SENATE SÉNAT

CANADA

DEBATES OF THE SENATE

1st SESSION • 42nd PARLIAMENT • VOLUME 150 • NUMBER 296

OFFICIAL REPORT
(HANSARD)

Tuesday, June 4, 2019

The Honourable GEORGE J. FUREY,
Speaker

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Debates Services: D'Arcy McPherson, National Press Building, Room 906, Tel. 613-995-5756
Publications Centre: Kim Laughren, National Press Building, Room 926, Tel. 343-550-5002

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

THE SENATE

Tuesday, June 4, 2019

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

Prayers.

SENATORS' STATEMENTS

DEAFBLIND AWARENESS MONTH

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I rise today as we begin the month of June to celebrate Deafblind Awareness Month.

In 2015, the Senate of Canada unanimously passed a motion to designate June as Deafblind Awareness Month.

I wish, once again, to acknowledge and thank our colleague, the Honourable Jim Munson, and former colleagues, the Honourable Joan Fraser and the Honourable Asha Seth, for their supportive roles in ensuring the unanimous passage of the motion to recognize the deafblind community. I also want to commend the Honourable Vim Kochhar, our former colleague and visionary, who is a true champion of Canada's deafblind community.

June is also the birth month of Helen Keller, the iconic role model and leader of the deafblind community the world over. At the young age of 19 months, Helen developed an illness that left her deaf and blind. By the age of seven, she had more than 60 home signs to communicate with her family and could distinguish people by the vibration of their footsteps.

She learned to "hear" people through speech by reading their lips with her hands. She also became proficient at using Braille and reading sign language with her hands. She learned that by placing her fingertips on a resonant tabletop she could experience music played close by. Nothing was impossible for her, regardless of the many obstacles and challenges she faced every day. At the age of 24, she became the first deafblind person to earn a Bachelor of Arts degree.

She believed that:

> The best and most beautiful things in the world cannot be seen or even touched. They must be felt with the heart.

She paved the way for many individuals in the deafblind community to better understand their own lives, bring awareness to this important cause and fight for changes and forward social progress.

In 2001, The Canadian Helen Keller Centre, founded by the Honourable Vim Kochhar, opened its doors to provide deafblind Canadians with training opportunities and services and to raise public awareness about the needs of people who live with deafblindness.

Throughout June, Canadians will recognize the resiliency and strength that deafblind individuals face every day and celebrate their great achievements. This month is extremely important not only for honouring them, but also their families and all individuals who work closely with them. These interveners are incredibly inspiring unto their own, being the eyes and voice of the deaf-blind individuals they support.

Hellen Keller once said:

> Alone we can do so little; together we can do so much.

Honourable Senators, please join me in commemorating June as Deafblind Awareness Month and reaffirm our commitment as articulated in the 2015 motion to ensure that all deafblind Canadians have equal access to the benefits and opportunities that our great country affords us.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of David Hancock, former Premier of Alberta. He is accompanied by Janet Hancock and Claire Carefoot. They are the guests of the Honourable Senator LaBoucane-Benson.

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

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of a group of participants of the Catholic Women's Leadership Program from Saint-Paul University. They are the guests of the Honourable Senator Coyle.

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

Hon. Senators: Hear, hear!

D-DAY AND THE BATTLE OF NORMANDY

SEVENTY-FIFTH ANNIVERSARY

Hon. Pamela Wallin: Honourable colleagues, on Thursday, June 6, in communities across this country and, of course, around the world, people will come together to commemorate the seventy-fifth anniversary of D-Day in 1944. It is a time to remember what service to country really means and those who risked it all for the freedoms we now enjoy.

On a personal note, the Legion in my hometown of Wadena, of which I am a proud member, will host an open house for elementary and high school students and members of the

community to mark the day. It is a chance for the community, and especially the young people, to learn history in a very interactive way. That history is a proud one.

On June 6, 1944, more than 14,000 Canadian troops from the 3rd Canadian Infantry Division and the 2nd Canadian Armoured Brigade came ashore on Juno Beach. They then pushed inland to take an important communications and transport centre.

It was a bloody and brutal battle, and victory in the Battle of Normandy came at a terrible cost. The Canadians suffered the highest casualties: 359 Canadians were killed on D-Day alone. More than 5,000 Canadians would die fighting in Normandy.

Canada's impressive efforts in the Second World War remain a point of great national pride, even these many decades later. The brave ones who came ashore and saw action in France were among more than one million men and women from our country who served in the cause of peace and freedom.

Last week, I attended an event where the latest Heritage Minute, honouring Canada's contributions in Normandy, was unveiled. And there to witness this story retold was a veteran of D-Day, Alex Polowin, a 94-year old from Ottawa who served on the HMCS Huron as part of the protective force in the English Channel during the invasion.

He was humble and proud of what he called a "small" contribution. It was not small. It was powerful, defining and it shaped the country we cherish today.

Earlier that day, he told me he had been in no fewer than four classrooms, still telling the story of young men like himself who fought valiantly — some who paid the ultimate price and those who came back home to build our nation.

• (1410)

Nothing could have stopped Alex from enlisting in the navy at the age of 17. Today, many young women and men are the same, joining the Canadian Armed Forces not knowing what's in store but ready and willing to sacrifice and serve. We owe today's men and women in uniform and yesterday's heroes our undying respect and remembrance. Thank you.

DISTINGUISHED VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of our former colleague the Honourable Irving Gerstein. He is accompanied by his wife, Gail.

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

Hon. Senators: Hear, hear!

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Major-General Blaise Frawley, Chief Warrant Officer Donald Farr and Lieutenant-Colonel (Retired) Dean Black. They are the guests of the Honourable Senator Day.

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

Hon. Senators: Hear, hear!

AIR FORCE DAY ON THE HILL

Hon. Joseph A. Day (Leader of the Senate Liberals): Honourable senators, as many of you know, I have had the great privilege of hosting the men and women of the Royal Canadian Air Force here on Parliament Hill for the past several years. These gatherings provide all of us with the opportunity to thank the RCAF members for their service and to learn more about their initiatives and activities.

In the gallery today, we have representatives from the Royal Canadian Air Force, including the Deputy Commander of the Air Force, Major-General Blaise Frawley, and his colleagues.

This year's event commemorates the seventy-fifth anniversary of D-Day. On June 6, 1944, Allied forces launched the largest military invasion in history on the beaches of Normandy.

Earlier today, the Governor General participated in the unveiling of a monument in Chambois, France, dedicated to the sacrifices made by Canadians during the Battle of Normandy.

Our air force played a key role in that battle and began their work several months before troops stormed the beaches. Squadrons belonging to Bomber Command's No. 6 Group had been bombing key enemy targets in the area for some time. Finally, on D-Day, June 6, 1944, RCAF fighters and fighter-bomber pilots flew with Allied squadrons to protect the soldiers on the beach, both from the Luftwaffe above and the German troops on the ground.

In 1944, the Royal Canadian Air Force had 42 operational squadrons overseas, and 37 of them supported the invasion — 37 out of 42.

Our RCAF continues its long-standing commitment to safety and security to this day. Dedicated and professional members meet challenges at home and abroad with the same courage and professionalism as their forebearers. This is part of a proud tradition of Canadian airmen and airwomen.

Honourable senators, later today I invite each of you to join me at the Air Force Day on the Hill reception. This reception is sponsored by the Royal Canadian Air Force Association and will be held in our new building for the first time, in Room C-128, from 4:30 to 7:30.

I hope you will take the opportunity to thank the Royal Canadian Air Force personnel for their service, meet with them and other aerospace industry professionals. Thank you, colleagues.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Karlee Johnson of Eskasoni First Nation, Richard Pellissier-Lush of Lennox Island First Nation and members of the Hughes family. They are the guests of the Honourable Senator Francis.

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

Hon. Senators: Hear, hear!

NATIONAL INDIGENOUS HISTORY MONTH

Hon. Brian Francis: Honourable senators, I rise today to mark the beginning of National Indigenous History Month, a time to reflect on the heritage, culture and contributions of First Nations, Inuit and Metis peoples.

For decades, Indigenous people have been subjected to systemic oppression and discrimination sanctioned by the state and other authorities. These actions have caused an immeasurable amount of trauma, suffering and loss. It is a legacy that is still being felt today.

Despite progress in recent years, Indigenous peoples across Canada continue to face serious threats. We are the fastest-growing population but experience lower outcomes on many key economic and social indicators.

We are also struggling with realities that challenge our continued existence, namely, the erosion of our cultures, languages and ways of life; the forced removal of our children from families and communities; the massive over-representation of our people in the criminal justice system; and the disappearance and murder of our women and girls.

It is far too easy to become discouraged by the enormity of the challenges in front of us. However, many of us remain optimistic. There is an extraordinary strength and resilience within Indigenous peoples. Each day, across the country, we stand up for our rights and the rights of others. We work tirelessly to build a better future for generations to come. We will not stop. We are undeterred.

Colleagues, this month I encourage you to take time to not only reflect on our shared and, at times, dark history as a nation, but to meet, learn and develop a friendship with Indigenous peoples.

I also call on each of you to take concrete steps — inside and outside of this chamber — to build a more just, equal and inclusive Canada for Indigenous peoples and for all. *Wela'lin*. Thank you.

[*Translation*]

ROUTINE PROCEEDINGS

BUDGET IMPLEMENTATION BILL, 2019, NO. 1

TWENTIETH REPORT OF ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES COMMITTEE ON SUBJECT MATTER TABLED

Hon. Rosa Galvez: Honourable senators, I have the honour to table, in both official languages, the twentieth report of the Standing Senate Committee on Energy, the Environment and Natural Resources, which deals with the subject matter of those elements contained in Divisions 23 and 24 of Part 4 of Bill C-97, An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2019 and other measures.

(Pursuant to the order adopted on May 2, 2019, 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.)

[*English*]

MULTILATERAL INSTRUMENT IN RESPECT OF TAX CONVENTIONS BILL

TWENTY-FIFTH REPORT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE COMMITTEE PRESENTED

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

Tuesday, June 4, 2019

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

TWENTY-FIFTH REPORT

Your committee, to which was referred Bill C-82, An Act to implement a multilateral convention to implement tax treaty related measures to prevent base erosion and profit shifting, has, in obedience to the order of reference of May 16, 2019, examined the said bill and now reports the same without amendment.

Respectfully submitted,

A. RAYNELL ANDREYCHUK
Chair

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

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

BUDGET IMPLEMENTATION BILL, 2019, NO. 1

THIRTY-FIRST REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE ON SUBJECT MATTER TABLED

Hon. Serge Joyal: Honourable senators, I have the honour to table, in both official languages, the thirty-first report of the Standing Senate Committee on Legal and Constitutional Affairs, which deals with the subject matter of those elements contained in Division 17 of Part 4, and in Subdivisions B, C and D of Division 2 of Part 4 of Bill C-97, An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2019 and other measures.

(Pursuant to the order adopted on May 2, 2019, 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.)

• (1420)

CRIMINAL CODE
YOUTH CRIMINAL JUSTICE ACT

THIRTY-SECOND REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. Serge Joyal: Honourable senators, I have the honour to present, in both official languages, the thirty-second report of the Standing Senate Committee on Legal and Constitutional Affairs, which deals with Bill C-75, An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts.

(*For text of report, see today's* Journals of the Senate*, Appendix, p. 4933-4945.*)

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

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

[*Translation*]

BILL RESPECTING FIRST NATIONS, INUIT AND MÉTIS CHILDREN, YOUTH AND FAMILIES

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-92, An Act respecting First Nations, Inuit and Métis children, youth and families.

(Bill read first time.)

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

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

[*English*]

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

U.S. CONGRESSIONAL MEETINGS, NOVEMBER 26-28, 2018—REPORT TABLED

Hon. Michael L. MacDonald: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada–United States Inter-Parliamentary Group respecting its participation at United States Congressional Meetings, held in Washington, D.C., United States of America, from November 26 to 28, 2018.

U.S. CONGRESSIONAL MEETINGS, FEBRUARY 26-27, 2019—REPORT TABLED

Hon. Michael L. MacDonald: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada–United States Inter-Parliamentary Group respecting its participation at United States Congressional Meetings, held in Washington, D.C., United States of America, on February 26 and 27, 2019.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO DEPOSIT REPORT ON STUDY OF THE IMPACT AND UTILIZATION OF CANADIAN CULTURE AND ARTS IN CANADIAN FOREIGN POLICY AND DIPLOMACY WITH CLERK DURING ADJOURNMENT OF THE SENATE

Hon. A. Raynell Andreychuk: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That the Standing Senate Committee on Foreign Affairs and International Trade be permitted, notwithstanding usual practices, to deposit with the Clerk of the Senate a report relating to its study on cultural diplomacy, if the Senate is not then sitting, and that the report be deemed to have been tabled in the Chamber.

QUESTION PERIOD

EMPLOYMENT, WORKFORCE DEVELOPMENT AND LABOUR

CANADA SUMMER JOBS PROGRAM

Hon. Larry W. Smith (Leader of the Opposition): Honourable senators, my question is for the Government Representative in the Senate and concerns the Canada Summer Jobs program.

Honourable senators may remember that this government provided Canada Summer Jobs funding in 2018 to Dogwood of B.C. to pay for a student to "help our organizing network to stop Kinder Morgan pipeline and tanker projects." Once again, this year, groups that advocate against our energy sector and are funded by foreign foundations have been approved as employers under the Canada Summer Jobs program, including Dogwood of B.C.

Senator Harder, could you tell us whether any Canadian Summer Jobs program funding this year will go to specific jobs advocating against Canada's energy sector, as was the case last year with Dogwood of B.C.?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. He'll know the importance that Canadian young people, in particular, place on the Canada Summer Jobs program. I know that his question doesn't diminish his interest in ensuring that program is running appropriately.

I'll make inquiries with respect to the question asked. I'd be happy to report back.

Senator Smith: Thank you.

As I mentioned recently, the foreign-funded interference into Canada's resource sector is a serious and long-standing issue. The so-called anti-tar sands campaign supporters for the past dozen years or more have been large American foundations, such as the Gordon and Betty Moore Foundation. The top recipient of funding from that foundation is Tides Canada, which is approved to receive funding from taxpayers under a Canada Summer Jobs program this year.

Senator Harder, last month, you told us: "The record of this government with respect to the energy sector is well known and one to be proud of." How can the government be proud to financially support groups that advocate against our energy sector and the thousands of good, well-paying jobs it provides for workers across Canada?

Senator Harder: I thank the honourable senator for his question. It gives me an opportunity to remind him and all senators that this government has a deep and abiding interest in ensuring that we actually build a pipeline to tidewater so that we can benefit from the global markets for Alberta oil. That is an important statement of the government's intent, and one that I hope all senators can be proud of.

It is not unusual, of course, that we, as a government, over the years, have supported advocacy for various positions on matters of public policy. There ought to be no test for whether the advocacy is in accord with the government's interest.

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I'm actually following up on our leader's questions, just focusing on the contradiction that we see.

Two weeks from today, the government is expected to make a final decision on whether to proceed with the Trans Mountain Expansion Project. Canadian taxpayers own Trans Mountain through the $4.5 billion this government spent to buy it from Kinder Morgan last year.

I have raised with you before, senator, about a lack of pipeline capacity being one of the main factors in the high gas prices we are seeing in British Columbia. It's really frustrating to listen to the question about the government approving groups directly opposed to Trans Mountain as employers under the Canada Summer Jobs program.

Senator, do you acknowledge the contradiction here — using taxpayers' money to buy Trans Mountain and then using taxpayer money to advocate against it?

Senator Harder: I thank the honourable senator for her question.

The assumed position of the honourable senator is that advocacy dollars should only go for programs the government supports.

Senator Martin: I don't think that was what he was saying. However, the Trans Mountain expansion is in Canada's national interest. It should receive final approval from your government on June the 18. However, simply giving the project approval is not the final step in that process. The government also needs to present a plan to Canadians as to how it will get the expansion built as soon as possible.

Senator, how does giving taxpayer dollars through the Canada Summer Jobs program to groups that oppose Trans Mountain fit into the government's plan to get the Trans Mountain Expansion Project built? That is a very important question.

Senator Harder: Again, the commitment of this government to the completion of TMX is obvious in the sense that the government has not only advocated for but has purchased the pipeline and is pursuing the process of ensuring that pipeline goes forward.

• (1430)

It would be, I think, highly objectionable if a government were then to put a lens of support or otherwise for government projects to summer employment jobs.

TREASURY BOARD

MINISTERIAL EXPENDITURE REVIEW

Hon. Linda Frum: Honourable senators, my question is for the Leader of the Government. In 2015 the Trudeau government announced it would conduct spending reviews in order to find savings in the operation of the government. According to the numbers in its 2019 Budget, in over three years the government has reviewed the operations of only five departments or agencies — Transport Canada, Fisheries and Oceans, including the Coast Guard, Health Canada, CBSA and the RCMP. After such review it has found savings of $10 million at Transport Canada. That is, 0.0003 per cent of the government's expenses.

Senator Harder, why is your government not more serious about reviewing the operations of the government or protecting the interests of taxpayers?

Hon. Peter Harder (Government Representative in the Senate): Again, I thank the honourable senator for her question. It is the prudent role of all governments, at all times, to review the spending of various departments and to ensure it is spending devoted to the highest areas of priority. This government has not been as devoted to cutting programs or expenditures as the honourable senator's previous government. This government is of the view that funding should go to higher priorities and that is what it is undertaking.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

REPATRIATION OF CANADIAN CITIZENS— ISIS PARTICIPANTS

Hon. Linda Frum: Honourable senators, on a different matter, Senator Harder, since May 21, 11 French citizens have been sentenced to death by Iraqi courts for their involvement with the Islamic state. Under Iraqi law, you don't need to have been a combatant for ISIS to get the death penalty; you could have been a cook, a mechanic, a doctor, and then you'll still get a death sentence. France has decided it will not intervene in these matters.

Senator Harder, what is the position of the Trudeau government regarding Canadian citizens who are members of ISIS? Does your government intend to repatriate them, even if it means we do not have enough evidence to convict them in Canadian courts, or will you let the Iraqi justice system decide their fate?

Hon. Peter Harder (Government Representative in the Senate): Again, I thank the honourable senator for her question. She will know that the circumstances she's describing are very contentious and there are a lot of efforts under way to bring clarity to the next steps.

I will undertake to get back to the honourable senator when I have the latest information as to how those steps are evolving.

[*Translation*]

CANADIAN HERITAGE

PERFORMANCE OBJECTIVES

Hon. Claude Carignan: Honourable senators, my question is for the Leader of the Government in the Senate. I read the Minister of Canadian Heritage's plan for 2019-20 with great interest. It reveals that that minister's performance targets for culture are lower than they were in 2015-16, the last year of the Conservative government. The indicators for number of jobs in the cultural sector, number of Canadian television productions, number of Canadian theatrical feature films produced, number of Canadian-authored books published, number of non-daily newspapers in Canada producing Canadian content, and number of in-person visits to cultural heritage have all gone down since the Trudeau government was elected.

How would you explain the Trudeau government's failure on culture?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): The honourable senator will know that this chamber has had the occasion to vote now on four consistent budgets which have brought additional funding to the cultural sector. There have also been cultural sector reviews. The whole notion of the digital government, which supports cultural and other objectives of the Canadian economy, is well known. In fact, the cultural penetration has expanded and commitments are being made to go even further. So I would put the record of this government to the previous government in positive comparison, but ultimately, senator, it will be for the Canadian people to decide in the coming months.

[*Translation*]

Senator Carignan: Speaking of the digital sector, last week, 129 countries approved the OECD's road map for resolving the tax challenges arising from digitalisation of the economy. Three options have been proposed in order to find a common approach to the taxation of web giants. These options will be examined later this month at the G20 meeting in Japan.

What is Canada's preferred option? Do we agree with the American government, which believes that the agreement should be extended to all companies operating abroad, with the British government, which thinks that the agreement should be limited to the web giants, or with the Indian government, which is taking a middle-ground position?

[*English*]

Senator Harder: Again, I thank the honourable senator for his question. He will know that a question not dissimilar to this was asked of the Minister of Finance when he was here. The minister indicated that his government was still studying this matter and he would be making a decision in the upcoming weeks and months.

[*Translation*]

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

CANADA-UNITED STATES-MEXICO AGREEMENT

Hon. Jean-Guy Dagenais: Honourable senators, my question is for the Leader of the Government in the Senate. The tax dispute that has recently arisen between the United States and Mexico presents some new challenges in the ratification of the Canada-United States-Mexico Agreement. It also likely throws a wrench into your government's plan to ratify the agreement before the end of this session of Parliament, a situation that is creating even more uncertainty for the Canadian economy.

Could you tell us whether your Prime Minister intends to extend this session of Parliament so that the agreement that was negotiated, even if it does favour the Americans, can be signed before the summer break, or could he sign this agreement without Mexico's participation?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): Again, I thank the honourable senator for his question. He will know that the Government of Canada has indicated that it and the Government of the United States propose to move forward with their respective ratification processes — as is the Government of Mexico, I should add — in rough parallel. He will also know that the government has tabled legislation in the House of Commons for the consideration of the house, as is appropriate in Canada, and that similar ratification processes have been launched in the United States.

How these processes proceed will be iterative and in relation to what is happening outside of Canada. It is the objective of the government, of course, to ensure the early ratification of this important agreement because this agreement brings many benefits to the Canadian economy and is one that this government is certainly proud to have reached.

NATIONAL REVENUE

OVERSEAS TAX EVASION

Hon. Paul E. McIntyre: Honourable senators, my question for the government leader today concerns tax evasion, an issue that I have raised previously in Question Period.

Last week, the CBC reported that the Canada Revenue Agency recently made a secret out-of-court settlement with KPMG clients involved in tax avoidance by setting up shell companies on the Isle of Man.

Two years ago, the Minister of National Revenue indicated that there could be criminal charges related to this tax avoidance scheme. Instead, it has been reported that CRA offered this out-of-court settlement to the KPMG clients and Canadians have been told that no further information can be provided on the details of the settlement.

Leader, is this an acceptable outcome for your government, a tax evasion settlement brokered in secret, with a complete absence of transparency for law-abiding Canadian taxpayers?

Hon. Peter Harder (Government Representative in the Senate): Again, I thank the honourable senator for his question and, indeed, for his and other senators' ongoing interest in this. He will know that CRA has completed, I'm told, twice as many audits in 3 years than in the previous 10 years of its work, that the CRA has opened over 50 criminal investigations into tax evasion, and that the investments this government has presented in its budget, which I note have been opposed by the honourable senator opposite, have been over $1 billion to ensure enhanced capacity to deal with tax evasion.

With respect to the specific question regarding the report by the CBC, I will take it under advisement and report back.

• (1440)

[*Translation*]

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

SOCIAL MEDIA

Hon. Claude Carignan: Once again, my question is for the Leader of the Government in the Senate. On May 13, Prime Minister Trudeau met with Sundar Pichai, the CEO of Google. The Prime Minister's Office issued a press release, which stated, and I quote:

> They discussed how governments and digital platforms can take action to stop the Internet being used as a tool to organize and promote terrorism and violent extremism. The Prime Minister urged that more must be done to improve trust and accountability in the digital world.
>
> The Prime Minister also expressed appreciation for Google's contribution to the Canadian economy . . . .

Senator, why did the Prime Minister not take this opportunity to ask Google to contribute to the government's tax base by paying income tax in Canada?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. This is a question he has asked from time to time. Let me simply reassure him it is the Government of Canada's view that the appropriate way to deal with social media and the platforms that he references — not only Google but others by implication — are best dealt in concert with other like-minded economies, and that the Government of Canada is pursuing those avenues for the question that he's raising.

ORDERS OF THE DAY

FISHERIES ACT

BILL TO AMEND—THIRD READING—
DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Christmas, seconded by the Honourable Senator Busson, for the third reading of Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence, as amended.

Hon. Dan Christmas: Honourable senators, I rise today to speak at third reading of Bill C-68, An Act to Amend the Fisheries Act and other Acts in consequence.

Over seven months ago, I rose in this chamber and encouraged all honourable senators to join in the dialogue needed to make Canada's fisheries sector as vibrant and sustainable as it can be through the study of Bill C-68's proposed provisions.

During that period, colleagues, your Standing Senate Committee on Fisheries and Oceans, on which I'm privileged to sit, undertook rigorous deliberation of this bill. The committee received 37 briefs, undertook 8 witness meetings and 2 meetings of clause-by-clause analysis while considering the positions and testimony from 55 witnesses, representing 29 organizations, composed of representation from Indigenous peoples, industry, government, the conservation community and individuals.

In all, 50 amendments were moved, 35 of them were adopted. When I first spoke to the bill all these months ago now, I was asked by an honourable senator whether the government and I were open to amendments in committee on this bill. I commented then that I believed we were, based on my own point of view and assurances I had sought and received from Minister Wilkinson.

I believe that a number of amendments adopted gives testament that this legislation is indeed improved by such undertakings. Speaking of Minister Wilkinson, I must commend him for his stewardship of this bill and for his open mind in respect of consideration of means by which we improved its provisions.

The minister spoke to the committee in early April, and I'm eager to share his thoughts with you, honourable colleagues. Before I do, I must confess that my sponsorship of this bill has reminded me of an important truth. As Benjamin Franklin once said, "When the well is dry, we'll know the worth of water."

Consider this in respect of the thoughts of Minister Wilkinson, who stated:

> As Canada's population continues to grow, as does its economy, marine fisheries, freshwater and fish habitat need to be protected and conserved for future generations. This bill encourages the adoption of best practices to mitigate and manage negative impacts, which is fundamental to sustainable economic growth.

Colleagues, I feel humbled to be this bill's advocate. I take this role to heart, taught as I am by Indigenous Mi'kmaq knowledge about how we are, all of us, connected to creation in ways many of us may not yet fully comprehend. Let us acknowledge that the Fisheries Act was Canada's first environmental legislation. Let us affirm that its current provisions, improved hopefully via this bill's adoption, reflect a keen desire to be faithful stewards of responsibilities to the sea and the creatures that live in it.

I raise this matter as I often fear we are becoming somewhat consumed by the economics of society at the expense of its state of overall health and sustainability. It's as if we have purposely chosen commerce over care, a pursuit of energy over protection and sustaining the environment.

Honourable colleagues, I want to remind you that I am here to be an independent voice for Nova Scotia and, in particular, the Mi'kmaq nation. I have no political affiliation, but I must agree with Minister Wilkinson's contention that it's our collective responsibility to exercise our stewardship of Canada's fisheries and the habitat on which they rely with care in a way that is practical, reasonable and sustainable.

As the minister affirmed, and as we have heard from many of our witnesses, the measures in Bill C-68 restore protections for fish and fish habitat while also ensuring modern mechanisms are in place to guide sustainable economic growth, job creation and resource development.

In short, Bill C-68's measures are not only about protection but also prosperity for an industry and a way of life for those whose living is dependent upon the sea.

One key measure to both prosperity and protection is fish stock rebuilding and the plans around it. I know there continues to be some questions over the need for higher standards for the protection of our fish. Some have asked why this bill is reverting to the harmful alteration, disruption or destruction to fish when, as they claim, we have yet to see any major evidence of collapse in stocks.

Colleagues, only a few weeks ago, the United Nations released a report on the state of nature and biodiversity. This sobering report states that 1 million species are at risk of extinction, despite there being solutions. Due to human pressures, such as deforestation, overfishing and development, nature is in trouble and biodiversity is on the brink of collapse. Compiled by 145 expert authors from 50 countries, the report states that one in four species is at risk of extinction and marine pollution has increased tenfold since 1980.

If this report tells us anything, it is that we must act now to protect and conserve our fish and fish habitat. We can't keep waiting for our stocks to collapse to take action. We know the health of our stocks supports not just the ecosystems in which they are found but also the communities that depend on them for their livelihoods. At committee, we heard testimony from a cooperative group of over 20 non-governmental organizations supportive of Bill C-68's provisions around stock rebuilding.

They noted that:

> Canada has the world's largest coastline, three ocean basins and a poor history of rebuilding depleted stocks. Passage of Bill C-68 and establishing strong regulations for rebuilding provides an opportunity to create a future for fisheries in Canada that heeds the lessons from the past to ensure healthy fish populations and sustainable fishing economies for generations to come.

I'm conscious of the last phrase in that sentence "for generations to come." We in Atlantic Canada know that the fishery has been the lifeblood for Maritimers for generation upon generation. As Senator Stewart Olsen suggested last week in this chamber, Maritimers have been clear: They firmly believe Bill C-68 will protect a foundational principle that has always defined our fishery. That principle is that of fleet separation and ensuring fishermen remain owner-operators.

Chelsey Ellis is a young third generation fisherwoman from a small fishing village in Prince Edward Island. She spent her early years on the water, fishing lobster and scallops for her family. She had been working in coastal communities in British Columbia for the past seven years as a seafood traceability coordinator, a fisheries biologist, electronic monitoring program coordinator and a commercial fishing deckhand.

She has worked in 11 different fisheries on two coasts of Canada and is a member of the B.C. Young Fishermen's Network. She offered her unique perspective to the committee around the preservation and promotion of the independence of licence holders and commercial inshore fisheries. She noted:

> Commercial fishing is the backbone of my community in Prince Edward Island. The provisions in place on the East Coast help to protect and promote independent owner-operators. This provides meaningful and important livelihoods that support people in place. . . . The knowledge required to be a commercial fish harvester is extremely specialized and unique. To extract the full value of this amazing resource, we need to attract those who have the skills and the passion to create a safe, positive and successful work environment.

• (1450)

Ms. Ellis also noted that the promotion of the independence of owner-operator enterprises in all commercial fisheries is critical. She's eager to see the social, economic and cultural benefits to harvesters, coastal communities and future generations of Canadians who are called to this work maximized. As she so eloquently put it:

> For many who work in the industry, commercial fishing isn't just a job, it's a lifestyle and, in many cases, a deep-rooted family tradition. It's also a platform to challenge yourself and to explore and exceed what you thought were your personal limitations. It's a meaningful living that connects people to place and creates personal identity.

Honourable colleagues, I'd now like to speak of the provisions of Bill C-68 that are perhaps of greatest interest to me, those related to Indigenous peoples. As I highlighted at second reading, these include: that the minister must consider adverse effects that decisions may have on the rights of Indigenous people in Canada; that the minister establish a multi-interest advisory body to support the carrying out of the purposes of the act, including Indigenous representation; that the minister enter into agreements with Indigenous governing bodies to further the purposes of the Fisheries Act, an opportunity currently only provided to the provinces and territories; that the minister consider the traditional knowledge of Indigenous peoples of Canada when making certain decisions, specifically those that involve fish and fish habitat; and that when Indigenous knowledge is shared with respect to decisions made under the act, that the information is to be kept confidential and will not be shared with the public or with the media.

I welcome and applaud the measures in this legislation seeking to enhance Indigenous elements in the Fisheries Act. As a Mi'kmaq, as a member of my community of Membertou and as a personal friend of Donald Marshall, Jr., I can tell you the issue of the recognition and respect of Mi'kmaq fishing rights, or lack thereof, leaves me in a quandary. I'll let the words of Chief Terry Paul explain this. While appearing before our committee, Chief Paul said:

> As defined in this bill, the concept of Indigenous fisheries is limited to those who fish for food, social, ceremonial and subsistence purposes only. With this definition . . . Bill C-68 continues to infringe upon our constitutionally protected rights to harvest and sell fish to support a moderate livelihood. We have been waiting nearly 20 years, since the decision in the *Marshall* case in September of 1999, for the implementation of our right to harvest for a moderate livelihood.
>
> Clause 9 defines an Indigenous fishery as fish:
>
> > . . . harvested by an Indigenous organization or any of its members for the purpose of using the fish as food, for social or ceremonial purposes or for purposes set out in a land claims agreement entered into with the Indigenous organization."
>
> This definition of "Indigenous" fishery does not recognize and protect all fisheries unique to Indigenous people. That severely undermines the reconciliatory purpose of Bill C-68.

Chief Terry continued:

> For Mi'kmaq specifically, this means that we will continue to be prohibited by the Fisheries Act from engaging in our rights, as affirmed by the Supreme Court, to fish for a moderate livelihood.
>
> A moderate livelihood fishery is neither a subsistence fishery nor a commercial one. The Mi'kmaq right to fish for a moderate livelihood is based on a series of treaties made in 1760 and 1761, and was affirmed by the Supreme Court of Canada in its 1999 *Donald Marshall* decision.

> Our right to fish for a moderate livelihood is a constitutionally protected treaty right, recognized and affirmed by section 35 of the Constitution Act.
>
> Bill C-68 not only disregards this, but it also leaves both our people and the Crown with serious compromises. . . .
>
> The continued denial of our right to take part in a moderate livelihood fishery has had major implications for our people. Many in our communities still trade or sell what they collect through hunting, fishing and gathering to provide for their families. This fishery is not about wealth. It never has been. It has always been about survival.

In the face of this, I realized that the challenge of bringing about the respecting of and adherence to the Supreme Court of Canada's *Marshall* decision may be bigger than its place or mention in the Fisheries Act. But the fact remains that it is my duty and responsibility in respect of all my relations in the Mi'kmaq nation to pursue remedies for this by whatever means I can.

To this end, the committee adopted my amendments, strengthening the non-derogation clause in the bill and improving language in the act around respecting the rights guaranteed, recognized and affirmed in section 35 of the Constitution.

My concerns around the right to a moderate livelihood for the Mi'kmaq fishery remain paramount to me, and I'll take this opportunity to make note of this to the government.

While I'm pleased with improvements to the provisions of this legislation, there remains much work to be done. The committee, after hearing Chief Paul's testimony, made reference to the great degree of patience the Mi'kmaq have shown throughout this endeavour.

I commend Chief Paul for this as well, and pledge to him and the Mi'kmaq nation that I remain determined to move this matter forward by whatever means I can, always bearing in mind the admonishment of Donald Marshall Jr. to "keep fishing."

As you can see, there are indeed provisions and components of Bill C-68 that incite passionate debate, and I offer thanks to my honourable colleagues for indulging me as I addressed mine.

If I was to note one other area of concern to stakeholders, industry and environmentalists, it would be that of flow and fish habitat. In short, as we termed it, "puddles in pastures" suddenly being deemed fish habitat and subject to oversight and compliance verification by DFO officials.

The Canadian Cattlemen's Association, the national voice of 60,000 beef farms and feedlots, gave voice to its concerns in this regard:

> The proposed *Fisheries Act* expands substantially on the scope that was already too expansive. It is an extremely small list of water bodies that would not be either fish habitat or deemed fish habitat. This, in turn, means the prohibitions apply almost everywhere and to almost all activities.
>
> The CCA and its producers are not against protecting water bodies. This is not at issue. Water is critical for raising cattle and managing farms and ranches. Furthermore, everyone recognizes the importance of having sufficient water quality and quantity, whether for people, livestock, or fish. What is at issue is how to manage water and water flows. The current Bill C-68 essentially detaches water flows from fish and fish habitat. This will result in the potential for significantly more activities associated with cattle production to be in contravention of the *Fisheries Act* despite limited impact on actual fish populations. This is particularly true given the expanded scope of fisheries, from commercial, recreational, and Aboriginal fisheries.

The Cattlemen's Association was not the only voice of this opinion in this regard. Similar entreaties were heard from the Canadian Association of Forest Owners; the Canadian Association of Petroleum Producers; the Forum for Leadership on Water; the Canadian Nuclear Association; the Prospectors and Developers Association of Canada; the Canadian Electricity Association; the Canadian Canola Growers Association and the Canadian Federation of Agriculture, to name but a few.

Thankfully, this matter was dealt with by way of government sponsored amendments.

Similarly, as Senator Harder point out last week, in the face of legitimate industry concerns, the government thankfully introduced amendments to the permitting system for large-scale projects to include exceptions to the Fisheries Act for activities and works that do not lead to the death of fish.

These amendments provide the authority for the minister to make the final determinations about which aspects of a designated project will require a permit, and further clarifies that only those aspects will require a permit that are likely to result in the death of fish or harmful alteration, disruption or destruction of fish habitat.

I can tell you, just as there was in the case of fish habitat and flow, there were equally significant calls for these amendments from stakeholders and industry. The government is to be applauded for its proactive action in this regard.

Finally, it is not often that Senate public bills become subsumed into government legislation, but that is exactly what was achieved by porting key provisions of Bill S-203 and Bill S-238 into the body of Bill C-68. These bills have spent years in this chamber, and their inclusion in Bill C-68 helps ensure, due to tight legislative timelines, that banning both whales in captivity and shark finning is adopted and becomes law. I know that the inclusion of these bills has the support of former Senator Moore, Senator Sinclair and Senator MacDonald. Senators, you have done tremendous work in these pieces of legislation. I applaud you for your commitment to these issues, and I commend your perseverance in seeing them realized.

• (1500)

As I conclude, honourable colleagues, there are many to thank and acknowledge. First, I would like to thank the members of your Standing Senate Committee on Fisheries and Oceans for the depth and rigour of our study on Bill C-68, for their class and collegiality, which makes our work on the committee such a pleasure to undertake, and for the special role our chair, Senator Manning, plays in keeping our committee afloat and in calm waters, as he says.

I would also like to make special mention of Minister Wilkinson and his officials. I really appreciated their cooperation, openness and determination in always finding suitable ways forward when we faced impasse.

Honourable senators, I close today in much the same fashion I did all those months ago at second reading, when I invoked the words of JFK, as he reminded us that "we are tied to the ocean." I would add that it is not just we who are tied to the ocean but also our children and theirs who will follow after them.

Over a century ago, Theodore Roosevelt reminded us:

> . . . to waste, to destroy, our natural resources, to skin and exhaust the land [and water] instead of using it so as to increase its usefulness, will result in undermining in the days of our children the very prosperity which we ought by right to hand down to them amplified and developed.

Honourable senators, I thank you all for participating in debate on this bill. It is legislation that balances protection with measures to build prosperity. It is a bill that seeks to be a tool of Indigenous reconciliation. It is a bill that seeks to build and maintain healthy fisheries and oceans that my children and grandchildren may enjoy and make use of for generations to come.

Bill C-68 is a vessel worthy of passage. Let's get this boat in the water and see this legislation adopted without delay. *Wela'lioq*. Thank you.

Hon. David M. Wells: Honourable senators, I rise today to speak at third reading of Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence. This bill is a consequential one for my province of Newfoundland and Labrador, and indeed, provinces and territories across the country.

Before I begin, I would like to acknowledge the excellent work done by our chair, Senator Manning, and the Standing Senate Committee on Fisheries and Oceans in studying this bill.

Bill C-68, colleagues, is an omnibus bill because it's nothing less than a complete overhaul of the Fisheries Act, an act that hasn't been touched since 1867. The changes to the Fisheries Act as set out in Bill C-68 are multifaceted and complex, from the owner-operator policy and PIIFCAF, which is Preserving the Independence of the Inshore Fleet in Canada's Atlantic Fisheries, to fish habitat protection and the death of fish, this bill makes substantive alterations to substantially different aspects of the act.

Just as I — and I'm sure many of my colleagues on the committee — heard in stakeholder meetings, this bill really should have been split into two or three separate bills. It should have at least divided owner-operator and PIIFCAF, which are fish harvester policies, from fish habitat protections, which deal with distinct and detached issues.

While this bill is another example of an omnibus bill this government swore it would never introduce, it ushers in some positive changes. The most positive change, in my view, colleagues, is the introduction of the concept of habitat banking under section 42. Although there are several areas of the bill I would like to tackle in this speech, I will focus my remarks today on the provisions related to habitat banking.

Habitat banking is a market-oriented approach to environmental conservation that is being successfully utilized in other jurisdictions to increase certainty for industry and improve environmental outcomes.

While the introduction of habitat banking was a positive step, the bill as drafted by the government could have gone further in fostering better environmental and economic benefits.

That is why, colleagues, at committee we passed all three amendments designed to enhance, expand and clarify the habitat banking system already provided for in the bill. I thank my colleagues on the committee for supporting these amendments.

Instead of taking a positive step forward, Canada can now take a positive leap forward when it comes to fish habitat protection if this bill passes, as the committee recommends.

A habitat bank is defined in the bill as:

> . . . an area of a fish habitat that has been created, restored or enhanced by the carrying on of one or more conservation projects within a service area and in respect of which area the Minister has certified any habitat credit. . . .

Make no mistake, colleagues, habitat banking is about the maintenance and preservation of the environment for now and the future. A habitat credit, before being amended at committee, was defined in the bill as:

> . . . a unit of measure that is agreed to between any proponent and the Minister under section 42.02 that quantifies the benefits of a conservation project.

In plainer language, colleagues, the old version of the bill stipulated that proponents, and only proponents, can offset the adverse effects on fish or fish habitat as a result of conservation work being done by that proponent.

Habitat banking would essentially be like for like. It would involve only proponents and leave out important third parties like conservation and Indigenous groups. If mining operations led to deleterious effects on a fish habitat, for example, then that mining company may offset the impact of those effects through a conservation project like moving affected fish to other ponds or lakes.

Other examples include the construction of a salmon ladder, preservation of a wetland or any other measure that creates, restores or enhances a fish habitat. Ensuring that proponents offset their impacts on fish habitat is necessary for environmental conservation. The question we must ask ourselves in considering this legislation is: Have we created a system that attains the best possible ecological and economic outcomes?

Under this bill as previously drafted, colleagues, the answer was no. There is not a single compelling reason to restrict habitat banking solely to proponents. When we say that only a proponent can create a habitat bank, we are excluding Indigenous groups, conservation specialist groups like Ducks Unlimited, wetlands advocates and municipalities, among other prospective participants. These stakeholders all want to be on the front lines of habitat restoration and enhancement, and they should be. That's why the amendment I proposed at committee to expand habitat banking to third parties, which had the support across all groups in the chamber, also has broad and diverse stakeholder support.

The Canadian Wildlife Federation and the Canadian Ferry Association both testified in support of this amendment at committee and advocated strongly behind the scenes.

Serge Buy, CEO of the Canadian Ferry Association, had this to say about third party habitat banking:

> The Canadian Ferry Association believes this would provide a sensible way for proponents of projects to comply with the legislation. It provides clarity and certainty for project proponents, such as ferry operators, and ensures that, should offset be required, the conservation and restoration are undertaken by those with direct knowledge of the situation, such as conservation groups, Indigenous groups, et cetera.

Colleagues, in addition to the testimony we heard at committee, we also know that other environmental NGOs and industry groups, like the Ontario Waterpower Association, for example, as well as various First Nations, municipalities, conservation authorities and provincial government agencies, all want to see the expansion of habitat banking to third parties become law.

Why wouldn't they? This amendment would create an entirely new habitat banking economy that creates jobs, incentivizes innovation and encourages more and better environmental protection.

Not all proponents have the resources or knowledge to build a physical offset. Indeed, not all areas in a project region have a champion. Under the amendment passed by our committee, proponents would now be able to purchase the credit rather than designing and building their own physical offset.

The offset must still be created, but now it could be created by a group with specific conservation expertise. The proponent would essentially be, in these cases, funding the construction of an improved physical offset. It's a win for industry and the environment. Companies don't have to divert attention from the core aspects of their business. All they have to do is buy the credit for a habitat bank established by a third party group.

With a new market for credits, there is an incentive for third parties to get involved in habitat banking, thus leading to additional biological protection.

Colleagues, that is one of the three amendments to the habitat banking regime agreed to by the committee.

The second amendment on this issue relates to offset payments. This amendment, which was originally proposed by Senators Christmas and Griffin — and I thank them for that — would allow DFO to collect an offset payment in lieu of establishing an offsetting habitat bank.

• (1510)

The purpose of introducing this tool, as argued by the Canadian Wildlife Federation and others, was to provide for flexibility in areas where an appropriate off-set project is not available or cost effective. As an alternative to purchasing credits, a proponent could pay into a habitat protection fund — the Environmental Damages Fund, for example — to offset any impacts their projects may have.

Under this amendment, funds would need to be spent either as close as practicable to the work, undertaking or activity, or at least within the same province where the work occurred.

Adding these parameters to the system was imperative to ensuring equal treatment among all provinces, territories, and hopefully, if administered accurately by DFO, between watersheds as well.

This amendment does not mandate how the government should collect or spend money. It simply establishes a structure by which private sector funds, determined and accepted at the discretion of the minister, can be used to support restoration projects in Canada.

Use of offset payments would not, in the opinion of stakeholder groups we heard from at committee, add significantly to DFO's fish habitat program costs or administrative burden. In fact, the amendment would provide regulatory speed, flexibility and certainty for project proponents. Other benefits include: An increase in resources available for aquatic habitat restoration, an increase in support for larger scale, strategic and effective restoration projects, and a reduction in the net loss of fish habitat.

That colleagues, in a nutshell, is amendment number two. The third amendment shares the spirit of the second, but is entirely distinct among the three. Bill C-68, in both its current and former iterations, specifies that certified habitat credits must be used within a service area. A service area is defined in Bill C-68 as:

> The geographical area that encompasses a fish habitat bank and one or more conservation projects, and within which area a proponent carries on a work, undertaking or activity.

The broadness of this definition is concerning.

Throughout the study of Bill C-68, I have worked with a number of people and groups to build upon and improve the habitat banking structure set out in the bill prior to being amended.

It was relayed to me by one senior biologist that there is cause for concern about how large a service area might be given that the definition includes no specifications around the size of a service area.

Colleagues, as currently written, service area — or as previously written because the amendment passed in committee, a service area could technically be considered the whole country.

The intent of this amendment is to ensure that the benefits of an offsetting habitat bank remain local in comparison to the work, undertaking or activity. "Local," colleagues, would be either "as close as practicable" or "within the same province."

The general idea is: The closer to the affected area, the better. A mining project near St. John's would not be offset by a habitat restoration project in Northern Ontario or Vancouver Island, B.C.

The amendment maintains needed ministerial flexibility while protecting local fish populations and ecologies and providing certainty to industry around where credits can be used.

Habitat banking benefits should remain as local as possible as a guiding principle. If that is not practicable, then the benefits should at least remain in the province where the work was carried out. Projects in the ocean — in case that question is on your minds, colleagues — would be captured by the as-close-as-practicable part of the amendment, and the minister would still have the flexibility to determine what "as close as practicable" is.

Honourable senators, all three of these amendments are now included in Bill C-68. They are good and friendly amendments. They help First Nations, ecology groups and they clearly help the environment, as well as industry.

They are also eminently reasonable amendments in terms of DFO implementation of the first two. Third party habitat banking and the offset payment system would only come into force upon the proclamation of cabinet, not at Royal Assent. This would provide DFO and the relevant federal agencies the time to get it right.

What we are doing here in chamber and what we have already done in committee, colleagues, is the early work involved in setting the stage for DFO to consult widely and bring in the proper regulations.

I acknowledge that the department is apprehensive about the work needed to establish the system we have provided for in Bill C-68. While I appreciate the complexities involved in setting up such a system, we should not accept a half solution that prevents Indigenous, conservation or other groups from doing the good work that they do to protect our environment. Especially when DFO will have more than enough time to consult and develop the system.

These are not novel ideas. Other countries, including the United States, already have third party habitat banking systems in place. These systems work, and they work well. Offset payments are also employed in other jurisdictions. Best practices are well-known.

Accepting these amendments, colleagues, will allow us to fully unlock the potential of the private sector in meeting our ecological objectives.

I want to take this opportunity to thank, in particular, Senators Griffin and Christmas for their work in helping develop the first two amendments. Again, I want to thank the chair of the committee, Senator Manning, and all colleagues on the committee for their work in organizing the amendments and ensuring the committee meetings went smoothly. I also want to thank my colleagues for their support on these amendments, and I strongly believe they will contribute to better economic and ecological outcomes. Thank you, colleagues.

Hon. Rose-May Poirier: Honourable senators, I rise here today to speak at third reading on Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence. I thank all the various witnesses who appeared before our committee to testify on this legislation as well as those who sent written submissions. The list of witnesses was wide-ranging: from fishermen associations, different Indigenous organizations and communities, national representatives of major industries such as mining, hydro power, electricity, cattlemen, and the list goes on.

Having such a wide range of witnesses demonstrates how far-ranging the amendments proposed to the Fisheries Act are in Bill C-68. A quick recap on the bill could be made by dividing the bill in two categories: the fisheries amendments and the industry amendments. On one hand, we have heard a lot of support from most fishing associations to support the bill for their sector, a work that began under the leadership of Gail Shea and the Conservative government. On the other hand, we have heard a lot of concerns and uncertainty regarding the amendments brought to the various industries.

As you may imagine, honourable senators, the committee had a difficult task ahead of itself, especially considering how it had to be done in such a condensed time frame. With only roughly 16 and a half hours of meetings, the committee had to review about 60 clauses over 66 pages. That was a big task in front of the committee and I believe we did well. Maybe with a little more time we could have gone deeper into the lingering issues to either find the reassurances certain witnesses were looking for or to bring amendments to the improved bill.

But here we are today at third reading. I would like to begin my remarks by discussing the fisheries aspect of the bill. Right from the beginning, we heard from many fishermen and various organizations on Bill C-68. The amendments contained in the bill would reinforce the well-appreciated policy known as PIIFCAF — fleet separation policy — which was adopted in 2007. It was adopted to ensure that commercial inshore fish harvesters remain independent and that the benefit of fishing licences flow to the fishers and to Atlantic coastal communities.

The fleet separation policy keeps ownership of the fish harvesting sector separate from the processing sector by preventing processing companies from acquiring the fishing licences of inshore vessels. The owner operator policy requires the holder of the licence for inshore vessels to be present on the boat during the fishing operations.

Similar policies have not been put in place in Canada's Pacific fisheries. In British Columbia, owner operator and fleet separation policies have not been put into place, and the socio-economic aspect of the fisheries has been severely neglected. There has been a steady increase in licences and quota being transferred out of the hands of active fish harvesters and coastal communities. According to Dr. Rick Williams from the Canadian Council of Professional Fish Harvesters:

> In a wide open speculative market in B.C., licence and quota prices become unaffordable for people making their livings from actively fishing. To keep fishing, many owner operators have to pay from 70 to 80 per cent of their landed value to lease quota from onshore investor owners. The most critical need is for more consistent and effective enforcement of the owner operator and fleet separation policies in the Atlantic and the development of parallel protections for Pacific region fleets, to maintain ownership and control of access rights by independent harvester enterprises based in adjacent communities.

As Dr. Williams very well explained, the situation on the West Coast is very different from the Atlantic due to the absence of PIIFCAF that ensures fishing benefits remain in our coastal communities. Some, like the minister, believe it is too little too late to save the independence of the fish harvesters on the West Coast:

• (1520)

> We recognize there are challenges. I think, though, that even the folks in the Canadian Independent Fish Harvesters would recognize it's not likely you can fully unscramble an omelette that is fully baked, but there are probably things we can look at to help think more about the position that harvesters are in on the West Coast.

But others like Chelsey Ellis, who appeared in front of the committee and has extensive experience in the fisheries on both coasts, doesn't back down:

> Fisheries on the West Coast have been labelled as too complicated to reverse or as having unique challenges compared to the East Coast. There has even been reference to it by the honourable fisheries minister as a scrambled omelette that is pretty much fully baked. I hope that the idea of something being complicated or challenging isn't what's stopping our government from making positive change that would benefit Canadians for generations to come. This definitely isn't a situation that happened overnight, and we can't be expected to fix it overnight.

Moreover, on the Atlantic side, the challenge seems to be to reinforce the policy, because over the years it has been circumvented. It has been done due to the legalizing of the control agreements due to allowing financial transactions to be exempt from the control definition. According to Gerard Chidley, who appeared before our committee on April 9:

> Under PIIFCAF, the independent licence holders were assured that any new licence opportunities would go to them, but that has not been happening. In most cases, the controlling person or company has the resources . . . to have first-hand knowledge of new fisheries and emerging fisheries.

Federal policies should encourage the long-term sustainability of our fishing industry. Unfortunately, outdated policies remain that should be cleaned up in the new Fisheries Act.

So while most fish harvesters are in favour of a strong PIIFCAF to ensure fishing benefits remain in the coastal communities, there is definitely a call to also have some flexibility in the policy to adjust as we go on.

One only needs to look at the recent situation in New Brunswick. Over the last years, we have seen six snow crab licences exit the region. For every licence, we are talking about 16 jobs. Therefore, for coastal communities, that is 96 jobs that have left the region.

Recently, a snow crab licence was transferred out of the Acadian Peninsula to a harvester in P.E.I. Not to create any regional tensions, but it would also be unfair if it were the other way around. In this situation, the fish harvester did everything within PIIFCAF, having been a New Brunswick resident for at least six months and having the number of required years of experience.

After the required minimum residency and other requirements were met, the individual in question got the licence and moved to it to P.E.I. The rumour is that certain residents will use an address as a front to satisfy the residency requirement and then move the licence to their home province.

The last thing we want is coastal communities working against each other. PIIFCAF is meant to strengthen the coastal communities' socio-economic activities, not improve one to the detriment to the other. The policy is being circumvented by individuals within the Atlantic Provinces as well, and therefore it is crucial that DFO closes the loopholes, strengthens the policy and has fines and punishments for individuals and companies who try to circumvent it.

I repeatedly said so during my third reading speech for Bill C-55 and again today: Fishing activity is crucial to all the coastal communities who depend on it. It goes way beyond just the fishermen. It creates processing jobs, it runs the local economy for the lumber, gas, grocery stores and buying local goods, et cetera. Let's hope that putting PIIFCAF in law will strengthen the independence of the inshore fisheries and their communities after the hard work started in 2012 under the previous government.

On the other side of the coin, we had the industry portion of the bill, which would add different regulations to their daily activities. It's important to point out that all of the various industries that the committee heard from want to protect the environment and the fish. None of them wants to harm fish, and furthermore, they want to be partners with the government to continue their activities while having a minimum impact on fish and its habitat.

If I could use one word to describe the regulations aspect of the bill, it would be "uncertainty." The uncertainty was clear during the committee meetings around designated projects. How it will work and be enforced is causing a lot of uncertainty for industry representatives. The President of the Saskatchewan Mining Association said:

> Before I outline some of the rationale for these amendments, I would like to reaffirm our members' ongoing commitment to the protection of fish and fish habitat. Our concerns with the proposed act relate to how some of the changes would set aside decades of jurisprudence and operational practices. In our opinion, the proposed act would prompt numerous court challenges and years, if not decades, of uncertainty for DFO, industrial and agricultural operators, as well as rural and urban municipalities, further eroding investment in Canada.

Honourable senators, as you might know by now, the bill was reported from committee with several amendments. Two were ones that I put forward and were accepted by members of the Fisheries Committee.

First, the definition of the fish habitat required an amendment to bring some clarity and better precision on what constitutes a fish habitat. We heard from many witnesses that by including "water frequented by fish" in the definition of fish habitat, it would result in locations that are not essential for fisheries' life-cycle processes to become subject to the act.

In the brief submitted to our committee, Cameco explained:

> In doing so, locations that may only contain water for a brief period of time will be considered to be fish habitat.
>
> As an example, any work, activity or undertaking in a location that may only contain water for several days every few years could be subject to the requirements of the Act. While fish may have the potential to frequent this area for a small period of time once every five years, the habitat is not essential for life-cycle processes.

By amending the definition to "any area on which fish depend directly or indirectly to carry out their life processes, including spawning grounds and nurseries, rearing, food supply and migration areas," we maintain the important protection to the essential areas of life-cycle processes while having a balance that will not disturb or overcomplicate the work for different industries, such as mining. It would also allow for a better understanding for DFO on enforcing the fish habitat provisions and for stakeholders respecting it.

My second amendment that was passed by the committee and backed by DFO officials was on the removal of the upstream and downstream amendment.

The version of subsection 34.3(2) published in the first reading of Bill C-68 provided the minister with sufficient authority to make orders to ensure that the free passage of fish or the protection of fish and fish habitat in relation to an obstruction, including in relation to water flows.

Of particular concern was in the version of paragraph 34.3(2)(g), as amended by the House of Commons, is the power of the minister to require the owner of an obstruction to maintain the characteristics of water upstream of an obstruction. However, in many cases, the owner of an obstruction will not have an ability to control upstream water characteristics, which is why stakeholders like the Canadian Electricity Association have recommended the language be removed.

Therefore, I will conclude my remarks on the proposed clauses of the bill, which I tried to amend but was unsuccessful. We heard, as a committee, that the current wording in the bill in Section 2, "Purpose of Act 2.1," should be slightly changed. As currently written, the purpose statement of the bill establishes two different clauses, one being an objective to manage fisheries as a resource while the other may be interpreted to conserve and protect individual fish.

If not corrected, this language will create conflict between the purpose of the act and the reasonable authorization by DFO of productive activities that may incidentally kill or harm fish or fish habitat, needlessly creating scope for legal challenge.

Allow me, honourable senators, to quote Terry Toner from the Canadian Electricity Association:

> . . . the purpose statement should focus on the management and control of fisheries. As currently drafted, the protection or conservation of fish and fish habitat is set out as a distinct and self-contained purpose, whereas it should be subsidiary to the responsible and proper management and control of fisheries. To address this, we recommend combining the two clauses so that the objective of the act is clearer.

• (1530)

All that being said, to bring clarity to the bill and to avoid potential future legal challenges, as mentioned by some witnesses, I have an amendment to propose.

MOTION IN AMENDMENT

Hon. Rose-May Poirier: Therefore, honourable senators, in amendment, I move:

> That Bill C-68, as amended, be not now read a third time, but that it be further amended in clause 3, on page 3, by replacing lines 22 to 26 with the following:
>
> "**2.1** The purpose of this Act is to provide a framework for the proper management and control of fisheries, with due consideration for the need for conservation and protection of fish and fish habitat, including by preventing pollution.".

The Hon. the Speaker: In amendment, it was moved by the Honourable Senator Poirier, seconded by the Honourable Senator Wells that Bill C-68, as amended, be not now read a third time, but that it be further amended in clause 3, on page 3 —

May I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: Senator Wells, on debate.

Hon. David M. Wells: Honourable senators, I rise to speak in support of Senator Poirier's amendment to Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence. At committee, we, alongside our colleagues representing all groups in the chamber, heard from stakeholders that modifying the wording of this bill's purpose section would improve Bill C-68. Manitoba Hydro and the Canadian Electricity Association were the most vocal proponents for this amendment. Gary Swanson a senior environmental specialist at Manitoba Hydro clearly stated in committee that his organization would like to see:

> . . . the purpose statement be revised into one that is coherent where it is clear that the protection of fish and fish habitat is part of Canada's responsibility to ensure fisheries sustainability.
>
> As the two separate sections are currently stated, we reasonably foresee they will create conflict and needless scope for legal challenges and are contrary to indications from DFO that the habitat provisions will be applied at fishery or fish population level.

As do Senator Poirier and these stakeholders, I view the amendment as a sensible attempt to prevent conflict between the purpose of the act and the reasonable authorization by DFO of productive activities that may incidentally harm fish or fish habitat, something that is provided and planned for in this bill.

As we heard in committee, the purpose section, as worded, needlessly creates scope for legal challenges. The actual purpose of the act is not problematic in the least. It is in the wording of the purpose section where we run into trouble. I think everyone can agree that the Fisheries Act should be about both the proper management and control of fisheries, and also about the conservation and protection of fish and fish habitat.

The purpose section currently has two stand-alone clauses representing these two laudable objectives. On the surface, if you have two objectives, it would make sense that they be separated into two distinct lines.

Proposed paragraph 2.1 (b) under the purpose section reads:

> . . . the conservation and protection of fish and fish habitat, including by preventing pollution.

When you consider this purpose statement on its own, it is easy to understand stakeholder concern around scope for legal challenge. What will happen, colleagues, based simply on legislative oversight, are avoidable legal battles over whether legitimate mining, oil and gas, or other projects can go on when they may be in conflict with one of the two purpose statements in the Fisheries Act. A mining project that has been duly approved and provides for all necessary mitigation measures and offsets may still incidentally cause a degree of harm to fish or fish habitat. Such a project, it would appear, is in conflict with the stated intention of the bill as written in proposed paragraph (b) of the purpose section. On that basis, a project could be challenged, and subjected to unnecessary and unproductive delays.

This would be a disappointing situation considering the efforts of so many stakeholders and parliamentarians, from all sides, who have sought the proper balance between the environment and the economy in this bill.

By simply combining the two parts of the purpose section using the phrase "with due consideration," we can avoid pointless legal challenges and keep the balance where it exists in this bill fully intact. The amended purpose section would read:

> The purpose of this Act is to provide a framework for the proper management and control of fisheries, with due consideration for the need for conservation and protection of fish and fish habitat, including by preventing pollution.

Under this new wording, both objectives remain sound; they just no longer create the same potential for legal challenge. There is no legislative impact from this change whatsoever. In other words, no project would be approved that would have previously been rejected, and no project would be rejected that would have previously been approved. No mitigation measures change, no management or control procedures change, and no less consideration is afforded to environmental or economic factors. This amendment will simply ensure that the act is carried out as I assume it was intended, with both the environment and the economy in mind. The only real change as a result of this amendment is the potential for futile legal challenge.

I want to thank Senator Poirier for bringing this amendment forward, and I take this opportunity to congratulate her, as well, for shepherding two other positive amendments through the committee.

I hope all colleagues will provide due consideration to this amendment. Thank you.

Hon. Yuen Pau Woo: Would the honourable senator take a question?

Senator Wells: Yes.

Senator Woo: Thank you, Senator Wells, for your speech, and thank you, Senator Poirier, for introducing the amendment.

I understand this was an amendment that was raised in committee and defeated. Please, first of all, confirm if that was the case.

For those of us who are not on the committee, this is sprung upon us quite suddenly. Can you give us a flavour of the discussion in committee on this very issue and, in particular, what officials had to say in response to this amendment, leading to its defeat in the committee?

Senator Wells: Thank you for your question, Senator Woo. We had a discussion around it. The amendment that was defeated in committee is slightly different than the one we have in front of us.

It was the officials who did the original drafting of this section. With the addition of "with due consideration," it combines the two. There was a fairly robust discussion around that. As currently written, the purpose statement of the bill establishes two different clauses when, really, they're linked. It is with due consideration for conservation and protection of fish habitat. In the absence of "with due consideration," the two would be looked at separately and independently — not just the framework for proper management and control of fisheries, and separately with conservation and protection.

We're combining them, so one is considered in respect of conservation and protection. That was the essence of the discussion at committee.

Senator Woo: Senator Wells, thank you for that answer. It's correct to say, then, that the original proposed amendment in committee was rejected, in part because of the response given by officials. You have modified the amendment. Of course, at this stage, we do not have any study and certainly no feedback from officials who might have views on this amended version. Would that be a fair statement to make?

Senator Wells: Again, thank you for your question. I'm trying to understand your question. First of all, we don't have to seek the advice of officials when we consider amendments or any discussion at committee. They are there at our convenience.

With that, I don't actually remember what they said. I know that this tightens up the bill. It makes it better; it makes this aspect better. One of the things we have to do as senators and as legislators is to make sure we cover the bases so that good laws can't be challenged in our courts.

In this case, there's an opening for that to happen. If the purpose is to gum up the process, then the current wording is correct. If the purpose is to make it better and clearer, then the proposed wording would be better.

[*Translation*]

Hon. Renée Dupuis: Would the Honourable Senator Wells take a question?

Senator Wells: Yes.

Senator Dupuis: You told us that this amendment is slightly different from the one rejected at committee. Could you please share with us the amendment that was rejected?

[*English*]

Senator Wells: Senator Dupuis, I wish my memory was that good. I know that it is slightly different. I think Senator Poirier is well aware of bringing in the exact same wording.

This is different in that it makes what's proposed better. It draws a link between the proper management and control of fisheries, if a proponent is going to look at that, and puts that under the umbrella of conservation and protection. If looked at separately, there would be challenges.

• (1540)

[*Translation*]

Senator Dupuis: You referred to legal problems or challenges that could be raised by those opposed to the current wording of section 2.1. I would like to know what challenges you mentioned in your study of this bill. At first glance, I do not believe that the expression "with due consideration for the need" would solve anything. However, could you please speak more about the challenges to the current version of the bill.

[*English*]

Senator Wells: Sure. Of course, it wouldn't fix the issue, but it certainly fixes the wording of the bill.

I'll give you an example, Senator Dupuis. Manitoba Hydro suggested that the purpose statement be revised, as I said in my speech.

> As the two separate sections are currently stated, we reasonably foresee they will create conflict and needless scope for legal challenges and are contrary to the indications from DFO that the habitat provisions will be applied at fishery or fish population level.

When the two are brought together —

The Hon. the Speaker: I should inform Senator Plett that your conversation is coming through the microphone.

Senator Plett: I apologize, Your Honour.

Senator Tkachuk: For what you're saying?

Senator Wells: I thought you wanted to answer the question.

Senator Plett: We're strategizing.

Senator Wells: Yes, we know.

Senator Dupuis, this really tightens it up, making one dependent on the other. Conservation and protection are now dependent on the proper management and control of fisheries. If

they're separate, then a proponent could look at the proper management and control with no regard for conservation and protection. But now they will be linked.

To me, it's a friendly amendment. It makes entire sense to do it. It doesn't separate it; in fact, it enhances it.

Hon. Marc Gold: Would the honourable senator take a question?

Senator Wells: I will.

Senator Gold: Senator Wells, my memory is no better than yours, but I was at the committee, as you were, and I actually do recall the conversation because the thrust of Senator Poirier's amendment is the same as it was before. We did get an answer from the officials. I wonder if this will help refresh your memory, and if you would comment on it.

When asked what they thought of combining it so that one was dependent on the other, as you just described, Mr. Nicholas Winfield, the Director General of Ecosystems Management, Fisheries and Oceans, said:

> The proposed amendments in the Fisheries Act —

— that is, the ones to which this amendment would apply —

> — are to recognize two distinct purposes of the act. One is to protect fisheries as a resource for extraction and exploitation purposes —

An Hon. Senator: Question?

Senator Gold: Yes, I've asked the question. I want to see whether he will comment on the answers we got from the officials, which were to the effect that, as designed, there were two separate purposes in the act. One was about the fishery and management of it; the other was to protect fisheries as "a public resource for conservation purposes." That was the answer we got from the officials, as you will now recall.

Can you comment as to why this amendment is considered friendly when the official said that it contradicts the objective of the act?

Senator Wells: I don't recall specifically him saying that, but I'm sure you've read from the transcripts.

On that, Senator Gold, the government sees this purpose clause as giving two distinct purposes to the act: one to protect fisheries as a resource and the second to protect fisheries as a public resource for conservation purposes. The concern is the second purpose, as it's presently worded, could create an interpretation of protecting individual fish instead of fisheries as a whole.

If we look with due consideration at the proper management and control of fisheries, as in the wording proposed in the amendment, it requires linking conservation and protection to proper management and control. I think that's a fairly straightforward response.

Senator Gold: Thank you for that, Senator Wells. You will recall that the precise problem of worrying about the death or damage of one fish was addressed by amendments that were passed by the committee and around which we heard a great deal. The officials, you will recall as well, spoke to how the practices, policies and directives do very well focus on the importance of taking care of the fishery as a resource for exploitation, but that this was an independent and important objective of the Fisheries Act to which Bill C-68 introduced major amendments.

The Hon. the Speaker: Senator Wells, your time has expired. Are you asking for five more minutes? Besides Senator Gold, Senator Duncan and Senator Pratte wish to ask questions.

Senator Plett: Five minutes.

Senator Wells: I'd like to have five more minutes.

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

Hon. Senators: Agreed.

Senator Wells: Senator Gold, you began your question with "you will recall." I'm not sure if I do recall, because it was quite a lengthy statement you made.

All I can say is I think it's a reasonable amendment, combining these, making one, the conservation and protection, dependent on the other, which is the control and management.

Hon. Pat Duncan: I appreciate the opportunity to ask a question of the mover of this amendment.

Bill C-68, the protection of fisheries and the Fisheries Act, has been very strongly supported by the Yukon Salmon Committee. They have lobbied me very strongly to have this passed and receive Royal Assent before the end of the session. I also heard the mover of the amendment address the issue of mining and its impact on fisheries and projects.

I'm not clear in this amendment, because you've linked these two, how the Yukon Environmental Socio-economic Assessment process interplays with that. For example, in doing my research on this bill, if a proponent — Placer mining, for example — were suggesting they were going to interrupt fish habitat, they would go first through YESAB, the Yukon Environmental Socio-economic Assessment Board, which would make recommendations to the Minister of Fisheries regarding the licence. By going through the environmental and socio-economic process, Indigenous concerns are recognized, heritage concerns are recognized and protection of the fish and conservation are recognized. So I'm not clear of the necessity for this amendment, knowing that those processes are already in place.

Senator Wells: Thank you, Senator Duncan. I'm not at all familiar with the environmental process that the Yukon Territory has in that regard. But if your concern is for the conservation and protection, which I assume it is, then linking that with the management and control of fisheries, I could only support that. If you're compelled by law to look at management and control through a conservation and protection lens, I would assume that would be a beneficial move towards the ecological aspect of the Fisheries Act.

The Hon. the Speaker: I'm sorry, Senator Duncan. We will only have time for one more question, so I'm going to go to Senator Pratte.

Hon. André Pratte: So this will be the last question.

I'm wondering, senator, whether the impact of the amendment is actually more serious than you've indicated, because it does give priority clearly to the first purpose, which is the proper management of control of fisheries, over the second purpose, which is conservation and consideration for the need for conservation. It's even clearer in the French version, where it says:

> La présente loi vise à encadrer la gestion et la surveillance judicieuses des pêches en tenant compte des besoins en matière de conservation . . . .

So it's clear that this amendment changes substantially the purpose clause to give priority to proper management and control of fisheries, isn't it?

• (1550)

Senator Wells: Thank you for your question. I would disagree with that because with the addition of "with due consideration," that's as flexible as it needs to be. It requires it. It's not a "may"; it's a "shall." It must be given due consideration. If you're looking at the proper management and control, it means there's a compulsion to look at it with the consideration and not absent of it or as a choice.

The Hon. the Speaker: Senator Wells, your time has expired. I know Senator McCoy would like to ask a question. Are you asking for more time?

Senator Wells: I will take Senator McCoy's question.

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

An Hon. Senator: No.

The Hon. the Speaker: I hear a "no." I'm sorry, Senator McCoy.

Hon. Elaine McCoy: On debate.

Honourable senators, I want to bring to your attention the report we were all sent yesterday by CPAWS, the Canadian Parks and Wilderness Society. In their annual report they congratulated Canada, and rightly so, moving quickly in four years from 1 per cent of the ocean as marine protected areas to 7 per cent, and recognizing the current goal is 10 per cent, an international goal which the previous government agreed to.

They also indicated they are beginning to advocate for a larger target. They and others like them are now indicating they believe that 30 per cent of the world's oceans should be protected. That's going to have a major impact, I should think, on some of the commercial, not to mention recreational, but primarily commercial activities that we enjoy now in our territorial waters.

I would have asked somebody who knows much more about this subject than I, had I had time on the record, if this would help, because it's going to become a far larger question in the future. But I will pursue the question privately. Thank you very much.

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

Some Hon. Senators: Question.

Hon. Leo Housakos: Your Honour, I would like to take the adjournment of the debate in my name.

The Hon. the Speaker: It was moved by the Honourable Senator Housakos, seconded by the Honourable Senator Frum, that further debate be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker: I see two senators rising. Do we have an agreement on the bell?

Senator Plett: One hour.

The Hon. the Speaker: The vote will take place at 4:53 p.m.

Call in the senators.

• (1650)

Senator Plett: Your Honour, Senator Mitchell, Senator Gold and Senator Downe and I talked and we are okay with withdrawing our adjournment motion. We will continue with debate if everyone agrees.

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

Hon. Senators: Agreed.

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

Hon. Senators: Question.

The Hon. the Speaker: In amendment: It was moved by the Honourable Senator Poirier, seconded by the Honourable Senator Wells, that Bill C-68 be not now read the third time but that it be amended in clause 3 — may I dispense?

Hon. Senators: Dispense.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

Senator Campbell: Welcome to the ISG.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the nays have it.

And two honourable senators having risen:

The Hon. the Speaker: I see two senators rising. We have an agreement on a one-hour bell. The vote will take place at 5:55 p.m.

Call in the senators.

• (1750)

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

YEAS
THE HONOURABLE SENATORS

Andreychuk	Mockler
Batters	Neufeld
Boisvenu	Ngo
Carignan	Oh
Dagenais	Patterson
Doyle	Plett
Eaton	Poirier
Frum	Richards
Housakos	Seidman
MacDonald	Smith
Manning	Stewart Olsen
Marshall	Tannas
Martin	Tkachuk
McInnis	Wells
McIntyre	White—30

NAYS
THE HONOURABLE SENATORS

Anderson	Griffin
Bellemare	Harder
Bernard	Klyne
Boniface	Kutcher
Bovey	LaBoucane-Benson
Boyer	Lankin
Busson	Lovelace Nicholas
Campbell	Marwah
Christmas	Massicotte
Cordy	McCallum
Cormier	Mégie
Coyle	Mitchell
Dalphond	Miville-Dechêne
Dawson	Moncion
Day	Moodie
Deacon (*Nova Scotia*)	Munson
Deacon (*Ontario*)	Omidvar
Dean	Pate
Downe	Petitclerc
Duffy	Pratte
Duncan	Ravalia
Dupuis	Ringuette
Dyck	Saint-Germain
Forest	Simons
Forest-Niesing	Sinclair
Francis	Verner
Gagné	Wetston
Galvez	Woo—57
Gold	

ABSTENTION
THE HONOURABLE SENATOR

Greene—1

• (1800)

The Hon. the Speaker: Honourable senators, it being past 6:00, pursuant to rule 3-3(1), I'm required to leave the chair until 8 p.m. unless there's an agreement not to see the clock.

Is there agreement?

An Hon. Senator: No.

The Hon. the Speaker: I hear a no. The sitting is suspended until 8 p.m.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

• (2000)

The Hon. the Speaker: Resuming debate on Bill C-68, as amended.

(On motion of Senator Martin, debate adjourned.)

IMPACT ASSESSMENT BILL
CANADIAN ENERGY REGULATOR BILL
NAVIGATION PROTECTION ACT

BILL TO AMEND—THIRD READING—MOTION IN AMENDMENT NEGATIVED

On the Order:

Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Black (*Alberta*), for the third reading of Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts, as amended.

And on the motion in amendment of the Honourable Senator McCallum, seconded by the Honourable Senator Boyer:

That Bill C-69, as amended, be not now read a third time, but that it be further amended in clause 1,

(*a*) on page 16, by adding the following after line 15:

"**(c.1)** the extent to which the issuance of a decision statement under section 65 allowing the proponent of the designated project to carry out the designated project would be consistent with the Government of Canada's commitment to implementing the *United Nations Declaration on the Rights of Indigenous Peoples*;";

(*b*) on page 20, by adding the following after line 19:

"**(c.1)** the extent to which the issuance of a decision statement under section 65 allowing the proponent of the designated project to carry out the designated project would be consistent with the Government of Canada's commitment to implementing the *United Nations Declaration on the Rights of Indigenous Peoples*;"; and

(*c*) on page 42, by adding the following after line 25:

"**(c.1)** the extent to which the issuance of a decision statement under section 65 allowing the proponent of the designated project to carry out the designated project would be consistent with the Government of Canada's commitment to implementing the *United Nations Declaration on the Rights of Indigenous Peoples*;".

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, before we call the question on the amendment, I would like to briefly intervene, first of all, to express my respect for the honourable senator who has moved the amendment, but also to ensure that the chamber knows why and how I will vote when the amendment comes before us.

Senator McCallum has been quite successful in moving some amendments as part of the 190-plus amendments that are before the chamber. With respect to the amendment that is before us, I frankly think it is premature in its context for the UNDRIP references. UNDRIP is not yet a bill or a law adopted by Parliament. That may well happen at some point. At that point we may wish, as a Parliament, to address these issues. But for the purposes of tonight and the votes that we have before us, I will vote against this amendment and, quite frankly, I'll vote against other amendments that may be brought forward before we get to the final motion.

I kind of think my cup runneth over at about 190 amendments. Let's get to the vote and let the House of Commons determine its view with respect to the amendments that have been made. We will have our opportunity to speak again when and if we receive a message.

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

Hon. Senators: Question.

The Hon. the Speaker: In amendment, it was moved by the Honourable Senator McCallum, seconded by Honourable Senator Boyer, that Bill C-69 be not read a third time but that it be amended in clause 1 — may I dispense?

Hon. Senators: Dispense.

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

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the nays have it.

And two honourable senators having risen:

The Hon. the Speaker: I see two senators rising. Do we have an agreement on the bell?

Senator Plett: One hour.

The Hon. the Speaker: The vote will take place at 9:02 p.m.

Call in the senators.

• (2100)

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

YEAS
THE HONOURABLE SENATORS

Bernard	Francis
Boyer	Galvez
Cordy	LaBoucane-Benson
Coyle	Lovelace Nicholas
Dalphond	McCallum
Dean	Pate
Dyck	Simons
Forest	Sinclair—17
Forest-Niesing	

NAYS
THE HONOURABLE SENATORS

Andreychuk	Marwah
Batters	McInnis
Bellemare	McIntyre
Black (*Alberta*)	Mitchell
Boisvenu	Mockler
Boniface	Neufeld
Busson	Ngo
Carignan	Oh
Dagenais	Patterson
Deacon (*Nova Scotia*)	Plett
Deacon (*Ontario*)	Poirier
Doyle	Pratte
Duncan	Richards
Eaton	Seidman
Frum	Smith
Greene	Stewart Olsen
Griffin	Tannas
Harder	Tkachuk
Housakos	Wallin
MacDonald	Wells
Manning	Wetston
Marshall	White—45
Martin	

ABSTENTIONS
THE HONOURABLE SENATORS

Anderson	McCoy
Bovey	Mégie
Christmas	Miville-Dechêne
Cormier	Moncion
Duffy	Omidvar
Dupuis	Petitclerc
Gagné	Ravalia
Gold	Ringuette
Klyne	Saint-Germain
Kutcher	Woo—21
Lankin	

BUSINESS OF THE SENATE

Hon. Yuen Pau Woo: Honourable senators, I want to take the opportunity to talk about the reason why I abstained from the last vote. I cannot speak for other ISG senators who abstained. I also cannot speak for ISG senators who voted for or against this amendment. But I will, I think, reflect broadly some views that were expressed by ISG senators at a meeting we had just before this vote. I've been asked, I think it's fair to say, to express some of those views to the chamber.

• (2110)

Let me first thank and congratulate Senator Mary Jane McCallum for her encourage, her determination to stand up for Indigenous rights and for moving this very important amendment.

Some Hon. Senators: Hear, hear!

Senator Woo: I also want to recognize the injustice that you felt because your amendments were not part of a package that was negotiated as part of the totality of amendments that the Energy Committee eventually passed and which have now come to this chamber. Your tenacity in pursuing those amendments in committee on your own and here again in this chamber is a testament to your commitment to these issues.

Many of us who thought about how to vote on this issue were unequivocal on one point, which is that we support the greater consultation, engagement and involvement of First Nations in impact assessments and, indeed, in all the big decisions that involve Canada, Canadian society, business and politics. All of us want to see a society in which First Nations' rights are treated with the respect they are due.

Some Hon. Senators: Hear, hear!

Senator Woo: In the debate we had in ISG about whether to adopt this amendment, there were, of course, different views, particularly on the impact that passing this amendment would have, not only on Bill C-69, but also on what many of us thought was the more important bill before us, Bill C-262. I simply want to put on the record here that I think there is, if not unanimity, a strong body of opinion within the ISG that whatever happened tonight does not in any way detract from the importance of Bill C-262.

I want to underscore the need for this chamber — the committee, first of all, to finish its work. We know the committee has been very diligent in doing its investigations and hearings.

We want that bill to come back to the chamber as soon as possible. I want to strongly encourage all of us to not apply dilatory tactics to withhold a final vote on that bill, because we all have a feeling that while this amendment may not have been right for Bill C-69, it is the right thing to do for the Senate as a whole.

The Hon. the Speaker: Order, please. Unless somebody is raising a point of order, Senator Woo has the floor.

Hon. Donald Neil Plett: Your Honour, I am raising a point of order. I'm sure at the end, you will do the right thing and say that it doesn't quite meet the threshold, but I will at least raise it.

Senator Woo got up and told us that he wanted to explain why he abstained on a vote. He is now going into a debate on a bill that is not before the chamber. I would suggest that Senator Woo tell us why he abstained and leave it at that. He has the right to abstain, and he has the right, Your Honour, to tell us why he abstained. He has gone well beyond that, and he is now campaigning on a bill that is not yet before the chamber. Your Honour, I think that is a point of order.

The Hon. the Speaker: Order, please. Honourable senators will know that when a senator abstains on any vote, they sometimes give an explanation as to why the abstention took place. Senator Plett is making a good point, though, Senator Woo, in that you are now straying into a debate on the amendment.

Senator Woo: Thank you, Your Honour, for the clarification. I thank Senator Plett for correcting me for straying into what he feels is secondary material.

I chose to abstain on this amendment because I feel the proper order of legislation in dealing with the UN Declaration on the Rights of Indigenous People is, first and foremost, to deal with Bill C-262 and not to skip over that step and onto this amendment. For that reason, I encourage all of us to get quickly to Bill C-262 and to pass it through the Senate.

Some Hon. Senators: Hear, hear!

Hon. Marty Klyne: I'd like to explain my abstention. First, I'd like to tip my hat to my inspiration across the way, Senator McCallum. You truly are an inspiration. I certainly admire your courage. Thank you for that.

I understand the amendment. I don't disagree with it, but I feel that Bill C-69 has enough language in there to respect Indigenous rights and for meaningful consultation therein, as far as the assessment proceeds.

I would like us to dearly get on with Bill C-69. Can we do that, please? Thank you.

Hon. Elaine McCoy: Thank you. I'd like to explain my abstention.

The Hon. the Speaker: Honourable senators, before you start, I realize that we sometimes acknowledge senators who stand to explain an abstention, but abstentions generally speak for themselves. Unless you have a pressing need to explain your abstention, please, it will stand for itself.

Some Hon. Senators: Hear, hear.

Senator McCoy: I would like to explain my reason for abstaining, which has not been stated so far. My reason for abstaining is this: I plan to abstain on third reading in every respect of Bill C-69.

Let me put it this way: There was considerable discussion and negotiation at the committee. It brought back a Senate package of amendments. We in Alberta have stressed how important it is for that package to be accepted without any changes. I would support that.

I'm abstaining with no prejudice against any other amendments that are brought forward. As an Albertan, I refuse to vote in favour of anything, including third reading if we achieve that Senate package of amendments, until the government has shown its good faith by bringing back the message that it has accepted the Senate amendments.

As an Albertan, I will not be on record for any other part of third reading or amendments at this stage. Thank you very much.

DECLARATION OF PRIVATE INTEREST—MOTION TO WITHDRAW VOTE ADOPTED

Hon. David M. Wells: Honourable senators, I want to apologize to the house. I made a declaration of private interest on Bill C-69 and inadvertently voted on this amendment. I'd like to withdraw my vote. I'm pleased that it didn't affect the outcome. My apologies to the house.

The Hon. the Speaker: According to rule 9-7, it's also the responsibility of the table and the chair to inform a senator before a vote. The declaration was made last November. Tonight it just slipped past both Senator Wells and me.

But in order for Senator Wells to withdraw his vote, he will need the consent of the house. Is it agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Resuming debate on Bill C-69.

IMPACT ASSESSMENT BILL
NAVIGATION PROTECTION ACT
CANADIAN ENERGY REGULATOR BILL

BILL TO AMEND—THIRD READING—
DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Mitchell, seconded by the Honourable Senator Black (*Alberta*), for the third reading of Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts, as amended.

Hon. Howard Wetston: Honourable senators, I'm pleased to participate in discussion on Bill C-69. This bill is well-known to you. Indeed, the context for impact assessments and regulation in the energy and natural resource sectors has changed over the last number of years. In my opinion, the ground has shifted. What do I mean by that? Climate change, technological change, market complexities, social and Indigenous issues have moved increasingly to the forefront of the discussions.

• (2120)

Nevertheless, this bill, as amended by the report of the Energy, Environment and Natural Resources Committee represents a good faith effort to respond to the countless representations senators have received to amend Bill C-69.

I want to compliment the special committee, not because I was a member, but for the work we did: Senator Tkachuk, Senator Patterson, Senator Carignan, and, I think, our good friend on the left here, as well, Senator Cordy, and, of course, the hard work of our facilitator, Senator Woo.

I don't think we — I forgot about Senator Mitchell.

Senator Mitchell: It happens.

Senator Wetston: I knew I had some explanation, and here it is. I apologize. Obviously, he was key to the discussions.

The amendments reflect the concerns associated with the proposed impact assessment process that touches on the environment, society and Indigenous rights and the risks associated with future energy infrastructure development.

I'm going to take a slightly different approach to my discussion because I think there will be lots of discussions about the specific amendments, and I enjoyed the speech yesterday from Senator Mitchell.

I'm going to talk about three things.

The first one is what I call policy mismatches. This not a class in public administration.

The second is the governance framework, or the architecture of the bill, briefly.

Then I will talk about alignment of stakeholder interests and objectives, all towards the rationale for why so many amendments were proposed with respect to the bill.

Let me begin with policy mismatches. I have had a lot of occasion to work with policy mismatches. They generally end up in poor implementation and with results that often don't support the outcomes that are expected when legislation is passed. And in this case, I guess you get the sense of what I'm getting at. The bill, without amendment, I believe may seriously increase the risks associated with the pipeline and other infrastructure development.

For example, without increasing the role of existing life-cycle regulators during the early-planning phase of a project's consideration, I would believe you could face a policy mismatch, which could end up in implications and decisions that may not be as purposeful or potentially available for litigation without having that kind of input and engagement.

The early planning process is significant as it creates a means to fully engage stakeholders in a transparent manner that allows for the agency to develop tailored impact assessment guidelines. That's a good thing. Secondly, amendments were adopted by the committee involving the scoping of the 20 factors that many of you are familiar with that must be considered — not may — in an impact assessment. These amendments allow the agency to scope those factors most relevant to the project.

For me, relevant is about relevance, findings, weight, conclusions and opinions, and so you want a framework that accommodates the opportunity for that. I'll talk about that in a minute.

The scoping of factors is to be done when preparing the tailored impact statement guidelines for project proponents. Amendments were made to the bill to emphasize that positive economic benefits of designated projects will be considered in impact assessments, and decision-making by adding specific references to the bill. Moreover, there was agreement that inserting a privative clause respecting certain decisions by the agency, the minister or the Governor-in-Council could reduce risk to some extent. It does not eliminate litigation risk, but it has some potential effect on reducing it.

Honourable senators, these are all mismatches that have been more or less addressed by the amendments, and that's the point I'm trying to make.

Another possible mismatch I would like to bring to your attention is to reaffirm the role of life-cycle regulators in the impact assessment process. They always had a role, but the role has been enhanced.

For over 50 years, thousands of kilometres of pipelines have been built in Canada, and they have been developed under a virtual, independent and administrative tribunal authority. In my opinion, life-cycle regulators over many years have acquired considerable technical and policy implementation expertise, but they also provide stability in times of change.

To me, that's very important because regulators are often able to overcome changes in government and policy direction and are able to support decisions in that context without necessarily being influenced by political or government policy changes.

That's not entirely the case here, but we have moved amendments in a direction to at least enhance that capacity.

Basically, investors, in my opinion, are unlikely to sink a great deal of capital in projects without some constraint on political or ministerial discretion. CEAA 2012, which you are all familiar with and have heard enough about, made a significant change to the decision-making model. Cabinet makes the ultimate decision, and the panel makes the recommendations.

For lawyers, it's a bit unusual because normally he who hears decides, rather than he who makes the recommendation. He who hears decides, and in this case he who hears makes the recommendation and does not decide. In this case, cabinet or the minister decides. That takes a little getting used to.

Bill C-69 more or less continues the model contained in CEAA 2012, something which I have called the layering function. You layer one bill on another bill and you expect that the layering will result in a more likely outcome of predictability and clarity. Unfortunately, it doesn't always work that way because when you layer it, you introduce other factors. You create more uncertainty and then you're once again uncertain about what that outcome will deliver.

Many representations focused on the increased political risk as a result of the Governor-in-Council decision-making. The bill, as amended, recognizes this and includes efforts to shift more responsibility to the agency or the review panel; that is, away from the minister or cabinet.

After all, the review panel must hear the evidence, as I said, analyze and weigh the evidence, make findings and prepare a comprehensive report that is to be submitted to cabinet.

Roland Harrison is a well-known professor and now a consultant, I believe, in Calgary. He used to be a member of the National Energy Board for many years and was a professor of mine at Dalhousie University who taught me constitutional law; unfortunately, I was older than him when he taught me that. I have to go back and think about whether I learned anything. I don't know what mark I got, Senator Sinclair. I have to think about that.

Roland Harrison described this in a paper he has written in which he thinks about or has talked about how the value of the contribution to the ultimate decision on a particular project will be determined by the independence, integrity and rigour of its process.

What he is talking about there is actually the National Energy Board. He is not talking about a Cabinet decision, because CEAA 2012 created the recommendation versus decision-making model.

Mr. Harrison goes on to say something I think is important because of the framework in which this is going to occur:

> An independent agency can come to its conclusion as to the proper balance between the fundamental considerations of economic development, protection of the environment and impacts on society, but is it the proper forum in which a final decision should be made on society's behalf?

In this case, Mr. Harrison thinks that it is the proper forum, that is, for cabinet to make these broad societal decisions. Nevertheless he is emphasizing that, in the context of reviewing major resource development projects, independence should not be defined by the finality of an agency's decision, but by the integrity of the process that culminates in a recommendation.

Now, for lawyers, that may be kind of neat and an interesting distinction, but actually, it's pretty powerful. What it's really saying and what this bill is attempting to do is realign more authority in the agency so that its recommendation has a great deal more integrity and influence on the potential public interest determination that is made by cabinet.

• (2130)

I think that's a very important consideration, and it's one of the considerations that I think led to a number of the amendments that we are now examining on Bill C-69.

Greater independence for the proposed President of the Impact Assessment Agency has been considered as well as his or her role and the clarity of the appointment process. The IAA will also have the authority to appoint members of a review panel from a roster created by the minister.

My final comment on this point would be more of an observation. The Governor-in-Council makes a public interest determination. That is broad, but they are doing it on the basis of factors that are recognized in the legislation. Public interest determination is still open to some ambiguity and uncertainty in their application, but we're accustomed to them and they are used a great deal. They do so on a determination under clause 63 of the bill based upon the factors that will be discussed in the report delivered to cabinet by the agency.

It's my expectation — and I think this is important — that the review panel will also form an opinion as to the public interest in its report to the agency. But that is not clear. I make this observation because I think it's critical. If the review panel goes through the entire process and the 600 days and files a report with the government, the agency should have the capacity to make a recommendation in the public interest, which, by the way, is the decision that cabinet has to make.

I think that is important because the reason is under this model the public interest determination, while not determinative, would be, in my opinion, impactful, particularly when the Governor-in-Council has to give its reasons publicly.

I would like to move on briefly to this issue of the governance challenge. There are some who would say, "What are you talking about here?" At the end of this, I hope I know what I'm talking about here.

I wanted to step back and ask myself this question: There have been so many representations as to why it is, particularly for pipelines, that this bill does not work and will not be effective in being able to construct pipelines in Canada. We have heard many of those representations and many of us have been lobbied to that effect.

I had the benefit of being involved in pipelines when I was working in a number of agencies, so I kind of understand the experience you have to go through to certify a particular pipeline, but not under an impact statement or an impact environment.

When I was thinking about this issue, I asked myself this question: Is the governance framework — I'm not talking about board governance here — associated with the impact assessment proposed in Bill C-69 a framework that would allow the achievement of the objectives based upon how the bill is designed and the architecture of the bill? In other words, the inputs are the policy initiatives. The outputs and outcomes have to be what? The infrastructure that potentially flows from it.

The impact assessment is to do what? It's an impact assessment of an infrastructure project — a terminal, a marine, a dam or a hydroelectric mine. Therefore, the governance challenge is to assess whether this framework is one that will actually work.

CEAA 2012 created a unique framework for infrastructure assessments for pipelines. The National Energy Board had the full responsibility for the assessment and the licensing conditions.

Dr. John Colton from Acadia University has noted that these changes produced a public perception that certain environmental protections and environmental review processes have been diminished to make way for expedited approvals of energy infrastructure.

Bill C-69 responds to this public perception challenge by reforming the governance framework associated with impact assessments concerning pipelines. However, concerns have been expressed that the framework of Bill C-69 may further enhance the governance weaknesses identified in CEAA 2012.

The Hon. the Speaker pro tempore: Senator, I regret to inform you that your time is up.

Some Hon. Senators: Five minutes.

The Hon. the Speaker pro tempore: Would you like five more minutes, senator?

Senator Wetston: Thank you, Your Honour. I didn't realize I was taking so much liberty with the time. I was certain this was 15 minutes. I have to follow Senator Gold's example here.

Bill C-69 responds to the public perception challenge by reforming the governance framework associated with impact assessments concerning pipelines. However, these concerns expressed that the framework may further enhance the governance weakness. Many amendments are being proposed because the bill's architecture will not likely achieve the performance and implementation goals associated with interprovincial pipelines. There are many ways of saying that, and I will go into it briefly.

The governance challenges are heightened by the efforts to transition to a low-carbon emission economy which may require a dramatic transformation in the way we produce and consume energy. So project proponents are confronted by this harsh reality and the challenge associated with reconciling energy, social, environmental, Indigenous and other policy issues in a project context — not a policy context, a project context.

One company CEO indicated and asked the following question: "Are pipelines the new tobacco?" I found that interesting. This raises the important question of how energy policy relates to broader political problems concerning economic management, environmental quality, regulation, federal-provincial relations, et cetera. It is all there.

So designated pipeline projects are unique. They pose particular issues and challenges that may not be associated with other designated projects.

Let's take, for example, TMX — delayed. Line 3 is now delayed by the Court of Appeal in Minnesota. Keystone is delayed in the U.S. Three major projects are all delayed. The TMX decision is coming soon, but all the projects are delayed. Is that unique to pipelines? Maybe not. But it certainly does affect pipelines.

Despite the legislative timelines, there are invariably delays to the completion of pipeline projects. This leads to investment uncertainty and potential capital risk. Investors are not passive actors but must respond to the business climate that supports long-term investment decisions in infrastructure.

The experience with delays, along with the new impact assessment framework, has raised important concerns associated with sinking capital into highly risky multi-billion dollar projects.

Honourable senators, the easiest way to minimize risk is to avoid it, but that would not be for the public good or the long-term interests of Canada.

Risk cannot be avoided but risk can be minimized. The amendments proposed assist in recognizing the uniqueness of energy infrastructure and pipelines and the need to develop an effective governance framework and an effective architecture to support the implementation of these types of projects.

Given my five minutes, I will skip to my conclusion.

The Hon. the Speaker pro tempore: A minute and 26 seconds.

Senator Wetston: In closing, honourable senators, what I was going to talk about, in a nutshell, was the alignment of stakeholder interests and stakeholder objectives.

It is important that we continue to think about all of the stakeholders and their interests and think about an alignment — not hard trade-offs. If we start thinking of hard trade-offs, we

start thinking about winners and losers. That is not going to accomplish the goals we need to achieve to build important interprovincial projects. That also has the opportunity to reduce litigation risk. It also has the opportunity to increase clarity. A good example of that is the early planning system, which I think everybody supports.

So alignment of interests, not hard trade-offs, not winners and losers. If that's the case, we can get the kinds of projects built in this country that will impact social goods, involve Indigenous reconciliation, create opportunities in economic growth and maybe restore the $100 billion of GDP to this country that Alberta has contributed to in the last number of years.

• (2140)

Final comment, if I may: We all recognize the context in which energy and infrastructure, including pipelines are required. A pipeline is not just a pipe in the ground. It represents important interests that affect our environment, economy, Indigenous rights and our society generally. I encourage the Senate to pass Bill C-69 as amended. Thank you.

Some Hon. Senators: Hear, hear!

[*Translation*]

Hon. Rosa Galvez: Esteemed colleagues, I rise to speak at third reading of Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts.

The Standing Committee on Energy, the Environment and Natural Resources, ENEV, studied this bill very thoroughly. We heard from 275 witnesses and visited nine Canadian cities from coast to coast to coast. I am quite sure that Bill C-69 is one of the most heavily scrutinized bills in the history of Canadian legislation. Canadians paid for this extensive consultation, and they expect modern, coherent and effective legislation. The committee made 188 amendments to the bill. Today I will describe issues relating to the study of this bill and the adoption of the amendments, and I will encourage you to vote in favour of Bill C-69 as amended.

Since 1995, the Impact Assessment Act has served as a decision-making tool to help assess how a given project will affect the environment and communities. Projects might include pipelines, mines, ports, highways, nuclear reactors, dams or hydroelectric facilities. This is a tool that can lend legitimacy to decisions. In practice, impact assessment should enhance the effectiveness of the approval, construction, operation and completion of projects with minimal negative impacts on the environment and maximum social and economic returns.

Bill C-69 is a very important piece of legislation and has therefore been the subject of serious lobbying. Its success depends on striking the right balance between socio-economic pressures and the need to protect the environment, which is a source of natural resources and ecological services that are essential to human survival.

[*English*]

Bill C-69 is justified for multiple reasons: to regain public trust, modernize the impact assessment process, solve issues with regulatory agencies, offer certainty to investors and proponents. It strengthens the role of science during impact assessments, as well as the consideration of cumulative effects and the need to consider climate change. It extends public participation, it better coordinates with provincial governments, implements more meaningful consultation of Indigenous peoples, and goes further to meet international commitments. These reasons are also embedded in the 20 new factors that Bill C-69's impact assessment must consider.

Bill C-69 is also justified by the fact that the status quo is not acceptable by any stakeholder. Prior to 2012, environmental assessments were conducted by the Canadian Environmental Assessment Agency, CEAA, with technical inputs from energy regulators. Invoking economic arguments, major changes were brought to CEAA by the government at the time in an omnibus budget bill, Bill C-38, which resulted in CEAA 2012. At the time, numerous groups raised warnings against proposed changes, including the Canadian Environmental Law Association, who conveyed strong objections to the unprecedented and unjustified demolition of the federal environmental legislative framework. CEAA 2012 repealed and amended 11 acts that collectively entrenched environmental protections, ensured governmental accountability and facilitated public participation in environmental decision-making at the federal level.

At first glance, CEAA 2012 appeared to be a good system for industry as it accelerated the authorization and permitting process. This was particularly evident for the oil and gas sector around which the changes were centred. Yet, since 2012, no new major pipeline has been constructed. The NEB has had 51 court challenges since 2012. High profile projects such as Northern Gateway, Energy East and Trans Mountain expansion experienced significant obstacles.

Under CEAA 2012, thousands of projects, which should have been previously subjected to federal environmental assessment requirements due to their potentially significant adverse environmental effects were not reviewed.

Pierre Gratton, the president and CEO of the Mining Association of Canada said:

> Under CEAA 2012, however, despite great promise of further improvements, federal and provincial coordination broke down. As well, mining became nearly the only sector subject to the act.

A CBC News poll in 2016 revealed that most Canadians had little or no confidence in the NEB. The main reasons for this distrust? Highly contentious pipeline hearings, political interference and repeated changes to how it operates.

In 2017, the C.D. Howe Institute published a report entitled, *How to Restore Public Trust and Credibility at the National Energy Board*. Several of their recommendations are now included in Bill C-69, which repeals the NEB and creates the Canadian energy regulator.

Under CEAA 2012, only 70 projects were completed. Of these projects, 6 per cent were oil and gas projects, 45 per cent were mining, and 9 per cent were transport and pipeline projects. Despite the seemingly low proportion of oil and gas sector projects, great importance was placed on understanding the needs and requests made by this sector. Therefore, during ENEV hearings, we heard 61 witnesses from this sector. Of the amendments passed by the committee, more than 90 were put forward by CAPP and CEPA.

But the interests of any sector must be balanced with the interests of communities and Indigenous peoples. Also, they must be balanced with environmental protection and the needs of future generations. The process must be fair across sectors. The government must not pick and choose sectors for special exemptions or protections. Standards must be high.

Tim McMillan, CEO of CAPP, agrees with this:

> When we look at the vision we think it is possible that Canada can and should have a regulatory system that upholds our high environmental and regulatory standard and does it in a clear, efficient and transparent way.

Shannon Joseph, Vice President of Government Relations at CAPP, said:

Our companies are committed to following the rules. They want to have high standards. They want to work with the communities where they operate, but it needs to be clear.

Thus, a balance must be struck between relieving economic pressures, providing certainty to industry, addressing environmental problems and providing for environmental protection.

Here are some of the pressing problems. The Alberta Energy Regulator, AER, said that in a standard year, they receive 40,000 applications concerning a variety of oil and gas projects. Mark Taylor, Executive Vice President of the AER, said that fewer than 10 projects require public hearings and that 95 per cent of all applications are accepted with most approved by computer software in less than five minutes. However, when questions about costs and timelines for closure of orphan wells or remediation of tailing ponds were raised, witnesses were unable to provide answers. In November of last year, a multimedia inquiry quoted Rob Wadsworth, AER's Vice President of Closure and Liability, as saying that the cleanup of the oil patch could cost an estimated $260 billion. AER said this number was based on the worst-case scenario and the validated figure is $59 billion. Yet, using numbers from the Orphan Well Association, liabilities only for orphan wells could be as high as $107 billion.

• (2150)

Keeping non-producing wells in a state of inactivity with no economic benefit, while maintaining the risk of becoming a hazardous threat to public safety, is an irresponsible practice. A bigger threat is posed by 97 square miles of tailing ponds. These contain 340 billion gallons of water contaminated by heavy metals and toxic hydrocarbons that might take thousands of years to clean up. This is a massive financial burden to Alberta's citizens and to future generations.

During committee hearings on Bill C-69, we also heard the moving testimony of Ms. Greyeyes, a victim of sexual abuse at the work camp. She and other Indigenous witnesses shared personal accounts of violence and abuse associated with the work camps of energy development projects. Two disturbing reports from Amnesty International explain that while transient work pays well, high wages also raise the cost of living in local communities, putting pressure on local health services, and causing imbalances in the social fabric. Ultimately, this negatively affects Indigenous women and children. These potential impacts will be considered through gender-based analysis in Bill C-69.

During her testimony, Professor Reed from the University of Saskatchewan said that responsible corporations are already conducting and benefitting from GBA best practices.

More and in line with this, the report of the National Inquiry into Missing and Murdered Indigenous Women and Girls published yesterday made five calls for the extractive and development industry to consider the safety and security of Indigenous women and girls through the life cycle of projects.

Colleagues, recent international scientific reports made clear the urgent need for action to address the climate crisis.

Climate change is a financial vulnerability for Canada. Stephen Poloz, Governor of the Bank of Canada said:

> The focus is on the risks that climate change poses to both the economy and the financial system. These include physical risks from disruptive weather events and transition risks from adapting to a lower-carbon global economy.

Just last week, at Canada's Global Defence and Security Trade Show Lieutenant-General Wynnyk said:

> As climate change alters our weather patterns, climate scientists predict that we will get risk of more extreme weather events such as heat waves, heavy rainfalls, flooding, droughts, and, of course, forest fires. Climate change is a reality of our operating environment and it's something that we, in the Canadian Armed Forces, have to consider more and more in how we plan.

Some amendments to Bill C-69 might have the undesired effect of undermining climate change as a "factor to be considered" during the project's impact assessment. However, this will benefit neither proponents nor communities as the climate crisis affects us all. The government must take a closer look at this issue.

Bill C-69 will promote and support sustainable development. As such, it will attract investment and projects as we transition to a low-carbon economy. Natural gas, hydro, nuclear and other renewable energy projects are growing as the cost of producing each kilowatt is becoming cheaper, even without the assistance of subsidies. The application of renewable energy in mass transport, the transport of goods, and in mining are increasing. Presently, the green bond market is valued at $521 billion. The international Climate Bonds Initiative is mobilizing $100 trillion U.S. dollars as capital for large-scale climate and infrastructure projects seeking increased capital market investments to meet emission reduction goals.

Colleagues, Canada must get its act together, assume leadership and become the change we want to see in the world. Stopping or delaying modernization renders all our industries, which already lag as they rely on old technology and old criteria, less competitive.

Bill C-69, as described by my colleague Senator Wetston, is a highly technical bill. It's part of direct and indirect connections. Some amendments may have direct desired outputs, but unintentional indirect effects. We must allow the government to do the "fine tuning."

The International Association for Impact Assessment is clear on what "best practices" in impact assessment should be.

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

Senator Plett: Five minutes.

Senator Galvez: Yes. Thank you. Impact assessment must be purposeful, rigorous, practical, relevant, cost-effective, efficient, focused, adaptive, participative, interdisciplinary, credible, integrated, transparent and systematic. All these features are found in the impact assessment regime laid out in Bill C-69 as amended.

Dear colleagues, vote with me to send Bill C-69 as amended to the other place. Thank you very much.

[Senator Galvez]

Hon. Jane Cordy: Honourable senators, it is my pleasure to rise this evening to speak at third reading to Bill C-69, an Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protect Act and to make consequential amendments to other Acts.

I want to begin my remarks by thanking the chair of our committee, Senator Galvez, who chaired over 180 hours of testimony, and many more hours of in-camera meetings of our committee. I want to also thank all members of the committee for their very hard work along with the many other senators in this chamber who travelled and attended meetings as we studied this bill.

I also want to thank our two analysts, Jesse Good and Sam Banks, along with the Law Clerk's Office and particularly our committee clerk, Maxime Fortin. With over 250 witnesses, 100 hours of testimony, travel to nine cities from coast-to-coast, organizing all this in addition to the 188 amendments passed by the committee took a Herculean effort on their part with a lot of long days and late nights to meet some very tight deadlines.

I thank them, each and everyone of them.

Honourable senators, as outlined by the government, the purpose of Bill C-69 is:

> To improve rules and processes for the regulatory assessment and government evaluation of major resource projects. The bill's aim is to enhance public trust in decisions about resource projects, and to provide industry, investors, and labour markets with greater certainty, more predictable timelines, and enhanced efficiency in project reviews. Bill C-69 will provide greater clarity on the approval process; underline the importance of scientific evidence in informing and guiding decision-making; better respect for Indigenous people's constitutional rights and knowledge; and provide greater transparency and accountability for government decisions on resource project proposals. Bill C-69 addresses the need for competitiveness by enhancing the efficiency of environmental reviews by generally shortening timelines; identifying issues at an early stage so that problems can be addressed sooner; and entrenching the "one project, one review" regime.

During the election campaign of 2015, and in the Speech from the Throne of 2015, the government promised to re-examine the current environmental assessment processes. We have heard from many stakeholders that the current Canadian Environmental Assessment Act of 2012, or CEAA 2012 as it is known, brought in by the previous government within an omnibus budget bill had many challenges.

Bill C-69 is a fulfilment of a promise made by this government.

The government made a commitment to ensure that Canadians' voices would be heard and that Canadians would be consulted to produce a fair and balanced approach to impact assessments. This consultation was missing for CEAA 2012 because it was contained in a budget omnibus bill.

• (2200)

Between January 2016 and February 2018, when Bill C-69 was introduced in the other place, the government conducted an exhaustive consultation process that involved an expert panel for reviewing federal environmental assessments and an expert panel for modernizing the National Energy Board. The panels met with over 1,000 stakeholders, received hundreds of submissions and visited communities from coast to coast.

Bill C-69 was developed taking into account the input from these stakeholders. The bill worked to find a fine balance of Indigenous rights and interests with environmental concerns and industry needs, while serving the Canadian economy — not an easy task.

Honourable senators, I believe that Bill C-69, as received from the other place, struck a good balance and introduced some long overdue changes to how major projects are assessed in Canada. I was particularly happy to see that gender-based analysis would be a mandatory condition of any major project assessment going forward.

It was disappointing to hear testimony from some witnesses and comments from some members of the committee who felt that gender-based analysis had no place in an impact assessment. But this was an opinion of the minority, as many other witnesses reinforced the need for gender-based analysis and the positive impact this has had on business. Many oil and gas companies have seen the value and benefits of gender-based analysis and it is now routine for them. This bill formalizes that practice and will ensure that gender-based analysis for impact assessments is the law.

Kara Flynn, Vice-President, Government and Public Affairs, Syncrude Canada Ltd., confirmed in her testimony the importance of gender-based analysis when the committee travelled to Fort McMurray. Gender-based analysis is not just the right thing to do, but in the end will produce more inclusive projects, stronger projects and better projects. It's time for this practice to now be mandatory for all project assessments.

Honourable senators, Bill C-69 is not perfect, but perfect legislation is actually pretty rare. I believe that the bill attempted to find the right balance to meet environmental goals while at the same time ensuring our economic competitiveness.

We have heard from industry groups both supportive of the bill and opposed to the bill. We heard from environmental groups who are pleased with the steps taken in this bill and environmental groups who feel the bill does not go far enough.

Honourable senators, we have also heard from some Indigenous groups who support Bill C-69 and Indigenous groups that wanted changes to Bill C-69.

I heard the phrase "flawed bill" during debate in this chamber and during discussion during clause-by-clause in committee. But, honourable senators, let's be honest; "flawed" is often used as code for being ideologically opposed to the government's approach to this issue. The government went to extreme lengths to produce a policy that provides a balance between environmental concerns and economic competitiveness.

As I stated earlier, the government also consulted with over a thousand stakeholders and received hundreds of submissions in preparation for this legislation. The report of the committee, adopted by this chamber, contained a massive 188 amendments. Some of the amendments I agreed with and think they contribute to making a better bill. However, I believe many of the amendments that were directly submitted by the oil and gas industry tilt the balance of the bill too far in favour of the oil and gas industry. The result is the bill we are debating today. The promise to strengthen environmental protections and to develop an assessment process more inclusive of First Nations, Indigenous rights, environmental protection and community and industry may have been compromised.

Witnesses in Atlantic Canada have expressed concerns with provisions in Bill C-69 that provide significantly enhanced influence for the oil and gas industry on review panels of the offshore petroleum boards in Nova Scotia and Newfoundland and Labrador. The petroleum boards are responsible for the development and management of oil and gas resources off the coasts of Nova Scotia and Newfoundland and Labrador.

Currently, under CEAA 2012, petroleum boards do not conduct impact assessments. However, Bill C-69 will give authority to the Minister of Environment and Climate Change to refer an impact assessment to involve the petroleum boards of a designated project if the designated project includes physical activities that are regulated under the Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act and the Canada–Newfoundland and Labrador Atlantic Accord Implementation Act.

The bill will allow for the review panels to be chaired by a member of the petroleum boards. Ecology Action Centre argues that the ability to chair a review panel provides the oil and gas industry with too much influence on the final decisions of a review.

Honourable senators, this could lead to bias in the assessment of proposed projects, as the chair of the panel can be appointed from the very same board whose job it is to promote oil and gas projects in the region. Public trust in any review will always be tainted, as there will always be perceived bias in the process if it is chaired by the petroleum industry.

Solutions from witnesses on this imbalance ranged from all-out prohibiting offshore petroleum boards from sitting as members on the assessment review panels, to limiting their membership on panels, to prohibiting their ability to chair a review panel. We heard these arguments from witnesses, particularly when the committee travelled to the East Coast in St. John's and Halifax.

Colin Sproul, President, Bay of Fundy Inshore Fishermen's Association, addressed the issue of offshore petroleum boards' influence on review panels when he appeared before the committee in Halifax. He said:

> Provisions within the bill to shift authority for offshore impact assessments to offshore regulators must be removed if this legislation is to be supported by fishers and by coastal communities in Atlantic Canada.

He then went on to say:

> It is important to note that today we have seen Mark Butler, a well-known representative of the conservation community, and Nathan Blades, a well-known representative of the fishery processing sector in Nova Scotia, come in concert with myself to defend our industry. I represent the harvesting sector. We have spent decades at loggerheads with each other over fishery-related issues in Nova Scotia, but we have found common ground on this issue.

In the bill passed by the House of Commons, the Canadian energy regulator and the nuclear commission could not chair an impact assessment review panel or constitute the majority on a panel. This stipulation helped to limit the influence these life-cycle regulators had on the decisions of the review panels, though this has now changed with the amendments passed on division at the Energy Committee.

I believe the right compromise is to keep the offshore petroleum boards' involvement in assessment review panels in alignment with the other review panels as originally defined in Bill C-69. As witnesses testified, the role of the offshore petroleum boards in the review process is essentially the same as the Canadian energy regulator and the nuclear commission. It was felt that the offshore petroleum boards should follow the same restrictions in the review process.

Honourable senators, I believe some balance has to be returned to this bill, and I hope to restore some of that balance with the amendment that I am proposing. This amendment will prohibit the chairperson of the review panel to be appointed from the roster of the Canada-Nova Scotia and Canada-Newfoundland and Labrador Offshore Petroleum Boards.

MOTION IN AMENDMENT

Hon. Jane Cordy: Therefore, honourable senators, in amendment, I move:

> That Bill C-69, as amended, be not now read a third time, but that it be further amended,
>
> (*a*) on page 94, in clause 6, by replacing line 34 with the following:
>
> "**(4)** The chairperson must not be appointed from the roster and the persons appointed from the roster must not con-"; and
>
> (*b*) on page 95, in clause 7, by replacing line 23 with the following:
>
> "**(4)** The chairperson must not be appointed from the roster and the persons appointed from the roster must not con-".

• (2210)

The Hon. the Speaker pro tempore: In amendment, it was moved by the Honourable Senator Cordy, seconded by the Honourable Senator Dyck, that Bill C-69, as amended, be not read a third time but that it be further amended — may I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker pro tempore: On debate, Senator Griffin.

Hon. Diane F. Griffin: Honourable senators, I'd like to speak briefly in support of Senator Cordy's amendments.

At issue here, as she clearly stated, is the chairmanship of review panels for designated projects regulated by the petroleum boards.

Under the proposed impact assessment act, a member appointed by the minister from the roster, including members of petroleum boards, can chair review panels for designated projects regulated by that body.

Members of the petroleum boards, Canadian Energy Regulator and nuclear commission have technical and regulatory expertise that can be very helpful. That they should have a seat at the table is not being disputed by this amendment or by me. However, the question is the appropriateness of their ability to chair review panels.

Honourable senators on the Standing Senate Committee on Energy, the Environment and Natural Resources have weighed in on the ability of members from the roster being able to chair review panels for projects under the purview of the Energy Regulator and nuclear commission.

The committee heard from witnesses, including many from the East Coast, regarding the chairmanship of review panels for designated offshore activities in the Atlantic region. Their testimony was consistent: Allowing a panel member from the petroleum board roster to chair review panels would enhance the influence of the petroleum boards.

The committee heard this from the Clean Ocean Action Committee, the Ecology Action Centre, the Sierra Club Canada Foundation, the Atlantic Policy Congress of First Nations Chiefs Secretariat, Ecojustice, the Campaign to Protect Offshore Nova Scotia, and the Bay of Fundy Inshore Fishermen's Association.

Many of those people noted that a good working relationship had started regarding uses of the ocean. The fishermen's livelihood depends on the Atlantic Ocean and they certainly want panels to be very fair.

There was broad consensus on this point on the East Coast. I sat in on the meeting in Halifax. I was really impressed by the points that were being made, where the wealth of our waters, the health of our community and the health of our people are inextricably interrelated.

I thank Senator Cordy for proposing this amendment. I encourage all honourable senators to join me in supporting that amendment.

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

Hon. Michael L. MacDonald: Honourable senators, I was going to ask this question of Honourable Senator Cordy but Honourable Senator Griffin was recognized before I had an opportunity to ask the question.

I'm curious if Honourable Senator Griffin or Honourable Senator Cordy have spoken to the Government of Nova Scotia or the Government of Newfoundland about this proposal. If you have, do either of those governments support this motion?

Senator Griffin: Honourable senators, I have not spoken to the governments. When the witnesses spoke in Halifax, Honourable Senator McInnis was also present at that hearing. He made the point that there are agreements with the various provinces. I'm not party to those agreements. Honourable Senator Cordy knows more about the agreements. I'm sorry I popped up so fast and ruined your question to Senator Cordy. I'm not in a position to repeat any more than what I heard of the testimony in Halifax and to support Senator Cordy's motion.

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

Hon. Senators: Question.

The Hon. the Speaker pro tempore: In amendment, it was moved by the Honourable Senator Cordy, seconded by the Honourable Senator Dyck, that Bill C-69 as amended be not read a third time but that it be further amended — shall I dispense?

Hon. Senators: Dispense.

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

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: I hear more yeses than noes.

Those in favour of Senator Cordy's amendment please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: Those opposed to Senator Cordy's amendment please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker pro tempore: In my opinion, the nays have it.

And two honourable senators having risen:

The Hon. the Speaker pro tempore: I see two senators rising.

Is there an agreement on the bell?

Senator Plett: One hour.

The Hon. the Speaker pro tempore: The vote will take place at 11:16 p.m.

Call in the senators.

• (2310)

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

YEAS
THE HONOURABLE SENATORS

Bovey	Kutcher
Cordy	LaBoucane-Benson
Coyle	Lovelace Nicholas
Deacon (*Nova Scotia*)	McCallum
Dyck	Mégie
Forest	Pate
Forest-Niesing	Ringuette
Francis	Simons
Galvez	Sinclair
Griffin	Woo—20

NAYS
THE HONOURABLE SENATORS

Andreychuk	McInnis
Batters	McIntyre
Bellemare	Mitchell
Black (*Alberta*)	Mockler
Boisvenu	Neufeld
Boniface	Ngo
Busson	Oh
Carignan	Patterson
Dagenais	Petitclerc
Doyle	Plett
Duffy	Poirier
Duncan	Ravalia
Eaton	Richards
Frum	Seidman
Harder	Smith
Housakos	Stewart Olsen
Lankin	Tannas

MacDonald
Manning
Marshall
Martin
Tkachuk
Wallin
White—41

ABSTENTIONS
THE HONOURABLE SENATORS

Cormier
Dalphond
Dean
Dupuis
Gagné
Gold
Klyne
Miville-Dechêne
Moncion
Omidvar
Pratte
Saint-Germain
Wetston—13

ADJOURNMENT

MOTION ADOPTED

Hon. Leo Housakos: Honourable senators, I move the adjournment of the Senate.

The Hon. the Speaker: It is moved by the Honourable Senator Housakos, seconded by the Honourable Senator Martin, that the Senate do now adjourn.

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

Hon. Senators: Agreed.

An Hon. Senator: On division.

(*At 11:22 p.m., the Senate was continued until tomorrow at 2 p.m.*)

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