are debating right now, Quebecers will have less protection. This happened a few years ago with Bill C-26, which set back consumer protection rights in Quebec.

In light of the introduction and unanimous adoption in the National Assembly of a motion to stop the bill from eroding consumer protection in Quebec, did you consult Quebec on this bill? Are you prepared to amend the bill to avoid undermining consumer protection in Quebec?

Hon. Bill Morneau, P.C., M.P., Minister of Finance: Thank you for the question. We consulted all the provinces to ensure that our respective approaches are compatible. That has already taken place. The different consumer protection laws across the country, including Quebec's, complement our national approach. That is very important.

In every case where there are provincial protection measures, these can be implemented together with the protections in the approach proposed by Bill C-86. The two regimes can co-exist.

[*English*]

FIRST NATIONS—CANNABIS TAX REVENUE

Hon. Lillian Eva Dyck: Welcome, minister. As you know, on May 1, seven months ago, the Standing Senate Committee on Aboriginal Peoples tabled our report on Bill C-45, the Cannabis Act, which recommended that the Department of Finance immediately work with interested First Nations and First Nations institutions to allow them to collect cannabis excise tax revenues by, first, amending the First Nations Fiscal Management Act to provide for a First Nations law-making power to levy cannabis excise tax on its reserve lands; second, amending the Excise Tax Act and the First Nations Fiscal Management Act to enable First Nations to collect tax efficiently; third, enabling First Nations to retain local cannabis revenue for their own infrastructure, health care and education, among other things; and fourth, recognizing First Nations' authority to enact their own regulatory frameworks, including business licensing, zoning and enforcement.

Bill C-45 came into effect on October 17, and First Nations are still being disadvantaged because legislation to allow them to share in the excise tax revenues has not yet been tabled.

The committee heard from Manny Jules, the Chief Commissioner of the First Nations Tax Commission, on October 23 and November 27, where he indicated that he has had preliminary meetings with department officials but that further meetings on this issue have been postponed until the new year. Chief Commissioner Jules has indicated to the committee that changes should be reflected in the upcoming budget so First Nations can benefit from excise tax revenue, as do the provinces and the territories. Clearly it was an oversight to leave First Nations out of the framework for excise tax sharing last May.

So my question to you, minister, is: Can you update the Senate on the actions the Department of Finance has taken on this issue? When will the necessary amendments to the First Nations Fiscal Management Act and the other acts be tabled in Parliament?

Hon. Bill Morneau, P.C., M.P., Minister of Finance: I'd like to thank you for that question.

As you know, we have been working towards a new fiscal arrangement with First Nations in the broader sense of ensuring that we have an approach that moves forward, recognizing the important place of First Nations in our country.

You gave some detail about meetings that have been held. We'll continue to work with First Nations groups to get to a broader new fiscal arrangement. This specific issue would be underneath that broader arrangement.

We'll continue to think about this as an overall approach as opposed to a specific tax issue.

INFRASTRUCTURE INITIATIVES

Hon. Marty Deacon: Thank you for being here with us today. My question concerns infrastructure spending.

The Fall Economic Statement showed that of the $13 billion committed to specific projects, only $6 billion has actually been spent. This similarly echoes the sentiments we heard from city councillors, mayors and the Federation of Canadian Municipalities recently, the group that represents our national organization of 2,000 municipalities. They told us that while they know the money is there for them, they are having trouble accessing it. In particular, it's my understanding that part of the problem is that smaller municipalities do not have the capacity and resources to commit to what I understand is a complicated process to obtain some of this money set aside for infrastructure.

• (1550)

Could you comment on why this money isn't getting into the hands of our municipalities at a reasonable pace and what the government is doing to perhaps facilitate these transfers?

Hon. Bill Morneau, P.C., M.P., Minister of Finance: Thank you. There are a number of different issues in your question.

First, the nature of the infrastructure spending takes some time to get into the economy. Most of that started out after Budget 2016, where we needed to develop agreements with the provinces. As you know, we need to develop those agreements in order to actually determine which projects actually get infrastructure funding.

Those agreements have now been signed, but the notion that you put forward — the $6 billion — is not a full reflection of what's actually going on. First of all, we don't get the ability to represent what's been spent until we actually get the bills. In many cases, the federal government spending doesn't actually come until later in the project — sometimes not until the end of the project. So you're not seeing a full reflection of the amount that's actually been spent.

There are now approximately 30,000 projects going on across the country, and we're seeing the benefits from those in the economy. We're starting to see that pickup happen.

There's a second issue that you pointed out: Not all municipalities will, in fact, see projects. That will be reflecting, in many cases, the decisions of the provincial governments on what projects they've determined to be the most appropriate ones for their province. We, as the federal government, are not in the position to swoop in and tell them what to do, so we work together with them.

Almost by definition, there will be some projects that will be frustrated, from a municipal standpoint, but we believe that with the kind of funding we've put forward over a decade, there's a significant approach to making a difference on infrastructure. We continue to view the necessity of working together with provinces and municipalities, because their determinations on what's important is how we should be directing the funding and also because we expect funding to be contributed by those levels of government as well so that we can have more of a significant impact on the overall infrastructure gap and on our economy.

PENSION REFORM

Hon. Sabi Marwah: Welcome, minister, and thank you again for being here.

I'm sure you've heard about the tragic circumstances of the pensioners of Sears who lost a significant amount of their pensions when Sears filed for bankruptcy, given that their pension plan was significantly underfunded.

Minister, has the Department of Finance given some thought to or is it looking into some form of pension reform that would prevent such situations from occurring, options such as asset stripping or not collapsing pension funds upon bankruptcy but allowing them to continue as going concerns? If you are, many in this chamber, including me, would love to work with you to make sure we get something to prevent these circumstances from reoccurring.

Hon. Bill Morneau, P.C., M.P., Minister of Finance: Thank you for the question. To your specific question, we are currently looking at approaches to ensure that our system is working in the case of companies that go bankrupt and leave pension plans in deficit positions. We're looking at whether the rules around the ordering of the creditors in the case of bankruptcy are appropriate. That's a consultation process that we're starting.

We'll need to be very careful, though, as we go down this path, because we recognize that the challenge for large employers that have defined benefit pension plans — which I know you know well — is actually ensuring they can have an approach that makes sense for their overall corporate goals and not ones that will actually encourage them to get out of those plans to start with.

In Ontario, now, among private-sector workers, fewer than 10 per cent of people are in defined benefit plans. These plans are obviously increasingly rare. We want to make sure we create a balance so we don't drive people out of these plans but appropriately protect those who have the entitlements, particularly in the case of devastating circumstances such as those of the Sears employees.

That consultation is beginning. It's being led by my colleague Matthew Bains. We'll be looking at input in order to make sure we protect people appropriately while also protecting the broader system.

GOVERNMENT SPENDING

Hon. Yonah Martin (Deputy Leader of the Opposition): Minister, this fiscal year, I'm aware that the cost of interest on our debt is about $23 billion. The Parliamentary Budget Officer reported last month that in only five years, by 2023-24, this will balloon to about $37 billion. To put this in perspective, according to your recent Fall Economic Statement, that is close to the same amount spent on the entire Canada health transfer last year.

The government has continued its massive spending but is not addressing fundamental problems impacting our competitiveness. It's certainly not doing so for our oil and gas sector, which was ignored in your fiscal update.

Minister, by putting all this debt on the backs of future generations, the government is robbing them of future opportunities. They will inherit a tax burden. As parents and grandparents, it's quite concerning to think about passing on such a burden to our children and grandchildren.

I know you've answered questions about your spending commitments and what you're doing, but my question is actually asking what the government is doing to rein in some of the spending, because these are really large numbers that speak of a really dark future for generations to come.

Hon. Bill Morneau, P.C., M.P., Minister of Finance: There were a number of elements in the question you just asked. Maybe the best way to answer is to think about the state that our national finances are in. The best way to think about that is by considering us in the context of other countries.

In our country, we have the very positive situation that our amount of debt as a function of our economy is low. Certainly compared to other countries, we're in a very positive situation. In comparison to G7 countries, Canada is in the best situation. The amount of debt as a function of our economy is less than half the amount of the average among G7 countries. It's always important to start with what the balance sheet actually looks like.

You also mentioned in your question the need to stay competitive. We recognize that's important. The position we find ourselves in with our Fall Economic Statement is a particularly good economic situation. The kinds of things we put in place over the last few years have led to a growth rate that has been positive. Last year, we grew the fastest among G7 countries, and we're on pace to grow together with the United States fastest, both this year and next year. We were able to put in place the measures around competitiveness in a way that left us still able to maintain a fiscal track that is actually reducing our debt as a function of our economy over time. So not only are we reducing our deficit as a function of our economy, but we're reducing our debt as a function of the economy.

Those are actually the numbers. I'm sure you know them, senator, because they're on pages 100 and 101. You got to page 107, so you would have seen them. You can take a look at them. They're there in black and white.

We've addressed some competitive issues at the same time that we've been able to reduce our debt and deficit. We think that's important, and we think that's the sort of thing that will allow for your children or grandchildren to have the kind of jobs they want. The measures we put in place to allow for competitiveness will allow businesses to make investments that will create jobs.

Governing is about balance. We've started with a good financial situation. It was something that was worked on by Prime Ministers Chretien and Martin when they faced a difficult balance sheet, leaving us in a position to make an investment for the future.

TAX AVOIDANCE

Hon. Serge Joyal: On June 28, last summer, less than five years ago, the Canada Revenue Agency released a 72-page report, revealing for the first time that the government loses up to $3 billion a year of tax revenue from Canadians who hide their income in tax havens, leaving the average Joe and Jane to pay the major burden of tax in Canada.

The same study also revealed that the government loses a total of "$17 billion each year through tax evasion and tax avoidance."

My colleague raised to you the problem of the deficit. You could solve the deficit of Canada simply by recovering the money that is hidden in tax havens and through tax avoidance.

• (1600)

Why is the government so slow and sometimes so indifferent in fighting tax evasion and tax avoidance in Canada, giving us a break, the middle class, from paying up to the last dime?

Hon. Bill Morneau, P.C., M.P., Minister of Finance: Thank you for the question. It may be the case that previous governments were not looking at this, but it certainly isn't the case with this government. We've put more than $1 billion into the Canada Revenue Agency in order to focus on ways we can assure we are getting the appropriate tax receipts we should be getting.

We've also been working together with international organizations, mainly through the OECD, to ensure that we have mechanisms to go after exactly what you're talking about. We signed on to the Common Reporting Standards so we can actually have an approach to seeing bank accounts abroad. We're working to make sure we have beneficial ownership around corporations in our country so we can actually penetrate what is going on within corporations.

It is hard work. It's important to get the mechanisms in place to actually do this work. We're seeing positive results. I can tell you that as we've looked at our budget expenditures and at putting money into the Canada Revenue Agency, there has been a payback in putting that money there, a payback in terms of

increased receipts that we're seeing from those people that might not have been paying their appropriate amount of tax or paying it on a timely basis.

We will continue to focus on this area. We think it's critically important. If you have advice on places or ways we can do it more effectively, we will be open to considering that advice most certainly.

[*Translation*]

MEDIA SUPPORT

Hon. René Cormier: Good afternoon, minister. On November 21, you unveiled the government's economic update, which contains a series of measures to support the news media. I would like to acknowledge what your government is doing to support the industry, as detailed in the update. Local journalism is crucial to all Canadian communities and, in my opinion, vital to democracy.

Your government announced financial support for the media in its March 2018 budget, but come September, the media were still waiting for that funding. Today, the Alliance des radios communautaires du Canada told us that the government was going to issue a call for proposals from newspapers and that the funds would be delivered once that process was complete. The Alliance des radios communautaires does not yet know how the call for proposals will be issued or when the funds will flow. It is clear that the money has not yet been paid out, minister.

With 80 per cent of online advertising revenue going to giants such as Facebook and Google, media outlets are closing their doors at an alarming rate. In 2008, there were 139 daily papers. Now there are just 88. Why isn't your government speeding up the process so our media can get the help they were promised? This is a matter of survival for community media outlets.

Hon. Bill Morneau, P.C., M.P., Minister of Finance: Thank you for your question. This is a very important issue for our government. We must have a robust approach for journalism to ensure that information remains accessible for everyone. We have taken steps that will help this sector in small towns across the country.

I am not exactly sure what was done with the measures to ensure that these funds meet the needs and challenges. However, with the measures contained in the fall economic update, we believe that our approach will work and will create a system that is truly at arm's length from government, for the benefit of all, naturally, but most importantly, a system that will help the sector in the future.

If you would like to know more, I can get information from my office about what exactly has been done these last six months.

[*English*]

The Hon. the Speaker: Honourable senators, the time for Question Period has expired. I'm sure all honourable senators will join me in thanking Minister Morneau for being with us again. Thank you, minister.

ORDERS OF THE DAY

OCEANS ACT
CANADA PETROLEUM RESOURCES ACT

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Bovey, seconded by the Honourable Senator Harder, P.C., for the second reading of Bill C-55, An Act to amend the Oceans Act and the Canada Petroleum Resources Act.

Hon. Michael L. MacDonald: Honourable senators, I rise today to speak on Bill C-55, An Act to amend the Oceans Act and the Canada Petroleum Resources Act.

In June of 2016, the Minister of Fisheries, Oceans and the Canadian Coast Guard announced the Government of Canada's commitment and plan to meet international targets to protect 10 per cent of Canada's marine and coastal areas by 2020. These targets were established at the UN Convention on Biological Diversity held in Japan in 2010. They are known as marine protected areas, or MPAs.

We can all agree that keeping our rivers, lakes and oceans healthy is an important matter for all Canadians. However, there are serious and credible concerns that many informed stakeholders have with Bill C-55.

The arbitrary target of 10 per cent seems relatively minimalist at first glance, but is it really in the Canadian context? Canada has the longest coastline of any country in the world. A 10 per cent commitment by Canada dwarfs the commitments made by most countries. Think of the coastline of Belgium by comparison. Canada has almost 5 million square kilometres of marine environment. Ten per cent of that is almost 500,000 square kilometres. That is a huge commitment on our part and it must be handled with great care. A balance must be struck to ensure the interests of all stakeholders are acknowledged, respected and part of any calculated decision.

In spite of our large coastline, Canada has already protected about 8 per cent of our oceans with 11 designated areas. Six out of the 11 are in Atlantic Canada with five more being considered along the East Coast and the Gulf of St. Lawrence. Indeed, the recently designated MPA at St. Anns Bank near eastern Cape

Breton and the planned MPA at the Laurentian Channel between Cape Breton and Newfoundland has got the attention of the potentially affected local fishing communities.

I would like to remind the government and the bureaucracy that they should not overlook nor underappreciate the value of the North Atlantic fishery to the economies of Atlantic Canada and to that of the country as a whole. As Canadians, we have long been told of the importance of the fur trade in our evolution as a country, its role in exploration and the opening up of the interior and its economic value. This is a well-established historical narrative in Canada. But there was never a year, even in 1800 when the value of the fur trade reached its zenith, that it was not exceeded by the value of the North Atlantic fishery.

My province of Nova Scotia is almost completely surrounded by ocean. There is not a community, big or small, along the coastline of the province that doesn't have someone involved in the fishing industry in some capacity. Nova Scotians understand the importance of a sustainable marine ecosystem and are willing to join with all governments and stakeholders in supporting reasonable measures to ensure the sea will continue to provide a livelihood for thousands and food for millions.

But we don't want the federal authority in this country, through arbitrary actions by a minister of the Crown, to create problems for this industry once again. The destruction of the cod stocks in the 1970s and 1980s destroyed the most lucrative groundfish industry in the world, a fishery which had sustained itself for over five centuries. Atlantic Canadians are rightly skeptical of federal decisions regarding the management of fishing matters. We will be watching closely to ensure that our inherent fishing interests are not unnecessarily compromised by those who want to pursue an ideologically driven agenda at the expense of common sense and the welfare of working fishermen and their families. Marine areas are already strictly controlled in Canada, and Ottawa cannot be allowed to impose arbitrary declarations regarding MPAs without extensive consultation regarding the long-term effects on the fishing future of local communities.

For decades, we witnessed the Atlantic fishery being used as a bargaining chip by the swizzle-stick set in the salons of Europe. Too often the results compromised our Atlantic fishery and sold out our birthright for the benefit of other countries.

There are still too many fish being taken and damage being done by foreign fleets off our shore. If the government and the bureaucrats want to put restrictions on the fishing industry in Atlantic Canada, I hope they'll also give this perpetual irritant the attention it deserves and requires.

• (1610)

Bill C-55 will now allow for interim designation of significant or sensitive areas defined by scientists through consultations with various stakeholders. However, in applying what is referred to as the precautionary approach, a lack of scientific certainty regarding the risks posed by an activity will not be used to postpone acting to prevent environmental degradation. So much for science.

While supporting the so-called precautionary approach, the commercial fishery has rightfully pointed out that the insufficient baseline environmental data and the lack of scientific research at DFO is the reason for this approach, and contending with the new MPAs, in addition to existing fisheries management measures, will be a huge challenge for the industry.

An interim protection Marine Protected Area, or MPA, would freeze the footprint on ongoing activities for five years. Essentially, the minister will be given the power to arbitrarily establish an activity ban in a designated area. Under this bill, the time for establishing a final MPA would be approximately seven years.

Whether fisheries will be allowed, limited or prohibited in an interim protection MPA will be determined on a fishery-by-fishery basis depending on whether the activity hinders conservation objectives. This will make extremely difficult sledding for those seeking a licence after the ministerial order is in effect. Again, this is an extraordinary amount of power being exercised subjectively by a minister of the Crown, and if it is improperly or hastily applied, it can have a deleterious long-term impact on economic activity which would normally be both appropriate and welcome.

Thus these measures threaten to put a chill on investment in the fisheries. For example, the Inuvialuit Regional Corporation, or IRC, has expressed concerns regarding freezing the footprint of human activities in designated protected marine areas. The IRC suggested that prospective proponents, including businesses in the area, will decide not to venture into areas where the minister is authorized to establish an interim MPA through a ministerial order because of the risk that operations will be frozen for a period of time.

This is not a situation we want replicated throughout the country, but the government seems deaf to these concerns and is apparently willing to risk making a hasty decision without any consideration of the negative long-term economic impact of arbitrary and politically motivated restrictions.

This government claimed it is going to be the great champion of science. In the months following the last election, I often felt obliged to look both ways when leaving the East Block to avoid being accidentally trampled by the rampaging jobs of joyous, white-coated government scientists liberated from their purgatory.

Now, the government says proper science is not necessary when establishing MPAs. The arbitrary and subjective provisions of Bill C-55 are powers that invite abuse and are certainly susceptible to political interference at the expense of proper science in decision-making.

This bill also makes amendments to the Canada Petroleum Resources Act to prohibit an interested owner from commencing or continuing a work or activity in a Marine Protected Area that is designated under the Oceans Act. It empowers the minister to cancel an oil and gas interest that is located in this designated area, signalling yet again to oil and gas companies that Canada is closed for business.

Why is the government nonchalantly prepared to restrict economic development, particularly in places like Atlantic Canada, where economic opportunities are fewer and where economic growth should instead be encouraged and cultivated?

Bill C-55 also creates new offences for a person or ship that engages in prohibited activities within a marine protected area, and it increases the amount of fines and provides that ships may be subject to the offence provisions. The bill specifically states that the minister could limit shipping and even potentially cancel licences in or around a marine protected area.

The Chamber of Shipping of British Columbia has stated that the proposed amendments to the Oceans Act, including new enforcement powers to direct a ship to any place in Canadian waters and detain a ship, are a significant concern to their industry.

The President of the Chamber of Shipping testified before the House of Commons Standing Committee on Fisheries and Oceans and stated that:

> . . . the scale of punishments appears extreme and, in the case of small vessel operators, is clearly egregious and could result in undue harm to coastal businesses and the many communities they serve.

Most of these operations are small businesses and could easily be put out of business if government destroys their livelihood.

Conservation is always a worthwhile pursuit. I strongly believe in intelligent, responsible and applied conservation. The previous Conservative government invested over $250 million to secure ecologically sensitive lands and support voluntary conservation, and I supported this investment in our environment.

However, Bill C-55 needs to strike a better balance to both conserve and ensure the livelihoods of the millions of Canadians who depend on our natural resources. Aggressively preventing the normal development of our natural resources or making premature decisions that could limit welcome growth in a sustainable fishery are actions that should be avoided.

Both of these concerns are amplified by the provisions of this bill and make it difficult for me to support it in its present form.

I look forward to seeing this bill go to committee soon, where, perhaps, more study will convince the government that it would be wise to accept some amendments to make the provisions in this bill less onerous to all concerned and apply it in a way that encourages economic opportunity and investment. Thank you.

(On motion of Senator Martin, debate adjourned.)

BUDGET IMPLEMENTATION BILL, 2018, NO. 2

SECOND READING

Hon. André Pratte moved second reading of Bill C-86, A second Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures.

He said: Honourable senators, Bill C-86 is a big omnibus bill. As such, the bad news is this will be a long omnibus speech. The good news is that you will have ample time to check your news feeds and reply to all your emails.

As I said in this chamber on May 30, 2017, I am not fond of omnibus bills. I tend to agree with the Senate Modernization Committee that such bills:

> . . . compromise the ability of a legislative chamber to hold governments accountable.

That being said, as I also mentioned at the time, not all omnibus bills are equal. "Omnibus bill" is not synonymous with "bad bill." Before forming an opinion, we should look at the content and the context of the bill.

I suppose that is what our esteemed colleague Senator Smith had in mind on June 28, 2012, when he commented on Bill C-38, a 400-page budget implementation bill tabled by the previous government:

> Whether it means rejuvenating, modernizing or revamping the many acts that are entailed in this ominous bill, it will have a positive and long-lasting effect on Canada.

This is precisely my view on Bill C-86.

As you know, omnibus bills are nothing new. Some have traced their origins as far back as 1763. As former Conservative Senator Irving Gerstein said with regard to Bill C-9, a 900-page long bill implementing the 2010 budget and amendments to many other acts:

> The omnibus nature of this budget bill conforms perfectly with Westminster traditions that predate Canada by over a century and that have been followed by governments of both political stripes in this country for years.

It has long been recognized by governments of all colours that budget implementation acts are, by nature, omnibus bills. A budget presents a vast series of measures which implement a government's short-term and long-term plan for the country's economy.

• (1620)

Let me quote Senator Gerstein again:

> No area of government activity has a wider effect, and thus conduces more to omnibus legislation, than budgetary policy.

If an omnibus bill essentially contains measures that were announced in a budget or are closely linked to the economic and fiscal plan presented in the budget, if it does not contain surprise initiatives that have nothing to do with the government's economic policy, then, honourable senators, we have before us, in my view, a legitimate omnibus bill.

Here is what the Honourable John Fraser, then Speaker in the other place, said on June 8, 1988, quoting the definition provided by the late Liberal MP Herb Gray:

> The essential defence of an omnibus procedure is that the bill in question, although it may seem to create or to amend many disparate statutes, in effect has one basic principle or purpose which ties together all the proposed enactments and thereby renders the bill intelligible for parliamentary purposes.

Honourable senators, the basic principle of Bill C-86 is the implementation of the government's overarching economic policy as expressed in the 2018 Budget and previous budgets. This is why you find in this bill a new pay equity act; amendments to the Labour Code providing enhanced protections and benefits to Canadian workers; a new regime to protect bank customers; new beneficial ownership transparency requirements for federally regulated corporations; improvements to the First Nations Land Management Act, to the First Nations Fiscal Management Act; amendments to the Income Tax Act in order for charities to play their legitimate role in public policy debate while keeping their distance from partisan involvement; amendments to the Income Tax Act so that the Government of Canada can provide the residents of Ontario, Saskatchewan, Manitoba and New Brunswick with a climate change rebate.

All of these measures and others were conveyed in the 2018 Budget, or in earlier budgets, as part of what the government called a plan to deliver more prosperity and growth to Canadians fuelled by greater equality for all Canadians.

Are omnibus bills ideal? No. We would all like parliament to have all the time in the world to study each and every bill that comes before us. However, I acknowledge a government has to face the political and parliamentary realities of the day and govern in consequence. What matters is that the government does not abuse the legislative vehicle of omnibus bills by introducing measures that bear no relation to the budget or to the government's economic plan.

It is also essential that it recognizes the particular legislative challenges that omnibus bills present and give both houses as much time as possible, in the existing parliamentary context, to examine the different provisions of the bill. That is the purpose in this house of the pre-study process. In this chamber, Bill C-86 was pre-studied by eight different committees. In all, 152 witnesses, including department officials, have appeared in front of these committees. Today we will debate the principle of Bill C-86 and meanwhile, the National Finance Committee is continuing its work on the bill. When this is completed, the committee will have heard at least 61 witnesses, including government officials, and spent more than 60 hours on Bill C-86. Thus there is no doubt the bill will have been examined in enough detail for us to have an informed view.

In the end, we should judge a bill not by its size but by the fruit it bears. On that score, Bill C-86 contains several key measures that will help the Canadian economy become more prosperous, fairer and greener.

Honourable senators, climate change is upon us. The position of deniers has become untenable. Not only is the science clear and solid, the climate is changing before our very eyes. In other words, the time for determined, clear-sighted action is now. As an energy producer, as a modern, wealthy, democratic society, as a nation deeply involved in world affairs, Canada has a moral, economic and political duty to be part of the solution, not part of the problem.

There are three possible courses to address global warming: voluntary action, regulatory approaches or carbon pricing. The first two have been tried in Canada for 20 years by Liberal governments and Conservative governments alike. These approaches have failed. As you know, our GHG emissions are higher today than in 1990. The time has come for the alternative approach.

According to at an economic study commissioned by the Carbon Pricing Leadership Coalition, a well-designed carbon price is an indispensable part of a strategy for reducing emissions in an effective and cost-efficient way.

Since carbon pricing lets the market decide how emissions will be reduced, a large number of businesses, including companies from the energy sector, are convinced carbon pricing is the way to go. Amongst the partners of the Carbon Pricing Leadership Coalition, we find well-known names such as British Petroleum, Cenovus Energy, Enbridge, Shell Canada, Suncor Energy. Therefore, no doubt is left that carbon pricing is the best policy to reduce GHG emissions in Canada and elsewhere in the world.

Bill C-86 is not about carbon pricing. Carbon pricing was already voted on when we adopted Bill C-74, the previous Budget Implementation Act. The bill we have before us today is about compensating Canadians of the four provinces that lack an adequate carbon pricing system for the financial impact of the federal carbon levy.

Pursuant to Bill C-86 and the four provinces concerned, 70 per cent of households will receive a climate action incentive greater than the cost they will incur from the federal carbon pricing system. To account for their particular circumstances, Canadians living in rural areas will receive a supplementary rebate equal to 10 per cent of their baseline entitlement. This, not the carbon tax, is what we will be voting on when we vote on Bill C-86. If we vote against Bill C-86, we vote against a climate incentive rebate.

Colleagues, today Canadian women in the workforce earn between 8 per cent and 31 per cent less than men, depending on how you measure the gap. That such a situation persists is, frankly, revolting. This is why Bill C-86 introduces the pay equity act, as announced in the 2018 Budget. The pay equity act will ensure federally regulated employers calculate the wage gap between women and men for similar occupations and adjust women's remuneration in order to close the gap within a maximum period of between three to five years. A pay equity

commissioner will be appointed and provided with the authority to receive complaints, facilitate dispute resolution, issue binding orders and impose administrative monetary penalties.

In committee in the other place, many witnesses described the pay equity act as a historic change. Indeed, pay equity is a fundamental right, internationally recognized since 1951 and enshrined in the Canadian Human Rights Act in 1977. The Budget Implementation Act No. 2 finally puts this principle in practice.

Concerns have been expressed amongst stakeholders and senators who fear the new pay equity act might be flawed in some ways. After studying the bill and discussing with government officials personally, I am reassured. However, the issues raised are extremely important. I have suggested to the Minister of Labour that she provides us with detailed answers to the concerns expressed. My understanding is the minister will do so quickly. The fact remains this legislation brings forward a historic change that will be hugely beneficial to women working in federally regulated workplaces.

Honourable senators, technology, international trade agreements and other economic and sociological factors have disrupted the way Canadians work. The world of stable 9 to 5 jobs, the world many of us grew up in, has given way to a world where many workers struggle to make ends meet with part-time and temporary jobs, unpredictable hours and few benefits. In this context, it is increasingly difficult to balance work and family duties.

Part III of the Canada Labour Code, which establishes minimum working conditions in federally regulated workplaces, has not evolved in step with these changes. This is why, after in-depth consultations with stakeholders, the government is introducing a series of amendments to Part III of the Canada Labour Code. With these changes, Canadian workers, especially the most vulnerable, will benefit from better working conditions adapted to this new era.

• (1630)

If Bill C-86 is adopted, workers will have a right to access certain benefits such as parental leave and sick leave, notwithstanding their length of service with an employer.

They will also have a right to be advised of their schedule within at least four days' advance notice, except in emergencies and unforeseen situations; a four-week vacation after 10 or more years of service; a new five-day personal leave, of which three days will be paid; protection from unfair practices if they are employed by a temporary help agency; and sufficient termination notice and/or compensation when their jobs are terminated.

Taking into account the perspective of employers, the government has ensured the costs of these measures remain modest, between one-tenth of 1 per cent to five-tenths of 1 per cent of their annual payroll.

This Canada Labour Code modernization, which is long overdue, will mostly benefit non-unionized workers who work in temporary or part-time positions, have low wages and little access to benefits. In an era marked by unacceptable and increasing inequalities, this bill will make the country's workplaces fairer.

[*Translation*]

Colleagues, perhaps you will recall that two years ago the government proposed a new consumer protection regime in the banking sector as part of Bill C-29, a budget implementation bill. However, the Senate opposed that part of Bill C-29 and the government decided to remove it.

The problem was not with the proposed consumer protection regime. On the contrary, it was good news. The problem was that the bill had a clause affirming the federal government's supremacy over the provinces in that area, which resulted in a shared jurisdiction, according to a Supreme Court ruling.

Ottawa went back to the drawing board and is now proposing a consumer protection code for bank customers, as announced in the budget, that respects provincial jurisdictions in this area. One of the new requirements imposed on banks is that communicating false or misleading information to clients or to the public will be expressly forbidden going forward. In addition, banks will have to ensure that their products and services are suitable for all clients, specifically taking their financial needs into account. The bill also includes measures to protect whistle-blowers. Furthermore, the fines imposed on banks found guilty of violating the code have increased considerably and can now be as high as $10 million.

I know that, as mentioned earlier today, the Quebec National Assembly passed a motion to ensure that the parts of the legislation that affect consumer credit and insurance contracts will not apply to the province because those matters are already governed by the Quebec Consumer Protection Act. As a Quebecer, I was obviously receptive to the National Assembly's request, but after studying the bill and discussing it with representatives of the Quebec and Canadian governments and a number of legal experts, I am convinced that Quebec's concerns are unfounded.

The government was very clear in its public statements on the issue. Ottawa has no intention of reducing the scope of the Quebec Consumer Protection Act. The Minister of Finance reminded us of that earlier. His statements in that regard will carry a lot of weight if this matter ever ends up before the courts.

I am also convinced that acquiescing to the demands of the Quebec National Assembly would be detrimental to consumers, including Quebec consumers. In fact, if these amendments to the Bank Act are passed, consumers will be doubly protected by both the federal and provincial laws. In cases where the provincial law provides better consumer protection, consumers can resort to that act.

Honourable senators, this new consumer protection framework for bank customers meets the federal government's objectives without encroaching on provincial jurisdictions because of the Senate's vigilance. I don't say that to brag but so that senators realize that, by exercising our right to provide "sober second thought," we can have an impact on government policies for the good of Canadians and the country.

[*English*]

Colleagues, Bill C-86 removes the constraints imposed on charities' involvement in nonpartisan public policy dialogue and development, as recommended by the Consultation Panel on the Political Activities of Charities.

Charities play a crucial role in the development of policy in a great number of fields. This was acknowledged by the previous government in Budget 2012, and I quote:

> Given their unique perspectives and expertise, it is broadly recognized that charities make a valuable contribution to the development of public policy in Canada.

However, for years the language of the Income Tax Act had bred confusion as to what types of activities charities could engage in and to what extent.

As conveyed in Budget 2018, BIA 2 proposes to amend the Income Tax Act so charities are allowed to engage in public policy dialogue and development. The 10 per cent ceiling would be lifted. The confusing expression "political activities" would be removed from the act to be replaced by "public policy dialogue." This would make it clear that what is allowed is policy work, not political, in the sense of partisan activity.

In the next couple of weeks, the CRA will issue a guidance paper detailing how it will interpret the provisions of the act regarding charities as amended.

Some fear charities will get involved in political campaigning. This concern is unwarranted, since partisan activities, that is, activities in support or in opposition to a political party or a candidate, will continue to be clearly prohibited.

Also, we have lessons from the experience of Australia and New Zealand, both Commonwealth countries like Canada, that implemented a similar change. It did not lead to a bonanza of political activity by charities.

Honourable senators, policy debates will be considerably enriched by the participation of expert charities in fields like poverty reduction, domestic violence, literacy, to name just a few.

Colleagues, as announced in Budget 2018, Bill C-86 brings forward amendments to two pieces of legislation that are and will be playing an essential role in the development of autonomous governments for First Nations: The First Nations Fiscal Management Act and the First Nations Land Management Act. These opt-in regimes enable First Nation communities to develop and administer their own land code and to provide First Nations with fiscal powers similar to that of other local governments.

The amendments will facilitate the opting in of First Nations under the acts. These changes are the result of discussions and consultations with the representatives of First Nations. As a matter of fact, as the Aboriginal Peoples Committee has stated, these changes are First Nation-driven.

Bill C-86 also brings forward the addition of lands to existing reserves and reserves creation. This new act will simplify the addition of lands to existing reserves, a process under current legislation can take anywhere from 18 months to 10 years.

However, concerns were expressed during the Aboriginal Peoples Committee hearings about the extent of the consultations carried out regarding these provisions. This is an indication that both the government and Parliament still have much work to do in order for Indigenous communities to become full-fledged partners in the development of government policy that concerns them. One thing we have to learn, as the committee highlights in its report, is it is not because an Indigenous community does not respond to a government email that it consents to a new policy. In other words, silence is not consent.

In any event, even if there may have been flaws in the consultation process, there is no doubt Bill C-86 allows First Nations to take further, crucial steps towards enhanced autonomy.

Fighting tax evasion, money laundering, and other criminal activities requires authorities are provided with complete information about who ultimately controls each private corporation. This is the aim of amendments proposed in Bill C-86 to the Canada Business Corporations Act. These will demand corporations hold and maintain a register of their beneficial owners, that is, individuals who own or control 25 per cent or more of their shares, or who in fact exercise control of the corporation.

As our colleague Senator Wetston asserted in this chamber on October 2:

> The lack of beneficial ownership transparency impacts all Canadians. Basically, it's bad for business, it's harmful to society and generally facilitates corruption.

The measures contained in Bill C-86 represent a major step towards greater corporate transparency.

[*Translation*]

Honourable senators, Bill C-86 contains many other measures I could talk about. However, my speech has already gone on too long. I will put an end to your misery, since you must be getting to the end of your Twitter feeds —

The various committees assigned to conduct a pre-study of the bill supported the bill and included very useful observations in their reports.

• (1640)

There is a lot of work to be done at the Standing Senate Committee on National Finance, which will be holding additional meetings before we adjourn for the holidays to conduct a detailed, comprehensive study of Bill C-86.

[*English*]

Honourable senators, Bill C-86 is a fundamental piece of legislation. In many different fields — labour standards, environmental protection, Indigenous autonomy, women's equality, corporate transparency and consumer protection — it represents a turning point. If passed, Bill C-86 will result in real, concrete improvements in the daily lives of Canadians.

Indeed, this is a big omnibus bill, but most of all it is a good bill for Canada. Thank you.

Hon. Lillian Eva Dyck: Honourable senators, I rise today to speak to second reading of Bill C-86. As you know, the Standing Senate Committee on Aboriginal Peoples conducted a pre-study, and today I'm going to read into the record the fourteenth report from that committee, tabled on Monday, December 3. It begins:

> Your committee, which was authorized to examine the subject matter of those elements contained in Divisions 11, 12 and 19 of Part 4 of Bill C-86, A second Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures, has, in obedience to the order of reference of Wednesday, November 7, 2018, examined the said subject-matter and now reports as follows:
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> On November 20, 21 and 27, 2018, your committee heard witnesses on the subject matter of Divisions 11, 12 and 19 of Part 4 of Bill C-86, A second Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures. Division 11 proposes amendments to the *First Nations Land Management Act* (FNLMA), Division 12 proposes amendments to the *First Nations Fiscal Management Act* (FNFMA) and Division 19 proposes the enactment of the *Addition of Lands to Reserves and Reserve Creation Act*. Your committee notes that the timelines associated with reviewing Divisions 11, 12 and 19 meant that consideration of these amendments was rushed.
>
> Your committee recognizes that the amendments contained in Divisions 11 and 12 are First Nations-driven; they are developed by, and for the benefit of, First Nations. In particular, your committee was pleased to see options in both divisions that could provide First Nations with the opportunity to access their capital and revenue moneys held in trust for First Nations by the Crown. Facilitating First Nations' access to their moneys has been a topic explored by your committee in the past, as part of your committee's study on housing and infrastructure on reserve and at a meeting held on February 16, 2016.
>
> Given that the Lands Advisory Board (First Nations Land Management Resource Centre), the First Nations Tax Commission and the First Nations Financial Management Board have emphasized the importance of these amendments for their institutions, your committee supports Divisions 11 and 12. Your committee commends the government for its close working relationship with these institutions.
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> Your committee wishes to highlight, however, that witnesses identified the need for future amendments to both laws. With respect to the FNLMA, your committee heard that it should be replaced with legislation that simply ratifies the *Framework Agreement on First Nation Land Management*, as opposed to the existing legislation that restates the Framework Agreement's provisions. Your committee was told that this would better reflect the reconciliation and recognition approach of the Framework Agreement and would make it clear that it is the language of the Framework Agreement, and not the language of the FNLMA, that prevails. While your committee understands the importance of moving the proposed FNLMA amendments forward at this time, it urges the federal government to expeditiously consider the replacement legislation proposed by the Lands Advisory Board.
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> With respect to the FNFMA, your committee was encouraged by the evolving relationship between the First Nations institutions and the federal government as reflected in the several amendments to the FNFMA over time. On a previous occasion, your committee examined amendments to the FNFMA contained in Bill C-59, An Act to implement certain provisions of the budget tabled in Parliament on April 21, 2015 and other measures. Those amendments were reported back without observations. While Division 12 of Bill C-86 contains many of the First Nations institutions' proposed amendments, your Committee recognizes that more work may be required, including expanding the mandate of the First Nations Tax Commission.
>
> While the process relating to amendments to the FNLMA and the FNFMA demonstrate close collaboration and consultation, your committee heard that the consultation process in relation to Division 19 was flawed. Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) and Indigenous Services Canada (ISC) advised your committee of the steps taken to inform First Nations and organizations, such as the Treaty Land Entitlement Committee of Manitoba Inc., on the proposed *Addition of Lands to Reserves and Reserve Creation Act*. However, your committee heard from witnesses that engagement with them on this issue was inadequate, and that they had not had time to properly consider the impacts of the proposed new act. One official implied that a lack of a response from a community was consent. Your committee believes that the lack of a response from a First Nation in response to information that is sent out by the department does not mean that the community is consenting. Your committee wishes to emphasize that achieving meaningful consultation and engagement requires ongoing and continued effort by CIRNAC and ISC, in particular, as the dissolution of Indigenous and Northern Affairs Canada may have complicated what is already a complex engagement process. Communities may require financial and other support to

fully participate in the consultation process, which should take place in the context of adhering to the United Nations Declaration on the Rights of Indigenous Peoples principle of free, prior and informed consent.

Finally, your committee received a letter from Minister Petitpas Taylor and Minister Philpott dated June 6, 2018, in which they committed to a new fiscal relationship with Indigenous communities, including discussions about revenue sharing and taxation arrangements. While your committee was informed that discussions are taking place with the First Nations Tax Commission, the Assembly of First Nations, and others, your committee was alarmed to hear that First Nations continue to be excluded from benefitting from cannabis excise tax revenue.

As a result, your committee urges the Department of Finance and the Department of Health to engage with First Nation communities and organizations on this matter in a meaningful, and expeditious manner.

Respectfully submitted,

Lillian Eva Dyck, Chair.

I wanted to put that report into the record, and I'll now say a few more words.

Senator Pratte, thank you for referencing our report in your speech. You spoke about the First Nations Land Management Act, the concerns raised in regard to the Additions to Reserves and the issue with consent, and you basically said the bill will allow for enhanced Indigenous autonomy. That is true, but I think one of the main intents of these sections of the bill was to increase the speed by which financial decision-making can occur on First Nations so that it moves with what they said was at the speed of business rather than the speed of bureaucracy and red tape. These amendments are compatible with that.

I would like to add a few more words with respect to the First Nations Land Management Act, which was referenced in Division 11.

• (1650)

As you heard, the committee supports the request of the First Nations Land Management Resource Centre's Lands Advisory Board that, while these amendments to the First Nations Land Management Act should be passed, they would also urge the federal government to expeditiously consider the repeal of the First Nations Land Management Act and instead enact legislation that would ratify the Framework Agreement on First Nations Land Management because it has created a situation that is very complicated.

We heard that the framework agreement that was signed in 1996, at that time with 13 signatory First Nations, is a document that best reflects the agreement with participating First Nations and the federal government; and while this framework agreement has been amended several times since it was signed, it's still the best reflection of the agreement. But in 1999, to give legal effect to that agreement, the federal government passed the First Nations Land Management Act. However, having done that, it has created great confusion for First Nations operating under the act.

As Mr. William McCue, Lands Advisory Board, First Nations Land Management Resource Centre, stated:

> The FNLMA is fairly lengthy legislation which attempts to restate selective terms of the framework agreement but not all of it. Unfortunately, this has caused many government officials, professionals, businesses, non-members residents on First Nations land and even some First Nation members to misunderstand the central importance of the framework agreement.
>
> Mistakenly, many think the technical language of the FNLMA governs instead of the framework agreement. This is highly problematic, because it suggests to some that Canada, through Parliament, is delegating authority for self-government on terms dictated by Parliament.

He also said:

> Looking beyond Bill C-86, we have proposed that the FNLMA be replaced with the shortest possible federal legislation that would serve only to meet the original purpose: federal legislation that ratifies the framework agreement according to its terms.

This kind of manœuvre would be akin to self-governing legislation, where you have self-governing agreements and then we pass a self-governing piece of legislation. We need the same thing for First Nations land management.

At committee, department officials indicated they were in discussions with the First Nations Lands Advisory Board to move on this recommendation in a two- to three-year window. It's important to note that the Lands Advisory Board has already developed their own replacement legislation, entitled "First Nations land management and governance act." As such, we would urge the government to move more expeditiously on this request and cease tinkering with the First Nations Land Management Act, which is not the best way forward; it only serves to confuse the issue. Thank you.

Hon. Marc Gold: Honourable senators, I rise today to address Division 10 of Part 4 of Bill C-86.

As Senator Pratte points out, this is the second time in recent years that we've considered amendments to the Bank Act, setting out broad protections for bank consumers.

In late October 2016, as part of its budget implementation bill, Bill C-29, the government proposed legislation that would have amended that act to create a comprehensive code governing the relations between banks and their customers. The legislation was clearly within Parliament's legislative jurisdiction, and it contained many of the same positive features that we see in Bill C-86, giving Canadians in many provinces rights that they did not hitherto enjoy. However, the previous bill also purported to oust the application of otherwise valid provincial consumer protection law, and in this respect it went too far.

The issue was first noted by Senator Pratte and then taken up by various provincial governments and others in this chamber. Indeed, it was the subject of my speech in this chamber when I rose for the very first time on December 13 of that year to support an amendment to split the bill, hiving off the proposed changes to the Bank Act for further study.

In that speech, I made a number of points about the constitutional division of powers as they relate to banking and consumer protection. These are relevant to the legislation before us today and, I might add, to the concerns that were expressed recently by members of the National Assembly.

Parliament has the exclusive jurisdiction to pass laws in relation to banks and banking under section 91(15) of the Constitution Act, 1867. As an incident to that jurisdiction, it may pass legislation to provide bank customers with a set of rights and remedies, as they proposed to do two years ago and again in Bill C-86.

At the same time, however, under section 92(13) of the Constitution Act, 1867, provincial legislatures have exclusive jurisdiction to pass laws in relation to property and civil rights in the province, and that includes consumer protection laws. Some provinces, like my home province of Quebec, offer stronger consumer protection than do others. That's the nature of federalism. The point, however, is that consumer protection is an important and legitimate role for the provinces.

[*Translation*]

In Canadian constitutional law, it is well established that provincial consumer legislation of general application may apply and will apply to consumer-bank relationships. This was clearly stated in *Bank of Montreal v. Marcotte*, where the Supreme Court, largely relying on the Court of Appeal reasons written by our colleague the Honourable Pierre Dalphond, upheld the provisions of the Quebec Consumer Protection Act against a claim that they went beyond provincial jurisdiction. This is a specific example of a more general principle of Canadian constitutional law that has been at the heart of the development of Canadian federalism for over 130 years.

What happens when valid federal and provincial laws are meant to apply to the body of facts? In the event of conflict, the doctrine of federal paramountcy dictates that federal law will prevail.

To determine whether there is such a conflict, the courts will first ask whether there is an operational conflict, in the sense that it is impossible to comply with both laws at the same time. The test is very narrow. Only when compliance with one law involves a breach of the other will the provincial law be held to be inoperable. Accordingly, provided a person can comply with both laws at the same time, the provincial law will apply even if it is more restrictive than the federal law.

For example, let us suppose that the Bank Act authorizes the bank to charge for a given service, but that the provincial law prohibits it. Compliance with provincial legislation does not require the violation of federal legislation, and thus the provincial rule that provides greater protection for the bank's customer will apply. I will come back to this later.

However, even in the absence of operational conflict, the courts will ask if there is a conflict of legislative objectives, in the sense that the application of the provincial law frustrates the purpose underlying the federal law. In this case, the federal law will prevail.

The courts have been reluctant to conclude that provincial legislation frustrates the purpose of overlapping federal legislation. In fact, in *Marcotte*, the Supreme Court ruled that Quebec's legislation was not rendered inoperable under any of the principles of the doctrine of paramountcy.

[*English*]

Returning to the legislation that was before us two years ago, the problem was that it tried to establish an exclusive regime of consumer protection for bank consumers by ousting the application of otherwise valid provincial law, such as the legislation that was held in the *Marcotte* case. In the law that we looked at two years ago, this was spelled out explicitly in the bill's statement of legislative purpose and was reinforced in its provisions.

At that time, the government defended this on the grounds that it would provide a uniform set of rights to Canadians and would avoid consumer confusion. In my analysis, however, it was not necessary to achieve those objectives, it was not even desirable from the point of view of the rights of Canadians, and it may very well have been unconstitutional. More importantly, we in the Senate were not provided with the analysis and information we needed, nor were we given time to properly and thoroughly examine this aspect of the bill. Otherwise put, in the face of legislation that reached far into the area of provincial jurisdiction, we were deprived of the tools and the time to conduct a carefully considered review.

• (1700)

So what happened? In the face of opposition in the Senate and from various provinces, the government withdrew the proposed changes to the Bank Act and the Senate passed the budget implementation bill in a timely manner, as it typically does and indeed should do. This was an example of the Senate not being a rubber stamp, but of discharging its constitutional role to protect the constitutional division of powers and the principle of federalism. It was an example of the government coming to grips with the implications of a Senate that was less dominated by party discipline than in the past.

Now, almost two years later, the government has returned with legislation providing greater consumer protection to customers of banks, again incorporated into a budget implementation bill. If I may paraphrase the song, what a difference the years make. Because unlike the earlier bill, Bill C-86 respects the principle of cooperative federalism and the constitutional division of powers. It sets out a broad suite of rights and remedies, but it does not assert federal paramountcy over provincial legislation protecting consumers generally. Accordingly, in provinces where consumer protection legislation may not be particularly robust, the provisions in Bill C-86 will provide greater protection to bank customers than they currently would enjoy. But as I explained

earlier, in Quebec bank customers will continue to be able to avail themselves of the greater rights and remedies afforded by Quebec's Consumer Protection Act.

In preparing these remarks, I analyzed the provisions of Bill C-86 and compared them to Quebec's Consumer Protection Act to determine whether there were any conflicts that would engage the rule of federal paramountcy that I described albeit a bit pedantically — and I apologize — a moment ago. However, in the interests of time I will not burden you with the details of my analysis. I will simply say this: In my reading of the bill and of the relevant provisions of the Quebec legislation, there is nothing that would amount to a conflict of legislative purpose, nor a conflict of operating incompatibility. Quebec's Consumer Protection Act and other provincial acts will continue to apply. There are a number of reasons for this.

[*Translation*]

First, nowhere does Bill C-86 indicate that it would take precedence over provincial consumer protection legislation. Nowhere is there any assertion of federal supremacy over provincial laws. In that respect, the federal government clearly heard the message we sent two years ago. That shows real respect and appreciation for the legitimate application of provincial consumer protection laws.

Second, I compared Quebec's legislation to Bill C-86 from an operating incompatibility perspective but found no such conflict. In my reading, the Quebec legislation should be able to function alongside the provisions in this bill. I know members of Quebec's National Assembly have expressed concerns about how Bill C-86 provides less protection to Quebec consumers than its own Consumer Protection Act, which could confuse consumers. The assembly has asked that provisions in Bill C-86 not apply if existing provincial laws serve the same purpose.

With all due respect, honourable senators, there is no need for that. Quebec's Consumer Protection Act provides better protection for bank customers than Bill C-86, so that act is the one bank customers will refer to. As I said earlier, as long as you are not violating one act to abide by another, the provincial law will apply even if it offers better consumer protection.

[*English*]

Honourable senators, two years after we first considered amendments to the Bank Act we do so again. Once again we can look with some pride at the role the Senate has played. As Senator Pratte mentioned and it's worth underlining, the legislation before us shows that our role is taken seriously by government and the judicious exercise of our power can have a positive effect.

We must insist on being judicious in the exercise of our power. What happened two years ago was exceptional. The Senate acted then to ensure respect for one of the most fundamental principles in our constitutional order, that of federalism and respect for the division of powers in our Constitution. In so doing, we took the position that was different from the typical and, in my respectful view, appropriate role for the Senate in relation to the budget implementation bills passed by the elected members of the House of Commons. We are, after all, an unelected, complementary legislative chamber. Our individual independence to vote as we please, precious though it is, must be understood and exercised in the context of the constitutional roles we play in our parliamentary democracy.

In my opinion, very rare should be the cases where we oppose or amend a government's budget implementation bill. We should consider doing so only when such bills contain measures that clearly go to the heart of our obligation to defend our constitutional values against majoritarian abuse. Happily, Division 10 of Part 4 of Bill C-86 is not such a case. On the contrary, it is a welcome example that the spirit of cooperative federalism is alive and well in Canada. I support the bill.

Thank you for your kind attention.

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

Senator Gold: Yes, of course.

[*Translation*]

Hon. Claude Carignan: I listened to your constitutional explanation, but the Government of Quebec — backed by leading constitutional experts and prominent members of the bar working at the justice department — still advised the National Assembly to adopt the resolution, which had unanimous support.

I'm trying to remember the facts about when we had the whole issue of consumer protection removed from the 2016 Budget bill. It seems to me that you made the same comments before these provisions were removed and that you maintained the bill was constitutional at the time. Am I remembering that right?

Senator Gold: Thank you for your question. Senator Carignan, I don't think that's exactly the case. In my speech two years ago, I emphasized at the time that there were serious problems with the bill, particularly because the government claimed not only to be legislating on consumer rights, which it has the authority to do, but because it also claimed to render the provincial law inoperative. My analysis showed that that wasn't necessary in order to protect consumers, considering the extent of the protection provided by Quebec's laws.

Perhaps there was also a question of constitutionality because the pith and substance, the core objective of the law, is —

[*English*]

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

Hon. Tony Dean: Honourable senators, I rise today to speak to Bill C-86. Specifically, I'd like to speak to the proposed changes to the Canada Labour Code found in Division 15 of Bill C-86, which intends to modernize labour standards in federally regulated private sector workplaces.

First, a brief overview of federal labour standards: These standards establish minimum working conditions in the federally regulated private sector. These conditions include, among other things, hours of work, minimum wages, statutory holidays and annual vacations, as well as various types of leave.

Federal labour standards are set out in Part 3 of the Canada Labour Code, commonly known as "the code." They apply to over 900,000 employees working for over 18,000 employers in the federally regulated private sector, as well as most federal Crown corporations and certain activities on First Nations reserves.

• (1710)

Although this represents only about 6 per cent of the Canadian workforce, this 6 per cent is important because it is in the private sector. The federal government has the ability to extend some basic protections to these workers and industry which crosses provincial and territorial borders. It does not impact on the federal public service, who have already similar protections granted to them as part of their collective agreements.

For background, the federally regulated private sector includes, and these are just a few examples: banks; marine shipping; ferry and port services; air transportation including airports, aerodromes and airlines; railway and road transportation that involves crossing provincial or international borders; canals, pipelines, tunnels and bridges that cross provincial or international borders; telecommunications, including telephone, telegraph and cable systems; and radio and television broadcasting.

Federal labour standards are called "standards" for a reason. They ensure employers in these industries abide by minimum standards and provide employees with certain protections and basic entitlements.

Federal labour standards, as Senator Pratte reminded us, were established in the 1960s when most people were working 9 to 5, when most jobs provided decent wages and benefits, and were typically full time and permanent. As we know, this has changed significantly. Many employers no longer provide comprehensive pension plans — we heard about that from the finance minister earlier — benefits or even sufficient vacation and leave policies in some circumstances.

The main objective of these amendments it to make sure employees in the federally regulated private sector have a robust and modern set of labour standards that reflects today's realities and sets the stage for good quality jobs.

It's not only workers who stand to benefit from these changes. Labour standards that reflect current workplace realities can also benefit employers as well, by reducing absenteeism, improving recruitment and retention, and improving employee well-being, all of which can lead to an increase in productivity and the quality of work.

Overall, the proposed amendments intend to accomplish four goals. They would improve employees' eligibility for labour standards; improve work-life balance; ensure fair treatment and compensation for employees in precarious work; and ensure employees receive sufficient notice and compensation when their jobs are terminated to help protect their financial security.

First, to improve employees' eligibility for labour standards, the government is proposing to take two specific actions.

The first is to eliminate minimum length-of-service requirements for general holiday pay, sick leave, maternity leave, paternal leave, leave related to critical illness and leave related to the death or disappearance of a child.

The second is to reduce the length of service required to be eligible for three weeks of vacation with pay down from six years to five years.

These amendments are important because current length-of-service requirements can make it difficult for employees who change jobs frequently to access these leaves and entitlements. By improving eligibility, we are ultimately ensuring more workers are granted access to fair leave.

Second, the government is also proposing to modify the Canada Labour Code to improve work-life balance. These amendments would see employers: introduce new breaks, including an unpaid break of 30 minutes for every five hours of work, a minimum eight-hour rest period between shifts, and unpaid breaks for nursing or medical reasons; introduce more notice of work schedules, more specifically, requiring employers to give an employee a minimum of 96 hours advance notice of their work schedule; add four weeks of vacation with pay after 10 or more years of service; introduce a new five-day personal leave of which three days are paid; introduce five days of paid leave for victims of family violence, out of a total of 10 days; improve access to medical leave by clarifying this leave can be used for medical appointments, organ or tissue donation, and specifying that employers are only allowed to request a medical certificate when employees take three or more consecutive days of leave. It would also introduce a new unpaid leave for court or jury duty.

Now, many workplaces, as you will understand, already provide standards that exceed what I've just described, but not all workplaces do. As a result, many workers struggle to balance the demands of work with the demands of their personal lives.

Third, proposed amendments would also ensure fair treatment and compensation for employees in precarious work, involving those who work in part-time, temporary or low-wage jobs.

A new study from the Canadian Centre for Policy Alternatives recently found that more than one fifth of Canada's professionals, 22 per cent, are in precarious work of some sort, including part-time, contract or freelance work. Women are disproportionately affected, accounting for 60 per cent of all precarious workers.

In the federally regulated private sector, 23 per cent of women — compared to 16 per cent of men — are not unionized and earn less than $20 per hour.

Research shows that vulnerable groups, in addition to women, such as Indigenous, visible minorities, recent immigrants and young people are generally over-represented in the world of precarious work.

In order to ensure employees in precarious work are paid and treated fairly and have access to labour standards, Bill C-86 would introduce equal treatment protection which would prohibit an employer from paying an employee less than another employee doing the same work under the same conditions. This protection would not apply if the difference in rates of pay is based on objective factors such as seniority or merit. It would protect temporary help agency employees from unfair practice by, for example, prohibiting an employer from charging a fee to the employee in connection with assigning its employee to perform work for a client. It would require employers to provide employees with information about labour standards requirements and their conditions of employment. It would therefore tell employees about their rights. It would entitle all employees, irrespective of their employment status, to be informed of employment or promotion opportunities. And it would prohibit employers from treating an employee as if they were not their employee in order to avoid their obligations or to deprive the employee of their rights, that is, to try to shift them to independent contractor status. It would treat employees' length of service as continuous in cases of contract retendering within the federal private sector, or when their employment is transferred from a provincially regulated employer to a federally regulated employer.

To add some context to this, we're talking about people who work in building cleaning, in food service, in laundry services, whose employment is ended when a contract changes hands. Therefore, they're unable to ever accumulate enough time to benefit for basic employment standards.

The proposed changes would also raise the minimum age for work in hazardous occupations from 17 years to 18 years of age.

While the proposed amendments would apply to all employees working in the federally regulated private sector, they would be particularly beneficial to the most vulnerable workers.

Finally, the fourth intention of the proposed changes is to ensure employees receive sufficient notice and compensation when their jobs are terminated in order to help protect their financial security.

With regard to group termination of employment, currently, under the code, employers are required to provide 16 weeks of notice when intending to lay off 50 or more employees. Bill C-86 would ensure employers provide pay in lieu of that required 16-week notice, or a combination of notice and pay in lieu.

In situations where fewer than 50 employees are being terminated, employers would be able to put in place a graduated notice of individual termination.

For employees with between three months and less than three years of continuous employment, it would range from two weeks' notice or pay in lieu of notice, or a combination of the two.

It could extend to a maximum of eight weeks' notice, pay in lieu or a combination thereof after eight years of continuous employment. This would replace the current requirement for employers to give two weeks' notice of an individual termination.

In addition, it would be incumbent upon employees to inform terminated employees of their improved termination rights.

• (1720)

Bill C-86 also includes a number of measures that would broaden the scope of health-care practitioners who can issue medical certificates and provide for the designation of a new head of compliance and enforcement as part of a more efficient system for delegating important enforcement powers, duties and functions under the code.

Honourable senators, these changes mirror closely to Ontario's Bill 148, the Fair Workplaces, Better Jobs Act. This act was introduced in 2017, following extensive public consultations referred to as the Changing Workplaces Review. In 2015, the then Minister of Labour provincially for Canada's most populated province initiated this review by appointing C. Michael Mitchell, a labour side specialist in the bar; and John C. Murray, an employer specialist, as special advisers to lead the largest review of Ontario's labour laws conducted for decades.

The review was intended to consider issues brought about in part by the growth of precarious employment. Two years of broad consultations resulted in a 419-page report with 173 recommendations to reform labour legislation. The federal government has adopted some of the provisions of Bill 148 such as work schedule notices and leave for victims of family violence.

I also know the Social Affairs, Science and Technology Committee endorsed the proposed changes to the Canada Labour Code as detailed in its thirteenth report tabled in the Senate chamber last Thursday. The committee recognizes changes proposed in Division 15 is the most significant update to the Canada Labour Code in 50 years and agrees with all witnesses who testified the update to labour standards is needed. Specifically, the report states the proposed amendments are necessary to address work-life balance concerns of both employees and employers.

Honourable senators, many Canadian workers today are facing significant challenges. With major economic and technological changes affecting the world of work in recent years, it has become clear federal labour standards need to be modernized to better reflect the realities of the 21st century workplace and address the challenges faced by workers and employers.

A modern set of federal labour standards is essential as it will better protect Canadian workers and help set the stage for good quality jobs. This is especially important for workers in part-time, temporary or low-wage jobs, many of whom are struggling to balance work and family life.

Honourable senators, I support the measures in Bill C-86 that would modernize labour standards in Canada and bring Canada closer to realizing that goal. We need federal leadership in this important area. I believe we're seeing it. I will be voting in favour of this legislation. Thank you.

Hon. Frances Lankin: Before I begin, I want to share an anecdote with colleagues relating to Senator Pratte's comments about omnibus legislation in general.

When I was in the Ontario legislature and newly reelected out of government and into opposition, the new government came in and placed one of their MPPs in the speaker's chair. This MPP had some issues with mixing words from time to time. Sometimes it was very funny and sometimes it was shocking. It was something we knew about this individual.

When the then-new government brought in their first large omnibus legislation, like every government of every political stripe has done, this speaker misspoke himself and referred to it as the "ominous legislation." I must tell you the name stuck. With that, we had a lot of fun.

I appreciate the opportunity to speak today. I intend to speak primarily to Division 14 of Bill C-86, pages 341 to 448, which is the Pay Equity Act. I'm going to touch on the Labour Code changes which you heard Senator Dean most ably describe. I won't go into detail. There is one provision that raises some questions and has some relationship to questions about the pay equity legislation.

I would like to acknowledge there's been a collaborative team of senators and their staff working on trying to understand the pay equity legislation. As I speak I'm putting forward my thoughts but there have been others that contributed, namely Senators Omidvar, Deacon (Ontario), Boniface, Dasko, Hartling and Miville-Dechêne. We asked for access to more information and support from the office of the sponsor, Senator Pratte. He was terrific.

I would like to move to the core of my speech by saying I support very strongly the government's intent with this legislation.

Back in the late 1980s and early 1990s in Ontario, equal pay for work of equal value legislation was brought in instead of equal pay that was there before. It has morphed into being called pay equity. In province, after province, after province, that legislation has been developed over the years but not at the federal level. At the federal level we have had protection for women against wage discrimination in federally regulated workplaces. It has been contained within the Human Rights Code. It was a complaints-based process. This is a proactive pay equity legislation that will establish the obligation to develop, in every federally regulated workplace, gender-neutral job evaluation programs which can bring about the examination of two different groups or classes of workers — one predominantly female and one predominantly male — and by a gender-neutral approach in job evaluation, which involves looking at knowledge, skills, working conditions and effort, to come to an understanding about the similarity or not of the jobs and, therefore, the appropriateness of the similarity or not of the wage and compensation structures.

On this, I truly commend the government. They're to be congratulated. The group of us who worked together really want to thank the Minister of Employment, Workforce Development and Labour for her work, support and openness and willingness to talk to us.

When something is set up like that, you probably figure there is a "but" or a "however" to come. In this case there is. I want to talk to you about four points today. One is more important than all the others. I'm signalling again to the minister there is still a remaining concern amongst some of us. Let me go through those issues.

First, in the purpose section there is the inclusion of a phrase that says this bill is to achieve pay equity "while taking into account the diverse needs of employers." Now, within the act itself it does a good job of doing that. It sets out requirements for what employers must do based on their size and number of employees. It looks to the diversity of employers and understands that there are different realities and capacities facing them. I think it does a good job of that.

We question why this shows up in the purpose clause. We're assured it's not a right that's given. It's not a legislative provision. It's just the purpose clause. It's just descriptive. In the bill there is recognition of the diversity of employers so we put it up there but it really doesn't mean anything. It really isn't important. It's a communication of the approach of the government on balance. I get that.

However, one of the researchers who works in my office pointed out that in Bill C-89, in the purpose clause which makes reference to the United Nations Declaration of the Rights of Indigenous Peoples, we were told by the government it was important they put it in there to demonstrate their commitment. These things either do or don't. My concern is at some point in time, in an adjudication of this — whether it's by an arbitrator, by the pay equity commissioner or by the courts down the road — there will be some reference back in trying to understand, depending on the facts of the case, that purpose clause. It might give colour to it.

Part of what I'm doing today is putting on the record that the government has said this has no import. It is not to be taken as anything more than descriptive of what is in the bill. We're still ruminating, but perhaps we can come to understand that.

The second point is a requirement for unanimous voting. Where workplace committees are established to negotiate the pay equity program with the employer, there may be different units. They may be unionized or nonunionized or clerical and outside workers — it could be a range of situations. All of those would have representation at the committee. This bill requires that committee to vote unanimously. If not, they forfeit the right to vote and the employer will decide the program. I have a lot of problems with that.

The government puts forward a plausible explanation that this is to protect tiny units so their voice can be heard and they can't be overwhelmed by larger units. My concern is where you have several units. Everybody says this deal is not a good deal and they're going to vote against it but one person says, "No. I like what's there. I'm okay with it." Then all of that disappears. The employer gets to impose what the employer wants to impose.

• (1730)

Most employers are very good, ethical employers; however, all of us know the story of bad employers. All of us know certain federally regulated workplaces that are incredibly poisoned atmospheres and, in fact, have a real antithesis towards acting on things like pay equity. We've recently had conversations about that.

I am concerned there could, in fact, be someone who is encouraged by the employer to be on that committee and that single voice might lead to an employer imposed as opposed to a negotiated settlement.

Am I being too hypothetical? Maybe. Maybe it will never come to pass, but in my experience of unionizing, of organizing drives, this kind of action on behalf of an employer is not out of the ordinary at all. I wonder why we're giving that opening. In this case, I think it's a policy decision on the part of the government. We will have to continue to raise our voices and concern, but if we're not heard, we will have to monitor after the fact.

The third point I wish to speak to is what we've coined the escape clause. In this legislation there is a paragraph, as in all legislation, allowing the Governor-in-Council to make regulations, but here it is to exempt with or without conditions, any employee or employer or position or any class of employers, employees or positions from the application of any provision of the act. Wow, you could drive a truck through that big, open hole there.

This is not the only piece of legislation with this kind of broad exemption, without conditions and without even providing us with a pre-look at what the regulations might be that might govern what is said there.

I have a considerable issue with this form of legislative drafting purpose and from an understanding of what the legislation confers in terms of rights of people when there is a blanket which can be exempted.

Now, we ask for the reasons for what the government says here, and they gave a plausible example where an employer is partly federally regulated and partly provincially regulated. What if they've already done a pay equity plan under the provincial legislation that exists in any jurisdiction? That's plausible. There is a way of addressing that, if you look at the Personal Information Protection and Electronics Document Act, you will see the Governor-in-Council may make an order:

> If satisfied that legislation of a province that is substantially similar to this Part applies to an organization, a class of organizations, an activity or class of activities, exempt the organization, activity or class from the application of this Part in respect of collection, use disclosure of personal information that occurs within that province.

That language, if that is the issue, can very easily be slightly modified, brought into this legislation and it corrects that problem.

The government at this point in time is reluctant to do that. They say that there's no intent to use this exemption clause. In terms of legislative drafting, it's not only this government, this is a trend which has developed. It is a bad trend. It doesn't take away from the importance of this legislation, but it leaves people with a lot of questions and leaves people concerned about the future and what might happen, whether it's the future with this government or other governments.

The issue I am struggling with — and I asked some of you to think about it and tell me what you think — is the issue that deals with precarious workers. So this is page 362, section 46(f). It provides for an exemption of benefits from the calculation of compensation if we're dealing with temporary or casual workers.

So let me read to you from the Human Rights Code which is currently in place. If you have a pay equity dispute right now with the employer or are concerned with the employer and the wage structure, a woman would go to the Human Rights Commission and make a case around wage discrimination.

In the Human Rights Code, the definition of wage that applies today is any form of remuneration payable for work performed by an individual and includes, salaries, commissions, vacation pay, dismissal wages, bonuses, reasonable value for board, rent, housing and lodging, payments in kind, employer contributions to pension funds or plans, long-term disability plans and all forms of health insurance plans and any other advantage received directly or indirectly from the individual's employer.

We're still digging down, but it would appear that a woman working part-time or as a casual who is alleging wage discrimination has access through the federal Human Rights Commission and the provisions in the code to have that examined. It would include both the salary rates that they receive along with other benefits that are attached to that.

So if they make the case that, in fact, their job is equivalent in value to a predominantly male unit whose wages are higher and the benefits are higher, there is something that can be done that would bring about equity in wages and some pro-rata basis of looking at the benefits.

Now, the Pay Equity Act that's before us now — I'm going to paraphrase section 46. It says that an employer must exclude from the calculation of compensation. They don't use the word "wages." They've broadened it to compensation or narrowed it to compensation, It's a different word meant to have a different import because you choose your words carefully when you're drafting.

So an employer must exclude from the calculation of compensation a whole bunch of things that are differences based on any one of factors (a) to (h). There may be more than this one page. Sub (f) that I'm concerned about says that the employer must exclude from the calculation of compensation all these things down to (f), the non-receipt of compensation in the form of benefits that have monetary value due to the temporary, casual or seasonal nature of the position.

Therefore, the plan has to exclude looking at the comparability of the monetary value of the benefits that exist. It's only the salary, the dollars per hour, that you are paid.

Interestingly, Senator Dean did a great job of going through the new Canada Labour Code provisions. In the current Labour Code, the definition of wages includes every form of remuneration for work performed, but does not include tips and other gratuities. It is wide open in encompassing benefits. I support this new legislation in the Labour Code. It is a tremendous breakthrough.

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

Senator Lankin: Yes, please.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Lankin: Thank you, honourable senators.

In the Labour Code, this is a good intent, the act is amended by providing the prohibition rate of wages. In section 182.1, an employer is prohibited from paying one employee a rate of wages that is less than the rate paid to another of that employer's employees due to a difference in their employment status. One of the factors is the hours that they work.

The definition of "wage" from the Labour Code is all-encompassing. You might notice that the language they use here is "rate of wages." There's no definition for that. I don't know if using different words means something different or if it means that the courts or the adjudicator will look to the definition of wages there.

It leaves me in a quandary to understand how a woman coming forward to the Pay Equity Commissioner in a dispute with her employer would be dealt with. The employer must take out benefits and not look at it if they're a part-time or casual worker. There may be a possibility of going to the Human Rights Commission on wage discrimination. If it's a pay equity issue, it has to go to the commission, which is a subset now to the Pay Equity Commission, which is a subset of the Human Rights Commission. But if they went over to the Labour Code, would they get different treatment? Colleagues, I genuinely don't know the answer.

• (1740)

Senator Pratte has made the case that we've asked the minister for more information, and he believes it will be forthcoming shortly. I hope it is. I would love the help of some minds in this chamber to dig down and understand this, so we know one individual and the path they can take and, depending on the path they take, the treatment they will receive under this provision of federal legislation.

With that, let me say, "thank you very much." I appreciate my colleagues giving me some extra time.

Hon. Dan Christmas: Honourable colleagues, I rise today to speak briefly to the findings of the study undertaken by the Standing Senate Committee on Aboriginal Peoples of elements contained in Divisions 11, 12 and 19 of Part 4 of Bill C-86, A Second Act to implement certain provisions of the budget.

Division 11 proposes amendments to the First Nations Land Management Act; Division 12 proposes amendments to the First Nations Fiscal Management Act; and Division 19 proposes the enactment of the "addition of lands to reserves and reserve creation act."

As is sadly often the case in respect of consideration of budget implementation legislation, consideration of these amendments was hurried. This is unfortunate for reasons I will get into in a few moments. However, it bears noting the amendments contained in Divisions 11 and 12 of the BIA are First Nations-driven; that is, developed by and for the benefit of First Nations.

We were pleased to see options in both divisions that could provide First Nations with the opportunity to access their capital and revenue moneys held in trust for First Nations by the Crown. Facilitating First Nations' access to their moneys is something that's been explored by the Aboriginal Peoples Committee in the past as part of its study on housing and infrastructure on reserve and at a meeting held in February 2016.

First Nations institutions, including the Lands Advisory Board, also known as the First Nations Land Management Resource Centre; the First Nations Tax Commission; and the First Nations Financial Management Board, have emphasized the importance of and their support for these amendments in Divisions 11 and 12. The government is to be commended for its close working relationship with these institutions. They are key players in building and, hopefully, the ultimate resetting of the fiscal framework between Canada and First Nations.

However, it is worth noting witnesses clearly identified the need for future amendments to both laws. With respect to the FNLMA, we heard it should be replaced with legislation that simply ratifies the framework agreement on First Nation land management as opposed to the existing legislation that restates, and in some cases reinterprets, the framework agreement's provisions.

It was made very clear to us that ratifying the framework agreement on First Nation land management would better reflect the reconciliation and recognition approach of the framework agreement and would make it clear it is the language of the framework agreement that prevails rather than the language of the First Nations Land Management Act.

While we recognize the importance of moving the proposed First Nations Land Management Act amendments forward at this time, we urge the federal government to expeditiously consider the replacement legislation as proposed by the Lands Advisory Board.

With respect to the First Nations Fiscal Management Act, the committee was again encouraged by the evolving relationship between the First Nations institutions and the federal government, as reflected in several amendments to the First Nations Fiscal Management Act over time.

On a previous occasion, our committee examined amendments to the First Nations Fiscal Management Act contained in Bill C-59, an Act to implement certain provisions of the budget tabled in Parliament on April 21, 2015, and other measures. Those amendments were reported back without observations.

While Division 12 of Bill C-86 contains many of the First Nations institutions proposed amendments, your committee recognizes more work may be required, including expanding the mandate of the First Nations Tax Commission.

While it's clear the process relating to the amendments in Divisions 11 and 12 reflect a spirit of close collaboration and consultation, the same can hardly be said about the process in relation to Division 19.

Crown-Indigenous Relations and Northern Affairs Canada and Indigenous Services Canada advised the committee of the steps taken to inform First Nations and organizations, such as the Treaty Land Entitlement Committee of Manitoba, on the proposed "additions of lands to reserves and reserve creation act." However, our witnesses made it clear that engagement with them on this issue was inadequate, and they had not had the time to properly consider the impacts of the proposed new act. One official even went so far as to imply a lack of response from a community represented consent.

Honourable colleagues, this troubles me greatly. I've been involved in the federal consultation process now for over 40 years. The lack of a response from a First Nation in response to information sent out by the department does not mean the community is consenting. Silence does not necessarily constitute consent. Consultation cannot be diluted to such an extent that sending a letter, ticking off a box on a to-do list or merely posing a question is considered gaining consent.

Article 19 on the United Nations Declaration on the Rights of Indigenous Peoples clearly states where the bar sits with respect of consultation:

> States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Honourable colleagues, "free, prior and informed consent" is not some lofty tenet we should seek to attain; it is the bar that must be met if we are to entertain true nation-to-nation relationships. Let's remember the words of Abraham Lincoln: "No man is good enough to govern another man without the other's consent."

In the final analysis, the measures in this act under Divisions 11 and 12 are positive developments. Those in Division 19 remain a work-in-progress. All three represent good steps forward.

Yet, the processes around their development and the extent and nature of the dialogue with those who are to be governed by them remains inadequate. The measures discussed today contained in this act are thus worthy of our support. So too is a determination by all of us in this place and throughout the machinery of government to seek to embody the spirit of Article 19 of the UN declaration.

In conclusion, honourable colleagues, clear dialogue undertaken in good faith and in good time goes a long way to bringing about free, prior, and informed consent.

We must all acknowledge there is much work to be done in this regard.

Welalioq. Thank you.

Hon. Percy Mockler: Honourable senators, here is the omnibus bill. I remember not too long Canadians were told from coast to coast to coast it would be sunny ways. What we have today is funny ways of governing.

I agree with Senator Lankin about her concerns on Bill C-86. I also agree with Senators Christmas and Dyck on their concerns for First Nations. However, we cannot say everything is bad. Nor can we say everything is good.

Honourable senators, I am always touched and sensitive when I stand up and partake in a debate, especially addressing concerns about Canadians and the Canadian budget. Also, I want to share with you, being the son of a single mother, and born and raised on welfare, my mother would always say to my sister and I, "People don't care who you are until they know what you care for." There's no doubt she would look at all these numbers in the omnibus bill, and she would have her own descriptions of how to look at those numbers.

Honourable senators, I never would have believed that I would be standing in this august chamber to address the budget of Canada when I was growing up. So permit me to share with you some comments of Bill C-86, the Budget Implementation Act.

• (1750)

My comments, as the critic of the Official Opposition, are a reflection of what I heard from people and that people shared with me in public and at round table consultations with many Canadians. I was fortunate that the Canadians I met were from low incomes as well as millionaires and billionaires.

[*Translation*]

Before I go on, I want to point out that the Leader of the Government in the Senate said that he wanted to take steps to ensure that Canadians are less cynical about politicians and can trust men and women in politics again, both in this chamber and at the other place.

Honourable senators, I rise today to speak to Bill C-86, A Second Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures. This is a massive bill, but I will limit my speech to a few themes such as expenses that are not submitted to the parliamentary approval process, the decline in transparency in financial reports and a discretionary spending authority the likes of which has never been seen in the history of Canada. Again, Bill C-86 is a perfect example of an omnibus bill.

We are concerned because this 850-page omnibus bill contains elements that were not announced in the Speech from the Throne. This is a step backward on transparency because some measures in this bill would eliminate essential reporting requirements. This concerns us. This bill contains measures such as the use of time allocation during the study of bills, as massive as they might be, which prevents parliamentarians from doing the work that Canadians entrusted them with.

[*English*]

Honourable senators, as the Official Opposition, we are concerned because we need to be wary of where the money is going. Members of the National Finance Committee hear me say many times that we are looking for transparency, accountability, predictability and reliability.

I will remind you, honourable senators, that in Schedule 1 of the Appropriation Act No. 2, 2018-19, the government added $7 billion of discretionary spending, and that was hidden under vote 40. The budget that was recently tabled, honourable senators, to which Bill C-86 responds, included another $9.5 billion in unannounced spending listed on page 107 of the Fall Economic Statement. A footnote from page 107 is the only thing suggesting the provision is for anticipated cabinet decisions not yet made and funding decisions related to national security, commercial sensitivity, trade agreements and litigation issues. That is not what we were promised in 2015.

Honourable senators, as you study this bill, take note of the loosening of financial powers; for example, ministers' ability to spend and organizations that do not have to report, further eroding parliamentary oversight and weakening Canadians' voices in these matters. Those are not sunny ways, but rather, funny ways of governing.

[*Translation*]

Honourable senators, Crown corporations take out loans and the government collects the dividends.

The next thing I would like to draw your attention to is the obvious step backward on transparency in Division 17 of Part 4 of Bill C-86. We are concerned because this provision amends the Bretton Woods and Related Agreements Act, the European Bank for Reconstruction and Development Agreement Act and the Official Development Assistance Accountability Act.

Under this provision, the government could produce a single report on international spending rather than three separate ones, which is concerning considering we are seeking more government transparency. What concerns us most is that Bill C-86 gives the Minister of International Development and the Minister of Foreign Affairs the authority to grant loans or guarantees and to acquire, hold and sell assets.

[*English*]

It is not what we were promised of sunny ways. Rather, today we have funny ways of governing.

[*Translation*]

The ministers will have the authority to develop two new programs and to use an existing program to distribute an additional $1.5 billion around the world over the next five years, without Parliament having to pre-approve the specific objectives of these programs.

[*English*]

Honourable senators, in conclusion, given the size of the bill, the time constraints seen in the House of Commons and the expectation that this bill be passed quickly, I am concerned and many Canadians are concerned.

Yes, I have said it and I will repeat it: Many Canadians are concerned, from people on welfare, low-income earners in Canada to millionaires and billionaires. We are responsible for protecting both sides of the taxpayer's coin, both in how taxes are collected and how that tax money is spent. There will be a day Canadians will decide. Thank you.

Some Hon. Senators: Hear, hear.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

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

REFERRED TO COMMITTEE

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

(On motion of Senator Pratte, bill referred to the Standing Senate Committee on National Finance.)

EXPORT AND IMPORT PERMITS ACT
CRIMINAL CODE

BILL TO AMEND—TWENTY-FIRST REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE PRESENTED

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

Hon. A. Raynell Andreychuk, Chair of the Standing Senate Committee on Foreign Affairs and International Trade, presented the following report:

Tuesday, December 4, 2018

The Standing Senate Committee on Foreign Affairs and International Trade has the honour to present its

TWENTY-FIRST REPORT

Your committee, to which was referred Bill C-47, An Act to amend the Export and Import Permits Act and the Criminal Code (amendments permitting the accession to the Arms Trade Treaty and other amendments), has, in obedience to the order of reference of Wednesday, October 31, 2018, examined the said bill and now reports the same without amendment but with certain observations, which are appended to this report.

Respectfully submitted,

A. RAYNELL ANDREYCHUK
Chair

(*For text of observations, see today's* Journals of the Senate*, p. 4147.*)

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

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

(*At 6 p.m., the Senate was continued until tomorrow at 2 p.m.*)

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