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(HANSARD)

Monday, June 17, 2019

The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Monday, June 17, 2019

The Senate met at 6 p.m., the Speaker in the chair.

Prayers.

TRIBUTES TO DEPARTING PAGES

The Hon. the Speaker: Honorable senators, as indicated last week, we are saying goodbye and paying tribute to the Senate pages who will be leaving us this summer.

This evening we have Sapphira Thompson-Bled. Sapphira represents Brampton, Ontario. She appreciated this opportunity to work at the Senate and wants to thank the senators and staff for all of the knowledge they have shared. She is graduating from the University of Ottawa this year with a degree in International Studies and Modern Languages and looks forward to studying at Munk at the University of Toronto next year prior to pursuing a career in law. Sapphira, thank you for your excellent work.

O'Neal Ishimwe represents Ottawa, Ontario. He has just completed his Bachelor of Arts Honours in Human Rights and Social Justice at Carleton University and will be continuing his postgraduate studies at the London School of Economics and Political Science. O'Neal is humbled to have represented Ottawa, and feels privileged to have served as a page. He wants to thank everyone he met in the Senate for a truly unforgettable experience. To you, O'Neal, thank you very much for your service.

Hon. Senators: Hear, hear!

[*Translation*]

SENATORS' STATEMENTS

SEASONAL EMPLOYMENT

Hon. Éric Forest: Honourable senators, with summer just around the corner and thousands of tourists including us in their vacation plans, the tourism industry is grappling with a labour shortage and struggling to fill certain shifts. There are plenty of customers, but some restaurants are having to stay closed a few nights a week due to a shortage of cooks. Some hotels are so short on staff that they can't open their pools. The Gaspésie regional tourism board conservatively estimates that it would take 200 workers to fill the gap in that region alone. Things could get even worse in September when the students go back to school, right in the middle of peak tourist season. Joëlle Ross, chair of the Gaspésie regional tourism board, says that due to employee turnover, employers sometimes have to find three people to do a job that used to take just one.

The shortage of skilled labour is stifling our economic development and productivity and threatening the quality of life of entrepreneurs. Who would want to start a business under such conditions? I am very pleased that the most recent budget proposes allocating $60 million to the regional development agencies to create tourism experiences and put more money toward marketing. However, if we don't take immediate action to resolve the labour shortage, our visitors may not have a good experience and won't want to come back and visit our regions again.

I'm talking about the tourism industry, but many economic sectors, particularly those in seasonal industries, are affected by the shortage of skilled workers. Take for example, the horticultural sector. Agricultural businesses across Quebec are still waiting for their temporary foreign workers to arrive.

Although Employment and Social Development Canada may have received additional funding to process applications, the industry is still short thousands of workers. However, when we talk to people on the ground, we see that there are measures that could be quickly implemented.

Why not eliminate the Labour Market Impact Assessment for certain sectors? That's what the Government of Quebec would like to see. Why not relax the Temporary Foreign Workers Program so that once workers are in the country, they can work in a related sector? The Conseil de la transformation alimentaire du Québec has been critical of the fact that field workers can't be transferred to processing facilities during harvest. It's just ridiculous.

Employment insurance is also an issue. Until the government changes the program so that it recognizes the value of seasonal workers, businesses will have to grapple with high turnover and some small businesses will close up shop for lack of staff.

Seasonal industries are hardly the only ones dealing with this problem. According to the Canadian Federation of Independent Business, Canada has over 434,000 vacancies in the private sector, and 120,000 of those are in Quebec.

Honourable senators, I believe that addressing the labour shortage must be one of our chief concerns during the next Parliament. In closing, I invite you to come visit eastern Quebec this year. Come see the Lower St. Lawrence, the World Good Life Reserve. Tour the world-renowned Gaspé region and discover the Magdalen Islands. You'll just love the islands.

[*English*]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Reverend Robert and Georgia Ball. They are the guests of the Honourable Senator Deacon (*Nova Scotia*).

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

Hon. Senators: Hear, hear!

BARBARA BOWEN

Hon. Terry M. Mercer (Deputy Leader of the Senate Liberals): Honourable senators, I rise today to pay tribute to Barbara Bowen, known as Ms. B, who is a retired hairdresser, facilitator and business woman from Halifax, Nova Scotia. She is the only surviving graduate of the Viola Desmond School of Beauty and Culture. To my knowledge, she is also the only African-Nova Scotian to hold the office of Vice President of the Hairdressing Association of Nova Scotia, now the Cosmetology Association of Nova Scotia. After no other school would accept her, Viola Desmond opened the first beautician school in Canada in 1930 — the first beauty college to welcome women of colour and women of African descent. In 1946, Viola also challenged racial discrimination when she refused to leave the segregated Whites-only section of the theatre in New Glasgow. She now graces our $10 bill, the first-ever Canadian woman to do so.

Barbara Bowen continued the legacy throughout her life. B.B.'s Hair Salon was founded by Barbara. In the 1970s and 1980s, she taught Black hair care courses throughout the province and was a mentor to many.

• (1810)

On June 22, the Black Beauty Culture Association is holding the Black Hair-itage in Nova Scotia 2019 Expo, which will celebrate Black beauty history. During the expo, Barbara will be honoured with a lifetime achievement award for her dedication and promotion of beauty and diversity.

Honourable senators, please join me in congratulating Barbara Bowen for her commitment not only to the promotion of beauty in Nova Scotia but also her contribution to African-Nova Scotian culture and history. Nova Scotia is a better place because of her work. Congratulations, Barbara.

ROUTINE PROCEEDINGS

DIVORCE ACT
FAMILY ORDERS AND AGREEMENTS ENFORCEMENT ASSISTANCE ACT
GARNISHMENT, ATTACHMENT AND PENSION DIVERSION ACT

THIRTY-FOURTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE PRESENTED

Hon. Serge Joyal, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Monday, June 17, 2019

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

THIRTY-FOURTH REPORT

Your committee, to which was referred Bill C-78, An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act, has, in obedience to the order of reference of Thursday, April 11, 2019, examined the said bill and now reports the same without amendment but with certain observations, which are appended to this report.

Respectfully submitted,

SERGE JOYAL
Chair

(*For text of observations, see today's* Journals of the Senate*, Appendix, p. 5057-5071.*)

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

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

[*Translation*]

MACKENZIE VALLEY RESOURCE MANAGEMENT ACT
CANADA PETROLEUM RESOURCES ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-88, An Act to amend the Mackenzie Valley Resource Management Act and the Canada Petroleum Resources Act and to make consequential amendments to other Acts.

(Bill read first time.)

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

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, with leave of the Senate and notwithstanding rule 5-6(1)(f), I move that the bill be placed on the Orders of the Day for second reading later this day.

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

Hon. Senators: Agreed.

(On motion of Senator Harder, bill placed on the Orders of the Day for second reading later this day.)

[*English*]

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

INTERPARLIAMENTARY MEETING WITH THE EUROPEAN PARLIAMENT'S DELEGATION RESPONSIBLE FOR THE RELATIONS WITH CANADA, MARCH 12-14, 2019—REPORT TABLED

Hon. Percy E. Downe: Honourable senators, I have the honour to table, in both official languages, the report of the Canadian Delegation of the Canada-Europe Parliamentary Association respecting its participation at the 40th interparliamentary meeting with the European Parliament's delegation responsible for relations with Canada, held in Brussels, Belgium, and Strasbourg, France, from March 12 to 14, 2019.

JUDICIAL ACCOUNTABILITY THROUGH SEXUAL ASSAULT LAW TRAINING BILL

DISPOSITION OF BILL—NOTICE OF MOTION

Hon. Pierre J. Dalphond: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding any provision of the Rules, usual practice, or previous order:

1. if the consideration of the report on Bill C-337, An Act to amend the Judges Act and the Criminal Code (sexual assault), or third reading of the bill is still on the Orders of the Day when the Senate adjourns on June 19, 2019, the Senate meet at 9 a.m. on June 20, 2019;

2. at the start of the sitting, immediately after prayers, the first item of business to be called be Bill C-337, with the following provisions then having effect, if required:

   (*a*) if the report on the bill is on the Orders of the Day, but has not yet been moved for adoption, a motion for the adoption of the report be deemed to have been moved and seconded, with the provisions of sub-point (*b*) applying thereafter;

   (*b*) if the report of the committee on the bill is still before the Senate, a motion for third reading be deemed to have been moved and seconded, once the report has been decided on; and

   (*c*) if the bill is on the Orders of the Day for third reading, but third reading has not yet been moved, a motion for third reading be deemed to have been moved and seconded;

3. if a standing vote on Bill C-337 had been deferred so that it would normally occur after the time provided in point 1, the vote be instead dealt with at the time provided for in point 1, as if it were deferred to that time, and then be governed by the other terms of this order;

4. if a standing vote on any business relating to Bill C-337 is requested under the terms of this order, the vote not be deferred;

5. on the day the Senate must dispose of Bill C-337 under this order, no motion to adjourn debate or the Senate be received until all questions necessary to dispose of the bill have been dealt with;

6. if the proceedings on Bill C-337 are concluded before 1:30 p.m., the sitting be suspended to resume at 1:30 p.m.; and

7. for greater certainty, nothing in this order prevent proceedings at any stage of Bill C-337 from concluding before the date provided for in this order.

QUESTION PERIOD

NATURAL RESOURCES

OIL AND GAS INDUSTRY

Hon. Larry W. Smith (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate.

Last week, the council of the Regional Municipality of Wood Buffalo in Fort McMurray passed a motion condemning Bill C-48 and Bill C-69, saying they would be detrimental to the viability and sustainability of their region and the energy sector. The motion urged honourable senators to defeat these bills.

Mr. Don Scott, the Mayor of Fort McMurray, recently told our Transport Committee how his community, once called "the economic engine of Canada," has been hurt in recent years. The population has declined, home prices have dropped almost 30 per cent and the food bank usage has skyrocketed.

Senator Harder, the fallout from Bills C-48 and C-69 will be incredibly important to Fort McMurray and countless other resource-based communities across Canada. What do you say to these people who have serious concerns about the impact of these bills on their livelihoods and their families?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. He has participated in the debates in this chamber — and certainly observed the debates outside of this chamber, in the other place — on both of these bills. He will know there are differing views, and indeed we look forward later today to begin debate on the message with respect to Bill C-69. He will also know that the bill that was sent to the other place from this place is being debated in the other chamber.

• (1820)

These are views that parliamentarians are taking positions on. It is certainly the view of the Government of Canada that these are important economic measures designed to enhance and improve the capacity of environmental assessment in Canada so that projects can not only be proposed but can be approved and delivered.

Senator Smith: Last week the Prime Minister dismissed the serious concerns about Bill C-69 and Bill C-48 raised by the premier, saying they were completely irresponsible.

Senator Harder, the men and women who depend upon jobs in our energy sector to provide for their families also have serious concerns about these bills. Does the Prime Minister believe they too are irresponsible?

Senator Harder: Again, I think it's important to note that the government's motivation in pursuing environmental assessment improvements is entirely designed to support the economic agenda of the government to ensure that projects, as I said earlier, can not only be proposed but the environmental assessment can be made in a timely fashion, with the hope that the appropriate projects, given the support of the proposal as well as the proponents and those who have other views, can lead to a conclusion on which the project can proceed.

[*Translation*]

TRANSPORT

CHAMPLAIN BRIDGE

Hon. Jean-Guy Dagenais: My question is for the Leader of the Government in the Senate.

The new Champlain Bridge in Montreal, a project that was set in motion by the Conservative government, will be inaugurated a few days from now. Some Liberals are boasting that it was completed within budget, even though that budget was $4.2 billion. As usual, the government is hiding the true cost to taxpayers. For example, it has not published the additional expenses paid along the way or the amounts paid to partners for the elimination of tolls.

Leader, can you explain why Justin Trudeau refuses to be transparent about the real cost of the Champlain Bridge, which will be paid for by all Canadians?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. I share with him the delight in knowing this bridge will soon be open fully for traffic.

Let me simply say with respect to costs, he will know there are elements of contract which are under litigation, and those negotiations and discussions have not yet concluded.

[*Translation*]

Senator Dagenais: In May 2018, the government gave an extra $235 million to the Signature on the Saint Lawrence Group to guarantee delivery of the bridge on December 21, 2018. Six months later, the bridge is still not open. There was a $63-million payment for what you call excusable delays. The builder is also submitting claims for other additional costs. How much will it cost, in the end, to have cancelled the PPP to do away with the toll? I feel like saying enough with the whitewashing. The Liberals are being wasteful as usual. I just want to know the real cost of the Champlain Bridge.

[*English*]

Senator Harder: Again, senator, I have nothing to add to the question other than what I have said already. He will know that the Honourable Senator Housakos has raised this much earlier than the honourable senator and consistently.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

WOMEN, PEACE AND SECURITY

Hon. Marilou McPhedran: Honourable senators, my question is to the Government Representative in the Senate.

Senator Harder, I'm sure you agree that Canada has made great strides to promote women, peace and security, including the excellent appointment last week of Canada's first ambassador for women, peace and security, Jacqueline O'Neill.

My question is related to UN Security Council Resolution 1325 and women peacekeepers. The UN Secretary-General's Initiative on Action for Peacekeeping called for increased participation of women in peacekeeping operations. Canada endorsed that action plan and in 2018 launched the Elsie Initiative. But what type of supports are made available to women peacekeepers in the field, including support for health

care, some of which must be customized by sex? And are there any indicators as to the existence of and/or the effectiveness of current supports to women peacekeepers?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for raising this question. She is right in suggesting that I might be very supportive of the initiative that was launched over the last number of weeks, particularly the appointment that has been referenced.

With respect to the specific questions, I'll be happy to raise them with the minister and report back.

EXPORT DEVELOPMENT REVIEW

Hon. Rosa Galvez: Honourable senators, my question is for the Leader of the Government in the Senate.

Senator Harder, under the Export Development Act, every 10 years the Minister of International Trade ". . . shall cause a review of the provisions and operation of this Act to be undertaken in consultation with the Minister of Finance." The act also states, "The Minister shall, within one year after causing a review to be undertaken, . . . submit a report on the review to Parliament." The review was announced on June 28, 2018, one year ago. Can you please tell us when we can expect the report to be tabled in Parliament?

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for the question, and I will take note and report back.

Senator Galvez: Under the act:

> Each report submitted to Parliament . . . shall be reviewed by such committee of the Senate and the House of Commons or such joint committee as is designated or established for the purpose of reviewing such report.

For the last review in 2008, the report was tabled in the Senate in February 2009. The Standing Senate Committee on Foreign Affairs and International Trade held its review in March and subsequently published its committee report in June 2009.

Can senators expect the same committee will undertake a study to review the report, and should we not be able to complete a study before we rise? Can we expect to pursue the study of the report at the beginning of the new upcoming session?

Senator Harder: Miracles are always possible, of course, but I would suggest that this is possibly a matter that will be dealt with in the next Parliament.

[*Translation*]

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

PAROLE REVIEW—AUDIO RECORDINGS

Hon. Pierre-Hugues Boisvenu: My question is also for the Leader of the Government in the Senate.

Las week, Senator Ngo proposed an important amendment to Bill C-83. That amendment sought to implement important measures for victims of crime as recommended by the federal ombudsman for victims of crime. The amendment had to do with audio recordings of parole hearings. May I ask why you voted against that amendment?

[*English*]

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for his question. I think the vote I undertook with respect to this amendment is obvious in that I didn't support it.

[*Translation*]

Senator Boisvenu: Senator Harder, if I may, when you voted against the amendment, did you consider the fact that it can be traumatizing for victims to hear their offender's voice and that having access to the transcripts might then be a very important option for victims of crime to have?

[*English*]

Senator Harder: I weighed all the important aspects of the question and came down the way I did.

[*Translation*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that as we proceed with Government Business, the Senate will address the items in the following order: third reading of Bill C-97, followed by all remaining items in the order that they appear on the Order Paper with the exception of the message from the House of Commons on Bill C-69, which will be called last.

BUDGET IMPLEMENTATION BILL, 2019, NO. 1

THIRD READING—DEBATE

Hon. Peter M. Boehm moved third reading of Bill C-97, An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2019 and other measures.

He said: Honourable senators, I rise today to speak at third reading of Bill C-97, An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2019 and other measures. I endeavoured to keep this speech shorter than the one I gave at second reading, for the sake of all of you, and for me. Unlike previously advertised on Friday morning, this will not be a 45-minute speech. I'm sorry, though, to have kept you all waiting for part two.

• (1830)

Colleagues, my intention last time was to explain, simply, why I believed Bill C-97 deserved consideration and support and why I still believe this budget implementation act is a good one. This time around, I intend to explain why I believe you should all vote in its favour and pass it, as it is, without amendment. I also want to ensure I carefully respond to the questions I received at second reading to which I was unable to provide answers at the time. This is my first June as a senator, so it's my first experience here seeing so many competing priorities in terms of government legislation. It has indeed been interesting to see so much lively debate.

[*English*]

Honourable senators, at second reading, I spoke about our fiscal health, bolstered by our low debt-to-GDP ratio and high employment numbers. I also spoke in defence of deficit spending and the need for it to support economic growth. I suggested there are ways both to stimulate economic growth and pay down the deficit. It is not a binary issue.

As I said last Monday, whether you are a proponent of deficit spending or balanced budgets, the fact is that Canada's economy is strong and healthy.

Bill C-97 seeks to introduce measures and amend existing ones to grow the economy further in a number of ways. I outlined some of the highlights at second reading. I won't go over them again. Don't worry.

As I said a week ago, this is a strong budget. That is something I say with confidence and not just as the sponsor. I also say it as a Canadian, one concerned with how our domestic policies impact all of us lucky enough to call this country home and how these policies are viewed outside our borders. Like it or not, it does matter what our partners in other nations think of us. That is why I am so proud of the strength of our economy and our low debt-to-GDP ratio. As I said at second reading, our partners around the world have taken notice and envy it. We do not get to such a positive point, though, without spending money to support economic growth.

That is one of the points on which the bill's critic, Senator Marshall, and I differed in our respective versions of the story. We both discussed the promise made by the current government in 2015 to run modest deficits and balance the budget by the end of its mandate. However, I would not characterize that not happening as the government abandoning its promise. No government, not Liberal, not Conservatives, not a potential future NDP government, can grow the economy and single-mindedly pursue, at the same time, balanced budgets.

As I explained, governments of all stripes have tried in the past with little success. That is not to say that I am a proponent of out-of-control spending, but I don't think that's what's happening. When debt is accrued responsibly through measured, smart decisions, it is an investment in our future and of those who follow us. In summary, deficits do not foretell the coming of the apocalypse.

[*Translation*]

Our colleague, Senator Marshall, referenced money laundering in her speech. We all know of the report from May out of British Columbia about the staggering amount of laundered money that seeped into the economy of that province last year — more than $7 billion, in fact. Worse still, that places British Columbia fourth, behind Alberta, Ontario, and the Prairie provinces. The report that uncovered the depth of the problem was prepared by British Columbia's Expert Panel on Money Laundering, which was chaired by Professor Maureen Maloney. Evidently, money laundering is a national concern.

The report estimated that, in 2018, $40 billion worth of proceeds of crime seeped into the Canadian economy.

Colleagues, we can surely all agree that, so far, Canada's laws haven't gone far enough in tackling what is a critical issue.

[*English*]

Senator Wetston and Senator Downe have been especially strong in this chamber on the subject and on the corresponding matter of beneficial ownership. In recognition of the very real impact dirty money has on Canadians — for example, increased house prices — Bill C-97 seeks to strengthen Canada's anti-money-laundering rules. The suite of amendments includes changes to the Canada Business Corporations Act, the Criminal Code, the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, and the Seized Property Management Act.

These amendments, once Bill C-97 passes, will improve timely access to beneficial ownership information; add "recklessness" to the offence of money laundering, which would have the effect of criminally punishing people who, knowing the money might be illegal, moved money on others' behalf despite the potential criminal nature of doing so; add the Competition Bureau and Revenu Québec to the list of entities entitled to financial intelligence information from the Financial Transactions and Reports Analysis Centre of Canada, FINTRAC; broaden access to specialized asset-management services and increase transparency in administrative monetary penalty procedures and clarify confidentiality of proceedings. That last point, covered by clause 111 of Bill C-97, will ensure that any regulated entity

found to have committed an infraction under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act will be named publicly, as will their financial penalty, by FINTRAC.

This is an especially important change. We cannot underestimate the power of "naming and shaming" when it comes to ensuring companies follow the rules. In that spirit, just last week, the Financial Services Committee of the United States House of Representatives passed the Corporate Transparency Act. While it still must make its way through the rest of the legislative process, the Corporate Transparency Act is intended to require companies to publicly disclose their true beneficial owners to FinCEN, the United States Treasury Department's Financial Crimes Enforcement Network. Corporations would need to disclose those names as soon as the company is established and would also need to provide FinCEN annually with updated lists of beneficial owners to ensure the public registry is accurate. The intention is to make it much more difficult for criminals and other bad actors to launder their ill-gotten gains through anonymous shell companies.

It is my hope that Parliament will soon look at implementing similar legislation in Canada.

To further combat the far-reaching problem of money laundering here at home, the government very recently committed new funding for the RCMP. Minister of Finance Bill Morneau and Minister of Border Security and Organized Crime Bill Blair announced on Thursday that the RCMP will receive $10 million for improved technology that will help the RCMP with its investigations.

British Columbia's own Finance Minister, Carole James, welcomed the announcement but stressed that there needs to be more of a focus on enforcement.

On Bill C-97 more generally, Senator Marshall told us a great deal about witnesses at the pre-study committees who did not support various provisions. You may be surprised to learn that there actually were some witnesses who liked what they saw in Bill C-97; many, in fact.

I do agree with Senator Marshall that the meeting on May 30 of our Standing Senate Committee on National Finance regarding zero-emission vehicles was certainly interesting. Our colleague pointed out that, when asked about their own vehicles, the witnesses supportive of the bill's provisions all indicated that they do not personally own electric cars.

Honourable senators, neither do I, but I am certainly in favour of the relevant measures. I just wanted to make it clear that these witnesses all cited their individual lack of access to charging stations as their reason for not owning an electric vehicle. That speaks to the need to expand, nationally, the network of charging stations — beyond the large urban centres — not to a lack of support for zero-emission vehicles. That is a big challenge, of course, in a large country.

That need is addressed in Bill C-97, which will expand tax support for charging stations. Senator Marshall said that the meeting had "sparked" — that was your word, Senator Marshall — her interest in having an electric vehicle. Perhaps she and I can go car shopping together.

[*Translation*]

On the subject of our Standing Senate Committee on National Finance, I want to reiterate what I said at second reading: that I very genuinely thank every one of my fellow members for their thoughtful comments and participation during the pre-study of this bill. This goes, too, for our clause-by-clause consideration of the bill last Wednesday. As the sponsor of this bill, I am particularly pleased that it passed committee stage without amendment. While our chair, Senator Mockler, reported on Thursday that the National Finance Committee did not amend the bill, we did include observations on support for Canadian journalism and regulatory modernization.

[*English*]

Our chair, Senator Mockler, reported on Thursday that we included observations endorsed by a majority of committee members — not by all but by a majority. I appreciated the frank, open and respectful discussion we had about these observations, and I want to say that I support them wholeheartedly.

• (1840)

With regard to journalism, we all know the particular attention the relevant provisions in the budget implementation act have received. I outlined some of those concerns in my second reading speech, especially as they relate to the fear of reduced press freedom. Our committee's dominant concern is that while witnesses expressed satisfaction with the amount of money promised by the government — $595 million over five years — it is still too little, too late and may arrive too slowly to save publications struggling now. Without increasing the total aid envelope — and, of course, the Senate has no authority to do this — our committee urges the government to make changes to the program structure. There has been much talk from all corners over how best to achieve the same goal: saving our dying print media industry.

We all agree, regardless of how we do it, that journalism is vital to the very foundation of our democracy. We can debate and debate all we want as parliamentarians, but without a strong press to report to the people on our deliberations every day on the matters that impact them, there is no point in any of us being here.

The strength and integrity of our democratic system relies on journalists being properly equipped to do their jobs. And that is just as important a job whether it is for a major publication with national reach or a small paper headquartered in a rural area.

The latter is, in fact, even more crucial. I recently had the opportunity to read this year's winner of the Dalton Camp Award for best essay, by a young man named Samuel Piccolo. The essay is called "A Sleepless Year in a Sleepy Town." I thank my colleague, Senator Marty Deacon, for bringing it to my attention and encourage all of you to read it.

In it, Mr. Piccolo describes his year as the principal reporter at *The Voice of Pelham*, a community paper based in the Niagara Region. He begins by saying of the publication that he doesn't "usually read this paper" because "local rags are populated" with seemingly insignificant stories that "serious people don't read." He says that he believes "real news only appears in big dailies."

He came to the realization that community papers do so much more than for what they are given credit when he learned of Town Hall's "frosty relationship" with the paper due to its "real, critical coverage."

And the people of Pelham appreciate the voice. They "relish this uncompromising local coverage" because, regardless of the place, as Mr. Piccolo states, "These papers make a real difference to life in town . . . ."

And this is the point, colleagues, why it is so critically important to save the print media industry, and not just in big cities. Community papers, often locally owned, are completely independent. They are the lifeblood of small towns across our country because they tell the stories of the people actually reading them.

That brings me to the next observation of our committee, on regulatory modernization. The concern here rests with another type of newspaper: the official newspaper of the Government of Canada, the *Canada Gazette*. As we know, it is in this publication, since 1841, where the government of the day has published:

> . . . new statutes, new and proposed regulations and various government and public notices.

For 178 years, the *Canada Gazette* has, like all newspapers, kept Canadians informed about the decisions and deliberations of their public officials. Ultimately, the purpose of the *Canada Gazette* is to ensure Canadians know what actions are being taken on their behalf and to give them a voice.

The *Canada Gazette* is a vital element of the public consultation process which, when insufficient, does not go over well with Canadians — nor should it.

Our committee noted that witnesses expressed "dissatisfaction" in some cases regarding the extent, or lack thereof, of stakeholder consultation by the government when it came to amendments proposed in Bill C-97. I credit Senator Marshall for raising this item in committee.

Along with concerns over the *Canada Gazette* being shut down altogether, in our observation our committee urged the government to ensure that all regulatory changes are published in the *Gazette* with enough time for relevant stakeholders to study them and thus participate more meaningfully in the consultation process. It is not enough for government to consult with the public. For it to be meaningful, stakeholders must be provided the tools necessary to participate fully.

This brings me to my next point.

[*Translation*]

As we heard quite strongly from the members of the Standing Committee on Aboriginal Peoples, public consultation by the government was also a concern for them and for Indigenous groups when it came to C-97.

At second reading I spoke very much in favour of the provision to dissolve the Department of Indigenous and Northern Affairs and to formally establish the Department of Indigenous Services and the Department of Crown-Indigenous Relations and Northern Affairs. I detailed how this decision was announced and implemented almost two years ago, based on a recommendation of the Royal Commission on Aboriginal Peoples from 23 years ago. I said that these two departments have been fully functional since 2017, and thus what is in the Budget Implementation Act is not coming out of the blue. This is, however, where the problem raised by the Aboriginal Peoples Committee rests. As referenced in the Committee's report, tabled on June 6, a letter was sent to the committee from the Ministers of Indigenous Services and Crown-Indigenous Relations, Seamus O'Regan and Carolyn Bennett respectively. The letter stated that the ministers sought the advice of Indigenous partners through more than 100 engagement sessions since February 2018.

[*English*]

Among the partners to which Minister O'Regan and Minister Bennett referred was the Assembly of First Nations. The AFN, the Assembly of Manitoba Chiefs and the Onion Lake Cree Nation all testified before the committee. According to the report of the committee, each group indicated that:

> . . . there was a lack of meaningful consultation on the creation of the two departments and a potential third ministry.

Further, the AFN stated that:

> . . . there has been insufficient time for First Nations governments and representative organizations to thoroughly review and analyze the Bill, obtain legal opinions on the matters raised, and prepare submissions.

The feeling that Indigenous peoples were not adequately consulted led the committee to recommend that Division 25 of Part 4 be removed altogether from Bill C-97 and reintroduced as a stand-alone bill.

It is clear that I do not support this recommendation. However, I do support the committee's second recommendation that Indigenous Services Canada and Crown-Indigenous Relations and Northern Affairs Canada:

> . . . undertake additional consultations with Indigenous peoples, communities, and organizations . . . .

More than 100 engagement sessions were held, but, ultimately, it came as a surprise to Indigenous organizations that the creation of these two departments would be codified in Bill C-97.

I am confident that the government is serious about bolstering our most important relationship. I have no doubt about that, but consultation must be thorough as well as meaningful.

Finally, honourable senators, I wish to address the questions I received from senators at second reading to which I was unable, in my view, to provide what I would consider adequate answers on the spot.

Senator Patterson made thoughtful comments and asked questions regarding the subject on which I just spoke: the creation of Indigenous Services Canada and Crown-Indigenous Relations and Northern Affairs Canada.

Senator Lankin asked me about pension reform, specifically how it relates to bankruptcy and whether the National Finance Committee studied this subject. As I said at the time, yes, the National Finance Committee did hear witnesses on May 28.

In your comments, Senator Lankin, you joked about your question involving the one subject I did not cover in my magnum opus speech. Well, I must admit that this was one National Finance Committee meeting I was unable to attend, but I did read the transcript. It is a serious subject. All of us will retire someday, of course, or again, as is the case for many of us here.

Senator, at this meeting of the National Finance Committee on the specific issue of pension security as it relates to corporate insolvency, the committee did hear concerns. The Chief Public Policy Officer of the Canadian Association for Retired Persons, Ms. Laura Tamblyn Watts, echoed what you said in your comment. Ms. Watts stated that the measures in Bill C-97, "are not adequate," but also commended the government, ". . . for its first steps towards insolvency and pension reform."

Perhaps the provisions in this particular budget implementation act do not go far enough, but a slower start is certainly better than no start at all. That being said, the government committed in Budget 2018 to take a whole-of-government, evidence-based approach toward addressing retirement security for Canadians. In the interest of public consultation — as we all agree, this is important — the government held nationwide consultation in late 2018 with a range of interested Canadians and received more than 4,400 replies.

As a result, Bill C-97 amends the Bankruptcy and Insolvency Act, the Companies' Creditors Arrangement Act, the Canada Business Corporations Act and the Pension Benefits Standards Act, 1985. The changes to these acts ensure that insolvency proceedings are fairer and more transparent for pensioners and workers; that courts will have the power to set aside executive bonuses; that parties act in good faith to ensure pensioners and workers are treated fairly; and that support for pension research and security continues through investments in the National Pension Hub and the Global Risk Institute.

• (1850)

Senator Omidvar was next. She asked about remarks I made in my speech on the government committing to providing funding to support up to 40,000 student work-integrated learning opportunities per year by 2023-24. She asked whether we are essentially talking about internships. The answer is that "work-integrated learning," as laid out in Budget 2019, includes internships, but also everything from formal co-op and mentorship programs to research projects. Basically, work-integrated learning is any opportunity in which a student gets to apply what they have learned in the classroom to real-world situations. These opportunities help young people to practically apply the theory they learned in school, and provides them with invaluable experience to help them find meaningful jobs after graduation.

Last, but not least — and she's not here right now — Senator Martin asked about the financial implications of increased irregular migration at Canada's border with the United States. At second reading, I said one of the goals of the changes in Bill C-97 to the Immigration and Refugee Protection Act is to deter irregular migration, especially in light of numbers that began to rise in 2017. In fact, in 2018 there was a 95 per cent increase in the number of irregular claims processed by the Immigration and Refugee Board compared to 2017.

From January to March of 2019, however, the number of people who crossed the Canada-United States border irregularly to make refugee claims dropped from 5,588 to 2,919 when compared to the same period last year.

As I said in my second reading speech, all of these people came to Canada because we are known globally as an open, welcoming and compassionate society. Still, borders and rules must be respected — both for the sake of security and the integrity of the system. To answer Senator Martin's question: In Budget 2019, the government invested $1.18 billion to help maintain the fairness of our asylum system by processing up to 50,000 claims per year and more quickly removing those not genuinely seeking refuge.

As a final point, with regard to the comment about the Safe Third Country Agreement with the United States not being addressed in the bill, what I can say is that the agreement is one that is constantly being looked at and re-evaluated by officials on both sides of the border. The world is not the same place now that it was when the agreement was signed in 2002, nor when it came into effect in 2004.

Honourable colleagues, I promised at the beginning of my speech that this one would be shorter than the last. It's a promise I intend to keep. I wish to finish by saying how much I appreciated and, yes, at times even enjoyed the opportunity to sponsor my first piece of legislation as a senator.

Again, I thank all of my more experienced colleagues for their support during this process, and the staff of our National Finance Committee for their hard work and dedication. I also wish to extend my sincere appreciation to the officials of the many federal departments — at least 17 — who worked so hard on the

policies that underpin this legislation, to brief us and appear as witnesses. In particular, I thank the officials of the Department of Finance for their dedication.

As a former public servant myself, I have had the honour of working with Canada's best and brightest for most of my life and I still do. I have said it before, and I will continue to do so: Our public service is the very best in the world.

I thank everyone here once again for your attention and patience. Thank you, dear colleagues.

QUESTION OF PRIVILEGE

SPEAKER'S RULING RESERVED

Hon. Elizabeth Marshall: Honourable senators, I rise on a question of privilege.

Honourable senators, in March of this year, I received a request from the Senate Ethics Officer to provide information relating to an inquiry involving a former senator. I was interviewed by the Senate Ethics Officer and an official of his office. The interview itself was conducted in an accusatory manner.

I was asked to provide notes and correspondence during my term as Government Whip in the Senate. I searched my records, including files, emails and journals, and provided copies of all relevant information which I found.

On Thursday of last week, I received information, which I considered reliable at the time, that the Senate Ethics Officer had recently attempted to access and search my emails without my knowledge or consent. Naturally, I wanted to confirm this before bringing it to the attention of the Senate.

I have just now received confirmation that this has actually happened.

The information suggests that some assistance may have been provided by the administration of the Senate and the attempt may have been successful.

To be clear, if the Senate Ethics Officer or any department or office of government had requested access to my emails for any legitimate purpose, I would have been pleased to accommodate such a request. However, it is totally unacceptable that anyone should attempt to access the emails of any senator without that senator's knowledge or consent.

Some Hon. Senators: Hear, hear.

Senator Marshall: I believe this should be a matter of serious concern to all senators and to all people who communicate with us, including individual Canadians, organizations and the press.

I therefore ask that the Senate Ethics Officer immediately issue a public statement to either deny that any attempt was made to access my emails, or acknowledge that he did so and provide the names of all those who are aware or were involved.

I also ask for a full investigation into this matter, independent of the Senate Ethics Officer and the administration of the Senate, as they may have been involved.

Honourable senators, I'm not the subject of the inquiry and I have nothing to hide. I also hope this is true of the Senate Ethics Officer and the Senate administration. Only a full, independent investigation will establish whether this is true.

Some Hon. Senators: Hear, hear.

The Hon. the Speaker pro tempore: Honourable senators, is there anyone else who would like to intervene or say anything?

I will take it under advisement, and the Speaker will come back with a ruling. Thank you, Senator Marshall.

BUDGET IMPLEMENTATION BILL, 2019, NO. 1

THIRD READING—DEBATE ADJOURNED

On the Order:

> Resuming debate on the motion of the Honourable Senator Boehm, seconded by the Honourable Senator Mégie, for the third reading of Bill C-97, An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2019 and other measures.

Hon. Frances Lankin: Honourable senators, I'm pleased to rise today to speak to Bill C-97, An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2019 and other measures. There are multiple issues in this year's budget that warrant our attention, but today I will focus on three: The donee status and refundable labour tax for journalism organizations; the amendments to the federal insolvency, corporate governance and pension statutes; and the Poverty Reduction Act.

First, let me delve into the issue with respect to journalism. Bill C-97 provides support for Canadian journalism by giving qualified donee status to journalism organizations, providing a 25 per cent refundable tax credit on salary wages for journalists and promoting digital news subscriptions by giving consumers a 15 per cent personal income tax credit, providing them with a tax credit of up to $75 annually on their subscriptions.

The issue of how we support Canadian journalism — and I'm talking about free, independent, ethical journalism with codes of conduct — has been an issue of interest to me for some time. I first looked into it when I was chair of the Ontario Press Council, and again as the inaugural chair of the new National NewsMedia Council. I commend the government's efforts to begin to address the need for quality journalism in Canada. The budget seeks to help Canadian journalism. This is well warranted, as the survival of the independent and ethical news media is currently at risk.

According to data collected by the Local News Research Project, which is a project of J Source — many of you would know that organization — over 250 Canadian news outlets have closed in the last ten years. These tend to be small town, local news media: The local newspaper where the local police, city

hall beat and local community developments and issues are covered. It is the lifeblood of information for communities. As we have seen consolidation in television news media, we see less coverage of local news, and now we're seeing the same thing in print media. It is a situation where our access to the kind of information that helps us make our decisions about local democratic issues is at risk. It only heightens as you step up from local to regional, to provincial, territorial and international.

The risk of misinformation influencing our public discourse is becoming increasingly serious. We have all seen the coverage of that with respect to social media, with the manipulation of that and with the kind of — I hate to use the term "fake news" because it's overused and often used inappropriately, but the increase of that has seriously threatened the democratic cornerstone of free and ethical media reporting.

Canadians deserve to have access to accurate information and diverse perspectives. These measures will aid Canada's news and media industry, but there are some areas for evolution in terms of the government's response. I look forward to the government clarifying the terms it uses in its amendments, including the term "qualified Canadian journalism organizations."

• (1900)

The government must explain in greater detail the selection process behind these new tax incentives. What exactly makes a journalism organization qualified, according to the government? I worry that smaller local news organizations, which often represent minority communities, may not qualify.

I encourage the government to provide more guidance on this and to look at the possibility of changing up their panel appointments. Perhaps they could look at non-affiliated individuals being added to the eligibility of the review panel. This would go far in establishing a review panel that is unbiased, not partisan and trusted by the news media and, more broadly, by Canadians.

In my experience at press councils, both provincially and nationally, the majority of the membership comes from the newspaper — in the old terms — industry. In fact, they are fierce defenders of the importance of ethical journalism and not shy to take critical positions of colleagues in areas where wrongdoings have occurred. So I think they have very valuable input to make. I think other voices could be heard. Again, in terms of press councils, they are often independent citizens, as I was, to be appointed to these bodies. That might be a model the government wants to look at.

I recommend that the government be transparent in its selection process, invest in the long-term sustainability of the news and media industry and take measures to ensure that it remains independently Canadian. Bottom line, however, I support this first step.

[Senator Lankin]

With respect to pensions, the government is seeking to enhance the retirement security of Canadians by amending the Bankruptcy and Insolvency Act, the Companies' Creditors Arrangements Act, the Pension Benefits Standards Act, 1985 and the Canada Business Corporations Act. But the measures in this year's budget fall short of protecting pensions because they fail to work with the provinces to align pension protection policies. I represent the province of Ontario. Currently, the Ontario Pension Benefits Guarantee Fund guarantees pension benefits to Ontario members and beneficiaries of pension plans under a covered single employer defined benefit plan, up to a specified maximum in the event of insolvency of the plan sponsor. This amount is $1,500 of monthly pensions. That's the reason why Sears Canada pensions in Ontario are guaranteed to receive that amount, while Sears pensioners in other provinces are not guaranteed.

Has the government worked with the Ontario government and other provinces to encourage the development of these types of funds and look into developing a Canada-wide pension benefits guarantee? It's an important next step.

On top of that, the Senate's role is to consider the regional dimension of policies. I wonder if the government has, in fact, done everything that it can to negotiate with the provinces to ensure that companies protect pensions across Canada.

In addition, the amendments to the Bankruptcy and Insolvency Act only require the courts to look into the appropriateness of executive pay one year before the insolvency. I don't want to jump on the bandwagon of dumping on executive pay. I know that boards of directors spend a great deal of time considering what is required in terms of attracting the talent needed to return the best for the corporation, its customers and its shareholders.

To give you an example, Sears Canada stopped paying shareholder dividends in 2014, three years before it went bankrupt in 2017. It is reliable to look at the data and to see that withheld or reduced shareholder dividends, shorting of company stocks or a steady decline in operating cash flow could, depending on the circumstances, signify that a company is in financial trouble. In these situations, as I talked about with Sears, there were warning signs three years in advance. Yet in those three years, key management compensation totalled $46.5 million and bonuses for key management totalled $7.2 million. I ask: Is there more that should be done? Should there be a third party? Should it be the courts? Who should look at this to determine if the balance is correct?

Lastly, the biggest issue — and this is the most important issue to me that was not addressed in this budget — pensioners are currently unsecured creditors, meaning that when a company goes bankrupt, paying off the pension deficit is not prioritized, leaving many Canadians with reduced pensions. There are already three private members' bills seeking to address this issue — Bill C-405, Bill C-384 and Bill C-253 — and the government has had ample time to consider these bills.

When asked why the government did not include legislation that would make pensions a preferred creditor in the budget, the government told the Senate Banking Committee that after careful consideration, it was determined that the option was not in line with a whole-of-government, evidence-based solution. I don't understand that answer. I would ask the government to share full rationale for it. More importantly, I would ask them to examine the ample evidence that is in place for why this is a necessary next step.

I realize there are limitations to what governments should and can do. However, when hard-working Canadians are told they will not be getting their pensions and they will not be able to rest easy simply knowing that their entitlement to the pension remains intact, securing an entitlement to a benefit falls way short of guaranteeing that benefit. Canadians deserve to know that the government is working hard as they secure their pensions and that all measures have been taken to address this.

As Senator Boehm just said, however, a step in the right direction is better than no step at all.

Lastly, with respect to poverty reduction, Division 20 of Part 4 of the budget enacts the Poverty Reduction Act. It provides for an official metric. Other metrics to ensure the level of poverty in Canada creates a preamble, establishes definition and creates, again, a national advisory council. I mourn the loss of the National Council of Welfare, the centre of excellence and the centre of research that was there. This won't completely recreate that. I hope in the future it will grow to that.

Some of the notable improvements to the 2018 Poverty Reduction Act include the requirement for the minister to develop and implement a poverty reduction strategy.

I spoke to a trusted colleague for two minutes who has worked in this field for a number of years, and he said to me this is important because the onus is on the government to actually have a plan with a five-year lifecycle, with targets, timetables and financial commitments. It will be developed with Canadians, and it institutionalizes the discussion and debate.

It's notable that there are poverty reduction plans, acts and measures in place in all of the provinces and territories and now the federal government. We have the united approach across Canada. We have the opportunity to examine, collect and bring together all of the best evidence and all of the steps going forward to synchronize actions and to have a real chance at having an impact.

The most important thing to me is the annual report, accountability and the cross-cutting kind of measures that are taken. I fully support this as a first step in this endeavour. There are a lot of important first steps here, and I look forward to continuing to work in the years to come to improve the government's journey along these paths. These are important issues. Thank you very much.

[*Translation*]

Hon. Lucie Moncion: Honourable senators, I rise today to speak on Bill C-97, An Act to implement certain provisions of the budget tabled in Parliament on March 19, 2019 and other measures.

In my speech, I will begin by building on my intervention in this chamber on May 14, 2019, when I asked the Minister of Finance a question. My question was about tax fairness for cooperatives in the forestry sector as a result of the legislative amendments adopted in 2016 and 2017. This tax inequity continues, as it comes up again in Bill C-97.

Second, I will address the problem of the national debt in order to explain the deficit and how it is financed as well as Canadian household debt. I would first like to talk about the context surrounding my criticism of Bill C-97 with respect to cooperatives.

Before 2016, cooperatives in the forestry sector could benefit from the small business deduction, often referred to as the SBD, based on their total revenues. In 2016, with the passage of Bill C-29, the federal government brought in measures aimed at restricting some firms' access to the SBD. The legislator's intent was to dissuade businesses from engaging in tax planning aimed at multiplying their access to the SBD within a single economic group, which was a worthwhile and legitimate objective.

• (1910)

However, the result was that Canadian-controlled private corporations could no longer claim the small business deduction on revenue generated by sales to a cooperative in which they are members, even if their participation was minimal. The provisions specifically put at a disadvantage Canadian-controlled private corporations that are members of cooperatives, or whose shareholders are members of cooperatives. Although forestry cooperatives were not specifically targeted by the bill's measures, they suffered their financial consequences nonetheless, and the cooperative model consequently became less attractive.

In 2017, the adverse impact of these measures on forestry cooperatives and their members became obvious. More specifically, it was clear that they put rural communities at a disadvantage, given that most rural businesses only have access to a limited number of consumers. To address taxpayers' concerns that the act was having an impact that the legislature had not intended, in May 2017, the concept of "specified cooperative corporations" was added to the act so that a distinction between income from cooperatives and other corporate income would be made in calculating the maximum amount eligible for the SBD. To be precise, these amendments sought to make certain income from the sale of farming products or fishing catches eligible for the SBD, but this meant that cooperatives operating in other industries, including the forestry industry, were excluded from the specified cooperative income rules.

In particular, the measure leaves out companies with income from forestry that is not covered by the CRA and Revenu Québec definitions of "farming income," including companies that provide services to woodlot owners and companies whose main focus is lumbering or logging.

Bill C-97 continues to neglect the forestry sector. Clause 22 of Part 1 of the budget implementation bill contains certain income tax measures, including the elimination of the requirement that the income must be from sales to a farming or fishing cooperative in order to be excluded from specified corporate income for the purposes of the SBD. Again, the only two industries affected by these changes are farming and fishing.

[*English*]

It is difficult to understand why all small businesses that belong to a cooperative society did not benefit from the same exemptions despite having the same structure and meeting the same criteria as a Canadian-controlled private corporation.

I would like to reiterate my question through this speech: Why is the forestry sector excluded from the application of Bill C-97, making it unfeasible to achieve fiscal parity between all sectors, more specifically between the fishing and agricultural sectors, and the forestry sector?

The forestry cooperatives have spoken and the government needs to pay attention to the consequential impacts that its laws may have. Although the intention is not necessarily to target these companies and exclude them from the application of an exemption, the result is such that the tax injustice is perpetuated through Bill C-97, making the cooperative model incidentally less attractive.

Knowing that this business model has proven its worth in both rural and urban areas, and in order to ensure the survival of the cooperative model in forestry, it is essential that companies that are members of a forestry cooperative benefit from the same tax benefits to which cooperatives in other sectors are entitled.

I challenge the next government to listen to taxpayers and legislate to address the concerns expressed by cooperatives in the forestry sector, an industry that contributes to the economy and vitality of our communities across Canada.

[*Translation*]

Now I'd like to talk to you about Canada's debt. I can never understand why people say that the current government is running deficit after deficit as though it were the only one ever to have done so.

The federal debt was $481 billion at the end of fiscal year 2005-06. The previous government had taken control of the country's spending and enabled Canada to recover its International Monetary Fund credit rating. Over the following 10 years, the debt grew by $135 billion, or 28 per cent. During that time, we saw the most unbalanced budget in Canada's history, a $56-billion deficit in fiscal year 2009-10. In the fiscal years that followed, it was $31.2 billion, $33.3 billion and $25.8 billion.

[*English*]

Taken out of context, and without considering the global economic situation or the government's strategy for managing its debt at the time, it is easy to draw conclusions that can be sensational. During the same period, Canada experienced sustained GDP growth, which led to a significant decline in the debt-to-GDP ratio, a strong indicator used to talk about a country's financial health. I can understand the concerns my colleagues have about our country's debt because they are shared, however, deficits should not be the norm but the exception since the country's debt is costly to taxpayers and transferred to future generations, a debt whose burden may one day become unsustainable.

[*Translation*]

The current debt trend is worrisome. The national debt is expected to reach $764.7 billion in 2023-24. The Parliamentary Budget Officer also concurrently estimated that the budget deficit would increase from $19 billion in 2017-18 to $19.4 billion in 2018-19 and then drop to $9.4 billion in 2023-24. The federal debt is therefore expected to steadily increase until 2024, but, at the same time, the budget deficit is expected to steadily drop, thus bringing us closer to the much-sought-after balanced budget. The government's debt management strategy stems from its understanding of the country's debt situation relative to its economic growth. This is a sensible approach that is supported by economists. It measures relative debt rather than absolute debt.

A country's economic viability is generally measured based on the debt-to-GDP ratio rather than on the federal debt, the accumulated debt in absolute terms.

However, it is important to note that the media often uses the federal debt as a measure in order to simplify the information for the general public or to sensationalize the situation.

In her speech regarding the analysis of Bill C-97, my colleague, Senator Marshall, mentioned that the Government of Canada's market debt is expected to reach $754 billion at the end of this year and that the debt of the Crown corporations is expected to reach $316 billion by the end of this fiscal year.

In its 2019 budget, the government indicated that this debt, including that of the Crown corporations, would reach $1.07 trillion. Although that information is accurate, there is something missing from the equation, and that is the assets that support the debt of the Crown corporations. These assets total over $410 billion. It is good to talk about combined amounts, but it is also important to qualify them by putting them into context.

[*English*]

Senator Marshall also indicated in her speech that public debt servicing is expected to be $26 billion for the current fiscal year, $28 billion, $30 billion, $31 billion and $33 billion for the next four years. This information is necessary to fully understand the magnitude of the costs associated with the country's indebtedness. What is also important to understand is who holds the debt and who benefits from the debt servicing. At the end of fiscal year 2018, domestic bonds were at $75 billion, treasury

bonds were at $131 billion, external debt was at $20 billion and market securities were $4 billion. As a result, 69 per cent of Canada's debt is financed by Canadian interests and they benefit from the debt servicing.

[*Translation*]

To ensure that its fiscal planning protects the country's economic viability, the government uses the debt-to-GDP ratio as explained in its 2018 Fall Economic Statement:

> The Government will continue to ensure that investments in people, in communities, and in the economy are balanced by sound fiscal management—maintaining a downward deficit and debt ratio track that will preserve Canada's low-debt advantage for current and future generations.

The current economic situation and projections show a constantly falling debt-to-GDP ratio for the past 15-plus years despite growing federal debt. That ratio is now 30.9 per cent. This vision for the national debt goes hand in hand with the goal of balancing the budget in the medium term, a goal that is consistent with the Parliamentary Budget Officer's financial projections. Economic growth in the next few years is projected to steadily reduce the relative weight of the debt. In the *Economic and Fiscal Outlook* of October 2018, the Parliamentary Budget Officer explains that federal revenues are projected to outpace growth in nominal GDP, the broadest single measure of the government's tax base, and that by 2023-24, total revenues should reach $392 billion, or 14.7 per cent of GDP.

• (1920)

My next point has to do with household debt, which is certainly currently the most worrisome indicator of Canadians' financial health. In a new report, the Canada Mortgage and Housing Corporation indicates that household debt reached an all-time high at the end of last year, even though mortgage activity slowed over the previous year. Canadians' debt-to-income ratio reached a record 178.5 per cent in the fourth quarter last year. In other words, for every dollar earned, Canadians pay $1.78 to finance their debt.

The International Monetary Fund is most concerned about the high cost of housing. The IMF estimates that, in the event of a mortgage crisis, the CMHC could face significant losses to the tune of more than $20 billion.

[*English*]

In Bill C-97, the government set aside a specific component for housing. This approach is part of an overall plan with several objectives. The program, divided into three broad categories, aims to support first-time homebuyers, grow housing supply through targeted partnership and investments, and strengthen the fairness and compliance rules within Canada's housing market. Thus, we should see moderate growth in housing prices, which will have the effect of stabilizing the growth of household debt, allowing better home ownership for young households and a better environment of control over money laundering for those who buy properties by receiving proceeds of crime and increase property prices.

It remains to be seen whether this initiative will prove to be adequate by enabling Canadian households to improve their debt ratio and address IMF concerns.

[*Translation*]

In conclusion, budget implementation bills are long, and contain many reforms, plans and initiatives. These bills present the federal government's intentions for our country. Each part of the bill is part of a thoughtful, concerted strategy and these parts affect all kinds of interconnected and interdependent components. We have the privilege of studying and understanding our country's key priorities and issues, which means that we are instrumental in deciding how Canada grows and moves forward. This is a privileged position that allows us to better understand the scope of the government's choices. I urge you to support Bill C-97.

Thank you for your attention.

(On motion of Senator Housakos, debate adjourned.)

[*English*]

MULTILATERAL INSTRUMENT IN RESPECT OF TAX CONVENTIONS BILL

THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Coyle, seconded by the Honourable Senator Moncion, for the third reading of Bill C-82, An Act to implement a multilateral convention to implement tax treaty related measures to prevent base erosion and profit shifting.

Hon. Thanh Hai Ngo: Honourable senators, I rise with great honour to speak a final time on Bill C-82, and Act to implement a multilateral convention to implement tax treaties, related measures to prevent base erosion and profit shifting, a convention also known as the MLI. Before I dive more deeply into my speech, allow me to express my sincere gratitude to Senator Mary Coyle for ushering this government legislation through the Senate. Without repeating the details of the bill as she eloquently did during her third reading speech, I will focus my remarks, as the critic of the bill, on major takeaways that stem from the committee sessions.

Senator Coyle and I sat on the Standing Senate Committee on Foreign Affairs and International Trade to examine Bill C-82 in greater detail. I'm happy to report the committee did a fantastic and efficient job. The committee received informative testimony from various experts, starting with senior officials from Finance Canada and the Canada Revenue Agency who appeared to share their significant tax expertise. Through their presentations, the committee understood that this bill is the product of an international tax treaty involving not only OECD and G20 countries but 120 jurisdictions known collectively as the Inclusive Framework on BEPS, a term used to describe

aggressive legal tax planning strategies that exploit gaps and mismatches in tax rules to artificially shift income to low- or no-tax jurisdictions.

Overall, it was made very clear to the committee members that the convention represents a big step forward in strengthening Canada's international tax integrity and fairness. More specifically, Bill C-82 would allow Canada to address treaty abuse in accordance with the minimum standards established by the OECD, G20 and BEPS project.

We further understand that this bill would allow Canada to swiftly modify the application of our numerous bilateral tax treaties, including BEPS countermeasures, without the need for Canada to hold separate bilateral negotiations. It was also brought to the committee's attention that ratification of this new treaty would allow Canada to incorporate provisions in its existing tax treaties dealing with the resolution of tax disputes in accordance with a minimum standard and to adopt mandatory binding arbitration with many of our key treaty partners.

The committee also heard from law professor Arthur Cockfield from Queen's University, who explained the need for this convention, on an interesting note, about the recent global financial crisis in 2008.

He said:

> . . . a lot of governments were worried about the implications of aggressive international tax avoidance on revenues and all the various revenue losses.
>
> Many of you will recall we had a phenomenon with PIIGS, Portugal, Italy, Iceland, Greece and Spain, that were near bankruptcy as a result of the crisis, the economic slowdown and the resulting revenue loss. Governments then began to cooperate and think about better ways to maintain their revenues. Thus, the G20/OECD BEPS Project, or base erosion and profit shifting, was born in 2013.

His testimony and historical perspective of gross tax erosion provided an appropriate background for the committee about why this convention is an essential incremental step that will gain greater importance as long as Canada continues to adopt BEPS provisions beyond this convention.

I believe the committee agreed with his general assessment and that although this bill, and herewith this convention, is an incremental step, it is certainly a leap forward to tackle tax avoidance through a concerted effort by agreeing to minimum standards to prevent erosion of the tax base and profit shifting that takes place when companies and individuals go "tax treaty shopping" or unfaithfully seek opportunities to exploit legal loopholes.

He further stated:

> . . . Canadians actually care about international tax possibly for the first time ever. We have to do a lot more hard thinking about real changes to the system.

[Senator Ngo]

[*Translation*]

Honourable senators, other testimony from Canadians for Tax Fairness, Bennett Jones and Gowling WLG Canada acknowledged the many pros of this bill and recognized the need to prevent tax treaty shopping and the abuse of treaties.

During these testimonies, the committee focused on a valid interim provision regarding the introduction to article 7, the principal purpose test, which is an anti-treaty abuse measure in the convention.

• (1930)

As I mentioned briefly, one of the main abuses of treaties is "treaty shopping," which involves establishing residency in a country to benefit from the favourable tax treatment provided by a tax treaty.

Therefore, the instrument requires all countries to agree to adopt a minimum standard with respect to the rules against treaty shopping.

Canada chose to adopt this minimum standard by establishing a principal purpose test, which is a rule against treaty abuse whereby it refuses to grant the benefits of a treaty to a taxpayer if one of the main objectives of a transaction is to obtain these benefits in a manner that is not in keeping with the purposes and goal of the relevant provision of the treaty.

Canada has included in the interim list that this rule is only a temporary measure and that it intends, in the long term, to adopt a provision on limiting benefits in the negotiation of these bilateral tax treaties.

Laura Gheorghiu, a partner at Gowling Canada, expressed her concerns to the committee about the test, stating the following:

> As one can expect that all prudent investments take tax costs into account, there is potential for the PPT to be raised in many instances where tax was not the principal driver behind the investment decision.

This reluctance regarding the introduction of the principal purpose test rule as a condition for benefiting from a convention is a legitimate sign of great uncertainty around the issue, and I would even say that this requirement seems unfair for taxpayers.

However, government officials stated that Canada adopted the rule because it relates to one of the sections that is part of the mandatory provisions of the convention. In fact, that section does allow parties to either choose the principal purpose test or lodge a reservation and opt for bilateral negotiation.

Stephanie Smith, Senior Director with the Tax Treaties, Tax Legislation Division, Tax Policy Branch at the Department of Finance explained why Canada adopted this rule, and I quote:

> The whole reason for having this multilateral convention was to avoid the need to bilaterally negotiate our network of 93 tax treaties, soon to be 94. That would be a very long time in coming, so it was decided to adopt the principal purpose test. It is the test that has been adopted by every other signatory to the treaty, which is another 88 signatories as of yesterday afternoon.

On the same topic, Toby Sanger, Executive Director of Canadians for Tax Fairness, said that a consistent set of measures, including the principal purpose test, could function as strong, anti-tax avoidance rules for those who use countries such as Luxembourg or the Netherlands, which have already ratified the convention, to get out of paying taxes.

He concluded his speech on an important point saying, and I quote:

> . . . while this bill is a positive step and I urge you to support it as it is, we can and must take much bigger steps forward to develop a much more functional international corporate tax system.

Honourable senators, I believe the purpose of the principal purpose test is similar to that of the general anti-avoidance rule already included in the Income Tax Act and with which Canadian taxpayers are already comfortable when it comes to its implementation.

The principal purpose test is a subjective measure that gets Canada out of having to bilaterally negotiate its network of 93 — soon to be 94 — tax treaties every time a problem arises.

Nonetheless, I urge the government to keep in mind that this interim reservation with regard to the principal purpose test expressed at the committee remains valid and should continue to represent an "issue to watch" lest it become a tremendous barrier for capital investors or a heavy burden for Canadian taxpayers.

Honourable senators, after studying this bill I can confirm that I'm not a tax expert and I have a lot to learn on international tax treaties. However, I'm pleased to have had the opportunity to act as a critic on this bill and I'm grateful for the expertise that the witnesses shared with us.

[*English*]

Honourable senators, from what I gathered during our meetings and during debate, we need to monitor sovereign debt crises like the Lehman Brothers collapse in 2008 and the subsequent crisis in 2009, as well as other tax-avoidance revelations, whether it's the Panama Papers or another paradise version. These troubling developments were justly raised by Senator Boehm during the committee meetings.

Such unprecedented mega tax haven leaks, among these serious developments, are calls for us to pay more attention and possibly take significant future actions on international fiscal matters.

I agree wholeheartedly that recent history has taught us that that can be a threat to our liberal democracies.

Honourable senators, as I conclude, the MLI represents a big step forward in strengthening international tax integrity and fairness. As I mentioned at second reading, the impact of unfair tax avoidance schemes in Canada could be several billion dollars annually. It has been estimated that several hundred billion dollars of corporate tax revenue may be being lost to countries collectively as a result of profit shifting.

Bill C-82 is an incremental step that will allow Canada to address treaty abuses and dispute resolutions. I encourage you all to support the implementation of this convention and to vote in favour of the swift adoption of this bill. Thank you.

Hon. Percy E. Downe: Honourable senators, colleagues. I don't have a prepared text but I want to say a few words. I want to thank Senator Coyle and Senator Ngo for their remarks. I would hope they and the committee would closely follow, for the next number of years, the implementation and enforcement of what we are likely going to agree to today.

I don't think anybody could disagree that it's an important tool to have in the tool kit. It's the use of it that concerns me. You have all heard me speak about this before; I won't go on in great detail.

Part of the problem is the Canada Revenue Agency itself. They have everything they need, and they still don't take the actions that are needed. Canadian taxpayers are wondering why so much money that is owed to the government in taxes is not paid. The CRA has resisted outside measurement of the tax gap, which is the difference between what is collected and what should be collected. We have asked the Parliamentary Budget Officer. The Senate has passed a bill to that effect. The House of Commons defeated it, unfortunately. We need that outside supervision. The Canada Revenue Agency said, "Oh, we can do it; we'll do the tax gap." They have done a couple of them. In fact, they are releasing one tomorrow on corporate tax gap estimates. I will venture a guess, colleagues, that we are talking massive amounts of money missing from the Canadian economy because of corporate tax evasion. The problem is the figures the CRA gives us tomorrow, which will be massive, will be grossly underestimated and cannot be trusted because of the source. The CRA has a long record of misleading and deceiving Canadians. I won't repeat them here, but you all have heard me say them before. They're in the records of the Senate.

• (1940)

Time after time, they have told Canadians things that are simply wrong or intentionally misled Canadians. Why would we believe their low-ball numbers which will still be extremely high, I predict, tomorrow, and we can see when they're made public.

We need an outside review of the tax gap. In addition to measuring what they're not collecting, it measures how efficient a revenue agency is. Canadians have real concerns that there is something seriously wrong at the Canada Revenue Agency. They are not doing the job they're supposed to. This legislation will give them the framework, but I would hope Senator Coyle and Senator Ngo and the committee will pursue this over the next number of years, because if they do they will become strong allies of mine on this file because they will be wondering why the things that were supposed to happen have not happened, why the money that is supposed to be collected is not being collected.

We had the most recent examples. The recent anniversary of the Panama Papers. The third anniversary was a few weeks ago. Eight hundred and forty-seven Canadians had corporations or individuals or trusts in the Panama Papers. We realized over a billion dollars collected around the world. Iceland with a population of 350,000 collected $25 million, but the Canada Revenue Agency hasn't collected one dollar. It's completely shameful. They have the tools to do the job. Why are they not doing the job? I hope colleagues, Senator Coyle and Senator Ngo and the committee members will join me in pursuing this so we can keep the pressure on the Canada Revenue Agency.

If we collected what was owed to us, there would be no deficit, taxes could be lower and every time someone here presents a program the first comment is, "That's a wonderful suggestion, but how are we going to pay for it?" That's how we pay for it. That's how we make our country a better economy and a healthy environment for everyone.

Thank you, honourable senators.

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

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Coyle, seconded by the Honourable Senator Moncion that the bill be read a third time.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

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

CRIMINAL CODE

BILL TO AMEND—THIRD READING—
DEBATE ADJOURNED

Hon. Yvonne Boyer moved third reading of Bill C-84, An Act to amend the Criminal Code (bestiality and animal fighting).

She said: Honourable senators, I rise today for third reading and sponsor of Bill C-84, An Act to amend the Criminal Code which proposed amendments to strengthen protections against bestiality and animal fighting. I am, once again, honoured to be speaking in this chamber on behalf of my animal relations.

This bill has received broad support by parliamentarians and stakeholders and would bring about overdue and critical changes to the Criminal Code by closing two legislative gaps. These changes will better reflect the beliefs held by the large majority of Canadians who are appalled by the abuse of animals. It is a step towards greater justice for animals that offers more protections for children and other vulnerable persons, and it reflects our commonly held values.

In my second reading speech, I explained the current law around sexual abuse of animals. The Criminal Code calls it bestiality. The bestiality offences cover serious conduct of one of the worst forms of sexual abuse of children, vulnerable persons and animals. Bill C-84 accomplishes what it set out to do, which is criminalize all forms of bestiality, which is sexual contact with animals involving humans, and closes loopholes that make it easier to prosecute animal fighting.

The first reform that Bill C-84 proposes is to add a definition of bestiality to section 160 of the Criminal Code which broadens it by including "any contact for a sexual purpose between a person and an animal." This definition responds to the 2016 Supreme Court of Canada decision of *R. v. D.L.W.* which is a disturbing case of animal and child sexual abuse. In considering the meaning of bestiality, the court examined the historical interpretation at common law to interpret what it meant and held that the common law meaning of bestiality was limited to include only penetrative sexual acts with an animal.

The proposed definition of bestiality is robust and covers all sexual contact. It recognizes that animals are vulnerable and cannot consent to sexual contact and there is always a risk of harm involved with this offence.

For those who worry that a law designed to protect animals from sexual violence might also impinge on their ability to carry out tasks common in the animal industry sector, they can rest assured that this bill will not limit their ability to carry out these tasks.

Agricultural stakeholders have stated, both in written correspondence to the previous Minister of Justice and in testimony before the Justice Committee, that they have no concerns that this definition could inadvertently capture any current practices and that bestiality and animal fighting in no way constitutes harm to their agricultural practices.

As mentioned, when this bill was studied in the other place, amendments were passed to better achieve its objectives. Two of those amendments related to bestiality were based in part on testimony and evidence provided by witnesses at committee. The animal fighting provisions were subsequently strengthened and they accomplish what they set out to do.

The first would permit animal prohibition and restitution orders to be made by a court when a person is convicted of a bestiality offence. A prohibition order would mean that a person convicted of bestiality would be prohibited from possessing, having control over or residing with an animal for any period up to a lifetime ban.

Such orders are already available for animal cruelty offences in section 447.1, so making them available for bestiality offences is therefore consistent and increases important protections for animals and public safety. It is a preventive measure and a positive step. The ability to make a restitution order is also an important aspect of this amendment to Bill C-84.

When an animal is abused, there are often significant costs associated with its medical, rehabilitation and general care. These costs should be borne by the person who is responsible for the injury to the animal and not by the people and organizations who rescue and care for the animal during its recovery. In addition, such measures encourage additional accountability by the offender for his or her actions.

The second amendment that has already been passed in the other place would add the bestiality simpliciter offences subsection 161 to the list of designated offences requiring compliance with the requirements of the National Sex Offender Registry for up to a period of 20 years.

Bill C-84 will also modernize the law regarding animal fighting through amendments to two provisions in the Criminal Code. The first proposed amendment will expand the animal fighting offence at paragraph 445.1(1)(b) of the Criminal Code to include promoting, arranging or receiving money for animal fighting.

The second proposed amendment will amend section 447.1, which is the offence of keeping a cockpit, to expand the prohibition to the keeping of an arena for the fighting of any animal. This amendment is particularly important, considering that dogfighting is now the main form of animal fighting in Canada.

Dogfighting is, quite simply, one of the most heinous forms of physical abuse of animals. Parliamentarians and committee witnesses have spoken in great detail about the pain and suffering that these animals endure. The links between dogfighting and organized crime make it an even greater social evil. Any measures that Parliament can take to help law enforcement combat animal fighting must be supported.

The Justice Committee in the other place also amended this bill to propose the repealing of section 447(3) of the Criminal Code which requires that birds that are found in a cockpit must be destroyed.

Decisions on whether to euthanize an animal should be made by animal protection professionals based on the health of the animal rather than by operation of the law. These professional assessments better account for an animal's sentience, including an ability to be rehabilitated and re-enter human society, and so represent a step forward with respect to Canada's archaic animal welfare laws.

• (1950)

Provincial and territorial animal protection legislation already authorizes the humane destruction of animals who are too injured or sick to recover or who are deemed unsuitable for rehabilitation, yet we do not have the legal vernacular to incorporate recent scientific understanding of animal sentience into proper protections for the animal.

In the future, I hope we can evolve and find more creative ways to rehabilitate these victims — victims who, through fear and coercion, were conditioned to fight and live in fear every day of their lives. We must develop solutions and not resort to the default solution of killing these helpless creatures.

I would like to thank the critic, Senator White; the Social Affairs Committee and the staff; and the phenomenal witnesses who came forward to assist us in understanding the importance of this bill and the urgency with which it must be passed.

Barbara Cartwright, from Humane Canada, an organization that represents humane societies and SPCAs across Canada, explained how they receive over 100,000 complaints every year due to animal cruelty allegations. They also regularly witness the impact of the inadequate and antiquated animal cruelty section of the Criminal Code of Canada. It is these weak provisions that prevent the successful prosecution of crimes against animals due to legal loopholes that have arisen from outdated language and offences. Ms. Cartwright stated that Bill C-84 will correct two such examples, and urged its swift passage.

Shawn Eccles, Senior Manager of Cruelty Investigations at the British Columbia SPCA, reported to the committee that he has evidence that cocks are bred and trained to fight and subsequently be shipped to the Philippines. He said:

> If this bill were to pass, I would be able to go out tomorrow and, at the very least, submit a charge to the Crown demanding that these people be charged with an offence. They are breeding and training these birds specifically for that one purpose.

Currently the Criminal Code does not prevent the training and shipping of birds or animals for this purpose.

With respect to the provision of the bill that instructs the court to euthanize the birds, after identifying a cockfighting arena and discovering 1,270 birds, in accordance with the Criminal Code of Canada, Mr. Eccles was put in the wretched position of being ordered to euthanize these birds, which had to be done by manual dislocation rather than have them rehabilitated or placed in sanctuaries. Three people were charged and one was convicted. His sentence was a simple prohibition.

Mr. Eccles stated:

> . . . quite frankly, from the perspective of somebody who's there to save animals' lives, is something that I'm not interested in doing again.

Mr. Eccles told the committee that he is aware right now of sites where birds are being housed for this purpose, and his organization does not want to go into these sites and seize these birds because he will have to euthanize them — once again, in accordance with the law. He told the committee that Bill C-84 would save the lives of many animals and birds, and also urged its swift passage.

Dr. Alice Crook, veterinarian and a member of the Canadian Veterinary Medical Association, explained to the committee that there is a "well-documented link between the abuse of animals and other family violence, including child, spousal and elder abuse."

By passing Bill C-84 into law, we are therefore not only helping animals but also addressing the sexual exploitation of other vulnerable members of society, including children.

Dr. Crook further explained that there is "more and more information available about recognizing the sentience of animals, including scientific documentation of animals having the neuroprocesses to be sentient."

Even the courts are finally beginning to factor this into their decisions. Dr. Crook further explained how in British Columbia some convictions were "based on the sentience of the animals and the emotions they experienced." This demonstrates some advance as a society in our understanding of animals.

Finally, the Standing Senate Committee on Social Affairs, Science and Technology added an important observation that was explained by the Canadian Centre for Child Protection. This observation promotes cross-reporting between animal and child protection agencies, which will lead to better detection of the abuse of both children and animals — enabling protective intervention that might not otherwise happen, as both types of abuse tend to be very difficult to uncover.

Honourable senators, I understand that some — including me — would like to see a comprehensive reform of the animal cruelty provisions in the Criminal Code. The Minister of Justice and Attorney General of Canada, David Lametti, confirmed his personal commitment in the next Parliament to overhauling animal protection legislation in Canada. He recognized that Bill C-84 is only a first step because Canada does need to bring these laws into the modern era. The minister confirmed that Bill C-84 does offer reforms in two key areas of animal abuse where there is broad consensus. It also offers essential protections for children and other vulnerable persons from one of the most serious forms of sexual abuse.

As I explained in my second reading speech, I recognize that the medicine wheel guides us and is clear that interdependency exists not just between us two-legged humans but extends out to four other directions to encapsulate the four-legged, the gilled and the winged.

Therefore, if we are to acknowledge and honour all our relations, as well as the interdependency we share, we must, as senators, act to nourish and protect our relations with all beings — including those animals who are left legally marginalized and thereby vulnerable to increased violence — and that is something that Bill C-84 seeks to rectify.

Honourable senators, this bill passed unanimously in the other place and is supported by a wide range of stakeholders already mentioned. I urge you to support the quick passage of this critical piece of legislation so that these protections can come into effect as soon as possible. Thank you, *meegwetch*, all our relations.

(On motion of Senator Housakos, debate adjourned.)

[*Translation*]

FISHERIES ACT

BILL TO AMEND—MESSAGE FROM COMMONS—CERTAIN SENATE AMENDMENTS CONCURRED IN, DISAGREEMENT WITH CERTAIN SENATE AMENDMENTS AND AMENDMENTS

The Hon. the Speaker: Honourable senators, I have the honour to inform the Senate that a message has been received from the House of Commons which reads as follows:

Monday, June 17, 2019

ORDERED,— That a Message be sent to the Senate to acquaint Their Honours that, in relation to Bill C-68, An Act to amend the Fisheries Act and other Acts in consequence, the House:

agrees with amendments 1(b), 1(c), 2, 4, 5, 6, 7, 8, 10, 12, 13, 14 and 15 made by the Senate;

respectfully disagrees with amendment 1(a) because it is contrary to the objective of the Act that its habitat provisions apply to all fish habitats throughout Canada;

proposes that amendment 3 be amended by deleting "guaranteed," and, in the English version, by replacing the word "in" with the word "by";

proposes that amendment 9 be amended by deleting section 35.11;

respectfully disagrees with amendment 11 because the amendment seeks to legislate in respect of third-party, or market-based, fish habitat banking, which is beyond the policy intent of the Bill that is to provide only for proponent-led fish habitat banking.

ATTEST

Charles Robert
The Clerk of the House of Commons

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

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

[*English*]

MACKENZIE VALLEY RESOURCE MANAGEMENT ACT CANADA PETROLEUM RESOURCES ACT

BILL TO AMEND—SECOND READING

Hon. Margaret Dawn Anderson moved second reading of Bill C-88, An Act to amend the Mackenzie Valley Resource Management Act and the Canada Petroleum Resources Act and to make consequential amendments to other Acts.

She said: Honourable senators, I rise in the Senate today as sponsor of Bill C-88, An Act to amend the Mackenzie Valley Resource Management Act, which directly affects the Northwest Territories, and the Canada Petroleum Resources Act, which affects the Arctic offshore.

I want to acknowledge that we meet here today on the unceded territory of the Algonquin Anishinabek.

Bill C-88 is the result of consultation and collaboration. It is a step towards re-establishing trust with Indigenous partners in the Mackenzie Valley. The proposed amendments respect their constitutionally protected land claim agreements and restore legal certainty for responsible resource development, while fostering reconciliation with Indigenous peoples.

This bill is made up of two parts. The first part of Bill C-88 will resolve litigation about restructuring of land and water boards within the Mackenzie Valley of the Northwest Territories. These changes were written into the Bill C-15, the Northwest Territories Devolution Act, which received Royal Assent in 2014.

• (2000)

In addition to repealing the land and water board restructuring provisions, Bill C-88 preserves key policy elements that were introduced in the Northwest Territories Devolution Act. These policy elements include: regional studies; board member term extensions; regulation-making authorities for cost recovery; regulation-making authorities for consultation; a 10-day pause period following a preliminary screening decision that determines an environmental assessment is not required; an administrative monetary penalty scheme; development certificates and an enforcement scheme; and modifications to government inspection notice requirements on Gwich'in and Sahtu lands.

The second part of Bill C-88 responds to the interests of oil and gas rights holders in the Arctic offshore, territorial governments and Indigenous organizations. The proposed amendments prevent existing licences from expiring while under a prohibition order from the Governor-in-Council.

The key elements of this bill are as follows: Freeze the terms of existing rights in the Arctic offshore for the duration of the prohibition; suspend the work and commercial requirements; and extend the term of oil and gas rights for the period of the prohibition.

Together, the proposed amendments to both the Mackenzie Valley Resource Management Act and the Canada Petroleum Resources Act are essential to ensuring a responsible, sustainable and fair development regime in the Northwest Territories and the Beaufort Sea. It is important to all stakeholders — Indigenous organizations, Indigenous and territorial governments, as well as industry — that this bill be passed before we rise for the summer.

To begin, I wish to highlight the scale and diversity of the region I am from. The Northwest Territories is home to over 44,000 residents who live in 33 communities across a territory that is more than 1.3 million square kilometres. More than half of our population is Indigenous. There are six settled Aboriginal rights in the Northwest Territories: the Deline Self-Government Agreement; the Gwich'in Comprehensive Land Claim Agreement; the Inuvialuit Final Agreement; the Sahtu Dene and Metis Comprehensive Land Claim Agreement; the Salt River First Nation Treaty Settlement Agreement; and the Tlicho Land Claims and Self-government Agreement.

In addition to this, there are 12 ongoing negotiation tables in the territory: Four land, resource and self-government agreement negotiations, six self-government agreement negotiations and two transboundary negotiations.

To ensure that all relevant views on the issues raised by Bill C-88 can be heard in a fair and open manner, the Standing Committee of Indigenous and Northern Affairs in the other place invited several witnesses to participate in the review. A total of 16 witnesses testified in May of this year. The committee also received eight written submissions. This evidence is now part of the public record.

Honourable senators, the first part of this bill makes amendments to the Mackenzie Valley Resource Management Act, or the MVRMA. This part of the bill was developed in close consultation with Indigenous and northern communities, governments and organizations.

As a result, Bill C-88 strongly reflects the views of the Tlicho Government and Sahtu Secretariat Incorporated, the Gwich'in Tribal Council, the Government of the Northwest Territories, as well as industry. In other words, the views of those directly involved in and affected by development within the Mackenzie Valley.

The impetus for Bill C-88 is a court challenge by the Tlicho Government and Sahtu Secretariat Incorporated. The case was a response to the Bill C-15, the Northwest Territories Devolution Act passed by Parliament on March 25, 2014. At the time, the primary purpose of the bill was to implement provisions of the devolution agreement of the Northwest Territories. However, buried in this bill were amendments to the Mackenzie Valley Resource Management Act that are now at the heart of this court challenge.

Bill C-15 would have restructured the regulatory boards that governed development within the Mackenzie Valley, eliminating the Gwich'in Land and Water Board, the Sahtu Land and Water Board and the Wek'èezhìi Land and Water Board. This would not only have created one large superboard, it would have resulted in the Gwich'in, Sahtu Dene and Tlicho no longer having guaranteed representation in the development decisions that affect their regions.

In May 2014, the Tlicho Government and Sahtu Secretariat Incorporated filed a lawsuit against the Government of Canada claiming that the restructuring failed to honour the terms of their comprehensive land claim agreements. They also alleged that they had not been properly consulted about the restructuring.

In early 2015, the Supreme Court of the Northwest Territories put an injunction in place which suspended the restructuring provisions, along with other positive regulatory amendments that were included in Bill C-15 from coming into force. In her reasons for judgment, Justice Karan Shaner found that the Tlicho lawsuit raised "a serious constitutional issue to be tried," and that "whether Canada met its consultation obligations is in issue."

Efforts to reach an out-of-court settlement were launched in September 2016. Officials with CIRNAC, or as it was known then INAC, hosted a teleconference in February 2017 with representatives of Indigenous governments and organizations, and the Government of the Northwest Territories. The initial calls focused both on the goal of the process — how to resolve the court case — as well as the structure of the process, such as how it should proceed and how long it should last.

From the outset, all parties agreed that a legislative solution was needed and that the best response to the Supreme Court's ruling would be an act of Parliament. All parties also agreed that such legislation could only be developed through collaboration and meaningful consultation.

Throughout this process, the Government of Canada provided funding to Indigenous rights holders so that they could participate actively in the consultations.

In March 2017, a legislative proposal, along with supporting materials, was distributed to all of the affected Indigenous governments and organizations, and the Government of the Northwest Territories, along with other stakeholders, such as resource co-management boards and representatives of the mining and oil and gas industry. Participants were given eight weeks to review and respond to the proposal.

At the outset of the consultations with industry, departmental officials explained the content of the legislative proposal and the consultation process. None of the industry organizations asked for follow-up meetings, although a few provided written submissions.

Midway through the eight-week period, federal officials met again with representatives of Indigenous rights holders, and the Government of the Northwest Territories. During two in-person meetings in Yellowknife, officials explained the content of the proposal and described possible measures to accommodate the comments raised so far in the process. At the end of the eight-week period, federal officials met again with participants and made further changes to the original proposal.

Tlicho Grand Chief George Mackenzie described the consultation process as follows:

> . . . the consultation around Bill C-88 was positive, respectful, collaborative, and was fully supported by Tlicho Government. There were multiple face-to-face meetings in Yellowknife with federal representatives, in which Tlicho Government officials and advisors participated. Opportunities were provided to review and comment on the draft legislation. Concerns and questions were listened to, were responded to, and were resolved. The process of developing Bill C-88 was a demonstration of how successful and how positive the working relationship between Indigenous Governments and the federal government can be when we truly try to work together, as partners, seeking a mutually agreeable and beneficial outcome. Real reconciliation starts with listening and with trying to craft shared solutions to shared problems. And the collaborative and consensual approach to developing Bill C-88, and protecting the regional land and water boards in the Mackenzie Valley, was a step on the road to reconciliation.

David Wright, legal counsel for the Gwich'in Tribal Council, stated before the Standing Committee on Indigenous and Northern Affairs in the other place:

> . . . the consultation process on Bill C-88 has actually helped restore some of the trust between Canada and the GTC. That trust would be eroded by any further delay, or at worst, failure to pass this bill in a timely manner.

When speaking to the standing committee on behalf of the Tlicho government, Grand Chief George Mackenzie further emphasized his support for Bill C-88:

> We want Bill C-88 to be supported today in our Tlicho world, as well as other indigenous worlds in NWT— wherever else. We need to support development. We need to support development for the sake of our younger generation to get out of poverty and have opportunities for their young families. That is so much needed.

The views of the Grand Chief align with those of another key witness. The Premier of the Northwest Territories described how the regulatory regime for the Mackenzie Valley has inspired collaboration among Indigenous and non-Indigenous governments. He supports Bill C-88 because it would foster further collaboration. To quote from his testimony:

> The Government of the Northwest Territories and indigenous governments are working together to build our territorial economy. The passage of Bill C-88 and the preservation of the regional land and water boards, as committed to in land claim and self-government agreements, is an important part of this.

The land and water boards of the Mackenzie Valley are already working together to identify and implement ways to improve their operations. These efforts have strengthened the regulatory regime of the Mackenzie Valley, and we know that active collaboration produces mutually beneficial and informed results.

• (2010)

In March of last year, the Minister of Crown-Indigenous Relations also met with industry groups to hear their views on development and resource co-management in the North. Since then, departmental officials have continued these discussions. I will note that the cost-recovery provisions proposed in Bill C-88 are of particular concern to industry. These provisions only provide the authority to develop regulations should it be deemed advisable to do so. Such regulations would be developed in consultation with industry.

The second element of Bill C-88 involves amendments to the Canada Petroleum Resources Act, or CPRA. The amendments safeguard the Arctic offshore environment that is so critical to the peoples of the Arctic. They recognize Canada's interests and protect the existing rights of exploration licence holders for the Beaufort Sea.

In 2016, the Government of Canada announced a moratorium that prohibits the issuance of new offshore oil and gas licences indefinitely, subject to a five-year, science-based review. From March to July 2017, the government consulted with the governments of Yukon, Northwest Territories, Nunavut, Inuvialuit and Inuit organizations, as well as existing oil and gas rights holders, about their interests in, and vision for, the Arctic offshore. The consultations allowed Canada to take stock of stakeholder interests, plans and visions for future oil and gas exploration and development in the Arctic offshore. Bill C-88 responds to the concerns raised during these consultations.

Participants in the consultations highlighted the importance of protecting the Arctic environment while pursuing safe and responsible offshore oil and gas activities that support the creation of jobs and other economic opportunities for northerners. All parties affirmed the strategic economic value of oil and gas development in the Arctic offshore for northern communities. They supported the measure in Bill C-88 to authorize the Governor in Council to issue a prohibition order to freeze the terms of the existing licences in the Beaufort Sea for the duration of the moratorium.

Canada's decision to move forward with a moratorium on the new Arctic offshore oil and gas licences in federal waters was a risk-based decision in light of the potential devastating effects of a spill and limited science about drilling in the area. However, as my honourable colleagues well know, the announcement raised concerns among territorial and Indigenous leaders about the way decisions are made in the North. Northwest Territories Premier Bob McLeod criticized the government for the lack of consultation, issuing a red alert in response to southern policies being imposed on the N.W.T. The Chair and CEO of the Inuvialuit Regional Corporation, Duane Ningaqsiq Smith, said:

> . . . the imposition of the Moratorium by the Prime Minister was done without consultation with any Inuvialuit in contravention of the IFA and with the framework established and the promises made under the Northwest Territories Lands and Resources Devolution Agreement.

It is important to remember that at that time of the announcement there was no active drilling in the Beaufort Sea and no realistic plans to initiate drilling in the short or medium term. The moratorium was announced in conjunction with a five-year, science-based review scheduled for 2021.

In October 2018, the Government of Canada announced a collaborative approach in the Arctic offshore. The federal government, territorial governments, Indigenous governments and organizations and northern communities are partners in the science-based review process. Others, including industry, continue to be actively consulted.

Currently, two separate Regional Strategic Environmental Assessments are under way in the Eastern and Western Arctic that take into account marine and climate change science, as well as Indigenous knowledge. In the east, the assessment is being undertaken by the Nunavut Impact Review Board. In the west, the assessment is co-led by the Inuvialuit Regional Corporation, as well as CIRNAC.

In 2021, the five-year science-based review will consolidate the findings of these ongoing Regional Strategic Environmental Assessments. The outcome of the review process will inform next steps in the Arctic offshore.

Honourable colleagues, Bill C-88 is the product of consultation and collaboration. The bill will resolve litigation about the restructuring of the land and water boards in the Mackenzie Valley. It will reintroduce policy elements prevented from coming into force because of the court injunction.

This bill also responds to the concerns that licence holders brought forward during the 2017 Arctic offshore consultation process. It freezes the terms of existing licences until the science-based review is complete. In so doing, the bill maintains a precautionary approach that supports safe and responsible resource management decisions about the natural environment that is of vital importance to us all, and to northerners in particular.

Both elements of this bill help to maintain an effective and robust approach to managing non-renewable resources across the Northwest Territories and in the offshore.

Honourable colleagues, ongoing consultation is essential to ensuring the responsible, sustainable and fair development regime in the Northwest Territories and the Arctic. Justice Berger stated as much in his report, *Northern Frontier, Northern Homeland*, which was released in 1977 following a three-year

inquiry into the impacts of a proposed gas pipeline that would run through the Yukon and the Mackenzie River Valley. Justice Berger said:

> Regardless of the state of government policy, whether past, present or future, it is vital to understand that the continuing strength of the native people in the Mackenzie Valley and the Western Arctic has depended primarily upon their powerful sense of belonging to a group defined by distinct social, economic and cultural traditions. What will decide the future of the native people in the Mackenzie Valley and the Western Arctic is their own collective will to survive as a people. No federal ukase will settle the matter once and for all; no tidy, bureaucratic chart for the reorganization of northern government will be of any use, unless it takes into account their determination to remain Dene, Inuit and Metis.

The proposed amendments to both the MVRMA and the CPRA in Bill C-88 are a step in the right direction. This bill has the full support of the Minister of Crown-Indigenous Relations and Northern Affairs Canada and the Member of Parliament for the Northwest Territories. It has the full support of the Premier of the Northwest Territories. It has the full support of the Tlicho Government, the Sahtu Secretariat Incorporated and the Gwich'in Tribal Council. And the Inuvialuit Regional Corporation, which oversees the implementation of the Inuvialuit Final Agreement in the Mackenzie Delta, Beaufort Sea and Amundsen Gulf area, has recognized the necessity of this bill at this time. Bill C-88 deserves the full support of this chamber.

Quyanainni, *mahsi cho*, thank you.

Hon. Patricia Bovey (The Hon. the Acting Speaker): Senator Anderson, will you take a question?

Senator Anderson: Yes, I will.

Hon. Rosa Galvez: Thank you very much for your speech, Senator Anderson. As we heard from officials this morning, the first part of Bill C-88 is very clear. At second reading, we spoke about the principle of the bill, and the principle of Part 1 of the bill is clear and is necessary. However, Part 2 is a bit of a puzzle.

When foreign oil and gas companies asked for a licence, it was for a period of time. In this case, it is my understanding that it was nine years. Within those nine years, these corporations needed to do work and provide results, which they didn't. So now they are asking for an extension, and Part 2 seems to arrange it. However, it appears that they could just pay back for the work that they didn't do and ask for a new licence.

Would it be right to say that by giving them an extension and not recovering the money that they were supposed to invest during the nine years, it will be like a form of subsidy to this industry?

Senator Anderson: I'm not fully clear on the process. I do know that licences last for nine years. I do know there are 11 exploratory licences and 69 scientific discovery licences.

With regard to your question, I can only speak from my experience. I was between 13 and 17 years old when oil and gas companies and businesses were actually operating in Tuktoyaktuk. They had the resources and the infrastructure to provide those services. My experience now is that the infrastructure is not present in the Arctic to provide that type of support.

I understand your question with regard to us allowing them to spend without reimbursing or obtaining a benefit from it. I think you could look at it that way, but I think you can also look at the fact that, right now, the cost of oil and gas in Canada also doesn't support oil and gas development in the Arctic at this time. I think you could look at it that way, but I think you can also look at the fact that the cost of oil and gas in Canada also doesn't support oil and gas development in the Arctic at this time.

• (2020)

Hon. Dennis Glen Patterson: Honourable senators, I rise today to speak as critic for the Official Opposition in the Senate at second reading of Bill C-88, An Act to amend the Mackenzie Valley Resource Management Act and the Canada Petroleum Resources Act and to make consequential amendments to other Acts.

This bill builds upon changes to the Mackenzie Valley Resource Management Act, fondly known as the MVRMA, introduced in the previous government. Bill C-15 was a major step in devolving the power of land and resource management to the territory, and I am pleased to have been the sponsor of that legislation.

Admittedly, we did at the time hear testimony that resisted the creation of what has been called a superboard, which was suggested by Canada's Chief Federal Negotiator, John Pollard. Mr. Pollard's recommendation was to amalgamate the smaller regional boards into one central board. This was in line with the federal government's 2010 Action Plan to Improve Northern Regulatory Regimes in the Northwest Territories, which sought to streamline and bring increased certainty and transparency to the regulatory regime in the N.W.T.

As a compromise, the government of the day chose to enable the chair of the new board to create subcommittees or panels composed of a minimum of three members of the affected communities, the idea being that smaller regional panels would be better suited to make decisions over land and water management that would more accurately reflect community input and knowledge. That didn't go very well.

This measure in Bill C-15 was not enacted due to an injunction launched by the Tlicho government, who argued that the board restructuring measures were not part of the devolution negotiations, were not necessary for devolution, and that there was insufficient consultation on the range of other options available for regulatory improvement.

Bill C-88 seeks to address these outstanding concerns. As the Honourable Bob McLeod, Premier of the Northwest Territories, explained it during his appearance at the Indigenous and Northern Affairs Committee in the other place:

> We don't see Bill C-88 as a partisan bill. It ensures that land claim agreements are fully implemented by maintaining the regional boards, and also has modern amendments with multi-party support.

Representatives of the three affected Indigenous regions, as the sponsor of the bill just outlined — and I endorse what she said — have all spoken in support of the measures included in Bill C-88. Grand Chief George Mackenzie, who spoke on behalf of the Tlicho in the other place, said:

> The co-management of natural resources in Wek'èezhii is an essential part of the Tlicho agreement. Co-management is essential to address the overlapping interests and jurisdiction of Tlicho Government, other indigenous government and public government.
>
> Protecting the environment while promoting responsible development and use of resources is a concern to all the responsible governments in the North. Both sides of that equation are very important to us. Under the Tlicho agreement, the Tlicho Government is co-manager and joint decision maker with respect to lands, waters and renewable and non-renewable resources within Wek'èezhii.

Representatives of the Sahtu Secretariat and the Gwich'n Tribal Council echoed these sentiments.

As these are provisions that have the full endorsement of the territorial and Indigenous governments, I am fully supportive of these measures. I am, however, concerned about other measures included in the bill, including sections that would enable the federal government to collect monies from proponents via cost recovery mechanisms found throughout the bill.

Clause 30, for instance, amends the MVRMA to create an "obligation to pay" that would cause proponents who have projects assessed under the act:

> . . . to [pay to] the federal minister the following amounts and costs relating to an environmental assessment, an environmental impact review or an examination — carried out by a review panel, or a joint panel, established jointly by the Review Board and any other person or body — that stands in lieu of an environmental impact review. . . .

I was quoting from the bill.

As Joe Campbell, Executive Board Member and Vice President of the N.W.T. and Nunavut Chamber of Mines, explained in his submission to the committee in the other place:

> This industry is expected to shoulder these costs, but we are given no control over them. The federal government empowers the boards, and they control the activity and the clock. Then, after pulling all the levers, they turn around and put out their hands for the recovery of the costs of the process they are entirely responsible for.
>
> There is no level playing field for the North. We are beset by higher costs and tougher regulations from all levels of government — local, indigenous, territorial and federal. Against these odds, the mineral industry persists and provides thousands of jobs, fuelling the northern economy with billions in business expenditures and taxes and helping to contribute to regional infrastructure. Mining remains the only viable private industry that staves off the total welfare state in the Northwest Territories.

The services that cost recovery will be applicable to are defined as "prescribed services," indicating that this will be further defined in regulations at some point in the future. But that doesn't bring comfort to the potential investors of today.

As Mr. Campbell goes on to say:

> The industry cannot bear the burden of cost recovery, particularly when we have no ability to control the process or budget for it. Until the mine is built, we have no source of income. More correctly, our investment backers will not bear the cost. No investment equals no development, which equals no cost recovery at all.

Bearing this very legitimate concern in mind at a time of unstable and low commodity prices and, as we all know, the premium of up to three times the cost of building mines in the North compared to building them in southern Canada, I do want to put on the record in speaking to this bill at second reading that it is essential, in my view, that the development of regulations to enable cost recovery take place in full consultation with the N.W.T. and Nunavut Chamber of Mines.

The other area of concern to me with this bill is Part 2, which introduces amendments to the Canada Petroleum Resources Act. As some senators will remember, the Trudeau government unilaterally imposed a ban on Arctic oil and gas in December 2016. Territorial leaders were informed a half hour prior to the announcement by telephone, catching them all unaware. This was one of the many actions that caused Premier McLeod to issue a Red Alert on November 1, 2017, in which he stated:

> The promise of the North is fading and the dreams of northerners are dying as we see a re-emergence of colonialism.

Bill C-88 seeks to give the government the legislative authority to do what it has already done by unilateral policy changes. I am concerned about the precedent that this change sets and about the overall policy approach this government may be taking with respect to the Arctic and its natural resources. I am hoping that witnesses and the minister will be able to bring clarity and comfort to me during their presentations.

It is, however, very apparent to me and to others who have met with Premier McLeod and Indigenous government representatives — and they have been here lobbying many of us in the preceding months. They have told us this bill is a major priority of all the elected representatives of these governments within the N.W.T. Simply put, colleagues, the clear message they all send is that they would like to see this long-standing issue resolved in the life of this Parliament. I feel it is imperative to

have Bill C-88 passed prior to the end of this current session and the dissolution of Parliament in the lead-up to the coming election.

• (2030)

I would ask colleagues that you refer this bill to committee so we can quickly begin our important work of examining this legislation further. Thank you.

Some Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Anderson, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.)

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Rosa Galvez: Honourable senators, with leave of the Senate and notwithstanding rule 5-5 (a), I move:

> That the Standing Senate Committee on Energy, the Environment and Natural Resources have the power to meet on Tuesday, June 18, 2019, at 5 p.m., for the purpose of its study of Bill C-88, An Act to amend the Mackenzie Valley Resource Management Act and the Canada Petroleum Resources Act and to make consequential amendments to other Acts, even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to.)

THE ESTIMATES, 2019-20

MAIN ESTIMATES—FORTIETH REPORT OF NATIONAL FINANCE COMMITTEE ADOPTED

The Senate proceeded to consideration of the fortieth report (interim) of the Standing Senate Committee on National Finance, entitled *First Interim Report on the 2019-20 Main Estimates*, tabled in the Senate on June 10, 2019.

Hon. Percy Mockler moved the adoption of the report.

He said: I rise this evening to speak on the fortieth report of the 2019-20 Main Estimates. I consider this process to be one of the most important jobs in this chamber — to scrutinize and oversee expenditures by our government. Like all senators, we take our responsibility seriously.

Honourable senators, since 2017 the Standing Senate Committee on National Finance has published 25 reports to the chamber of the Senate of Canada. As chair, I want to commend the members of the committee for their dedication and the hard work they have done and are doing on a daily basis for Canadians across Canada from coast to coast to coast.

Honourable senators, I would also like to recognize the clerk, two analysts, and staff of all the senators supporting the committee. Please know, honourable senators, we appreciate all the support and professionalism that they have provided to the committee. There is no doubt in my mind they will continue to do that.

Before I begin presenting the report, I would like to take a moment to say a special thank you to Senator Mobina Jaffer for her work as a member and deputy chair. We are grateful for the work and support that Senator Jaffer has given to this committee. You brought a lot of balanced views and you've also helped us look at the reference of our mandate in order to remind Canadians that we had the same objective: to make our region, province and our Canada a better place to live, work, raise our children and reach out to the most vulnerable.

[*Translation*]

Honourable senators, Senator Jaffer definitely deserves special praise for her outstanding efforts. I want to take a moment to thank you for your invaluable contribution to the Standing Senate Committee on National Finance. Senator Jaffer, your leadership, expertise and dedication to the committee have been noted many, many times. I tip my hat to you for your impeccable leadership. Thank you for your efforts and your active participation in the committee's work. Your involvement has been greatly appreciated throughout our meetings, and as chair, I can say that it has been an honour to work with you on national issues that affect all Canadians. You have shown courage in the face of many personal challenges. On behalf of the committee, I wish you the best of luck in all your future endeavours, and best wishes for your health.

[*English*]

Honourable senators, I want to welcome back Senator Day, who has accepted the responsibility of deputy chair. Senator Day, we all know that you will contribute highly to our discussions and bring forward the understanding of any budget in any year. Your leadership and participation will be greatly appreciated by all members of the committee.

Honourable senators, as for the report on Main Estimates, the Standing Senate Committee on National Finance has an important role to play on behalf of Parliament and Canadians in ensuring that the federal government's spending plans are reasonable, take into account value for money — like Senator Marshall so often says — and will be effective in achieving the government's objectives. In order to fulfill this role, the committee closely examines and presents reports on the government's spending plans that are provided to Parliament for its approval, Your Honour.

As part of its oversight role of government spending, the Standing Senate Committee on National Finance considered the 2019-20 Main Estimates, which were tabled in the Senate and referred to our committee for study on April 11, 2019.

• (2040)

The Main Estimates request Parliament's approval for $126 billion in voted budgetary expenditures and forecast statutory expenditures of $174 billion for a total of $300 billion, which is an increase of 9 per cent from the previous year's Main Estimates

In order to examine the 2019-20 Main Estimates, our committee held five meetings and questioned officials of 17 federal organizations, as well as the President of the Treasury Board, the Honourable Joyce Murray, that are requesting total voted budgetary appropriations of approximately $71 billion, which is 57 per cent of the total voted amount requested.

This report highlights issues discussed during the committee's examination of the estimates and presents the committee's observations on key concerns facing each organization.

Honourable senators, our committee's observations from issues raised during our meetings include that 2019, as we know, being an election year, will be very important for Elections Canada, which needs to ensure it has the tools in place to provide Canadians with accurate, accessible and timely information on the voting process for Canadians, as well as to monitor and promptly report on the actions of political parties, third party interest groups and individuals for compliance with the requirements of Elections Canada here in Canada.

Honourable senators, The Leaders' Debates Commission should ensure that the management of the 2019 federal general election debates is non-partisan; and also, honourable senators, that its decision-making process for the selection of party leaders is clear and transparent across Canada, and that the debates are accessible to as many Canadians as possible in all the regions of Canada.

[*Translation*]

Honourable senators, there's no denying it. According to our committee, Immigration, Refugees and Citizenship Canada needs to be clear and specific with the provinces and municipalities about the housing costs for asylum seekers, costs it will share with them. Our committee also believes that the Immigration and Refugee Board of Canada should explore efficiencies and innovative approaches that will improve its capacity to process asylum claims for those who want to settle in the best country in the world, Canada.

Honourable senators, the Canada Border Services Agency must also enhance its modernization efforts to ensure efficient and secure movement of goods and people through all ports of entry, including underserved northern and rural border crossings. That is a major problem that we should be seriously concerned about.

[*English*]

Honourable senators, last week during our study of Bill C-97, we heard from student organizations that are asking for support from government. Their presentation confirms the observation we are putting forward, that Employment and Social Development Canada needs to ensure that its student work placement program provides long-term employment benefits for post-secondary students.

Honourable senators, the committee also submits the following observation in order to ensure successful implementation of the carbon offset credit system. Environment and Climate Change Canada needs to develop its carbon tracking information system as soon as possible. Canadians deserve no less.

As well, the Canadian Environmental Assessment Agency should ensure that it has the capacity and tools in place to meet the requirements of its expanded mandate, operating with independence and transparency, should Bill C-69 be adopted.

Honourable senators, as for infrastructure, the committee is suggesting that the three levels of government need to improve their collaboration in order to ensure a timelier distribution of infrastructure funds. We also feel it is important that Innovation, Science and Economic Development Canada should work closely with the private sector and other levels of government to ensure all Canadians have access to affordable high-speed Internet. This is a need. It's not a luxury item, if we are going to have our country in a better competitive approach worldwide.

To enable parliamentarians to monitor the progress of its capital projects and the implementation of *Strong, Secure, Engaged*, the Department of National Defence should annually outline planned and actual expenditures for each of its major capital projects. Canadians deserve no less, and yes, in all the regions of Canada, from coast to coast to coast.

Honourable senators, I have highlighted some of the observations that were presented in the report prepared by the Standing Senate Committee on National Finance. I encourage you to visit our website for more information.

We will always uphold transparency, accountability and predictability.

[*Translation*]

Honourable senators, the Standing Senate Committee on National Finance will always uphold transparency, accountability and predictability. I can assure you that we will collaborate on both sides of the chamber.

[*English*]

The members of your committee are determined to make the supply process more transparent, accountable, predictable and reliable for parliamentarians and the Canadian public at large.

[*Translation*]

Honourable senators, in closing, I'd like to take this opportunity to thank all the people, many of them behind the scenes, who organize committee business while supporting senators in carrying out their day-to-day responsibilities on behalf of all Canadians.

[*English*]

Honourable senators, our committee will continue being mindful of our goal as parliamentarians, working to improve the quality of life for all Canadians.

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

Some Hon. Senators: Question.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

(Motion agreed to, on division, and report adopted.)

• (2050)

IMPACT ASSESSMENT BILL
CANADIAN ENERGY REGULATOR BILL
NAVIGATION PROTECTION ACT

BILL TO AMEND—MESSAGE FROM COMMONS—MOTION FOR CONCURRENCE IN COMMONS AMENDMENTS AND NON-INSISTENCE UPON SENATE AMENDMENTS—DEBATE ADJOURNED

The Senate proceeded to consideration of the message from the House of Commons concerning 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

Thursday, June 13, 2019

ORDERED,—That a message be sent to the Senate to acquaint Their Honours that, in relation to Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts, the House:

agrees with amendments 1(b)(i), 1(c)(vi), 1(g)(iv), 1(g)(v), 1(h)(iii), 1(h)(iv), 1(i)(i), 1(i)(iii), 1(k)(x), 1(o)(iv), 1(p)(ii), 1(q)(i), 1(q)(ii), 1(r)(i), 1(t)(i), 1(t)(ii), 1(t)(iii), 1(u)(i), 1(u)(ii), 1(v)(i), 1(v)(iii), 1(w)(i), 1(w)(ii), 1(w)(iii), 1(y)(iii), 1(y)(iv), 1(ab)(iv), 1(ac)(i), 1(ad), 1(ae), 1(af)(i), 1(af)(iii), 1(ai)(i), 1(aj)(ii), 1(ak)(ii), 1(ak)(iii), 1(al), 1(an)(ii), 1(aq), 1(ar), 1(as), 1(at)(i), 1(at)(ii), 1(au)(i), 1(au)(ii), 1(aw)(i), 1(aw)(ii), 1(ax), 1(ay)(i), 1(bb), 1(bc), 6(l), 6(o)(i), 6(p)(i), 6(p)(ii), 6(q), 6(r), 10, 11(a), 11(d)(i), 11(e)(ii) and 16 made by the Senate;

respectfully disagrees with amendments 1(a)(i),1(a)(ii), 1(a)(iii), 1(a)(iv), 1(b)(ii), 1(c)(i), 1(c)(ii), 1(c)(iii), 1(c)(v), 1(d)(i), 1(d)(ii), 1(d)(iii), 1(e)(i), 1(e)(ii), 1(g)(i), 1(g)(iii), 1(h)(i), 1(h)(ii), 1(h)(v), 1(i)(ii), 1(j)(i), 1(j)(ii), 1(j)(iii), 1(k)(i), 1(k)(ii), 1(k)(iii), 1(k)(iv), 1(k)(v), 1(k)(vi), 1(k)(vii), 1(k)(viii), 1(l)(iii), 1(l)(iv), 1(m)(i), 1(m)(ii), 1(m)(iii), 1(m)(iv), 1(m)(v), 1(m)(vi), 1(n)(i), 1(n)(ii), 1(n)(iii), 1(n)(iv), 1(n)(v), 1(o)(i), 1(o)(ii), 1(o)(iii), 1(p)(i), 1(p)(iii), 1(r)(ii), 1(s)(i), 1(s)(ii), 1(v)(ii), 1(x), 1(y)(ii), 1(z)(i), 1(z)(ii), 1(z)(iii), 1(aa)(i), 1(aa)(ii), 1(ac)(ii), 1(ac)(iii), 1(ac)(iv), 1(ag)(ii), 1(ag)(iii), 1(ag)(iv), 1(ag)(vi), 1(ag)(vii), 1(ag)(viii), 1(ah)(i), 1(ah)(ii), 1(ah)(iii), 1(ah)(iv), 1(ah)(v), 1(ai)(ii), 1(aj)(i), 1(aj)(iii), 1(ak)(i), 1(am), 1(an)(i), 1(an)(iv), 1(av)(i), 1(av)(ii), 1(ay)(ii), 1(ay)(iii), 1(az)(i), 1(az)(ii), 1(ba), 6(a), 6(b), 6(c), 6(d)(i), 6(d)(ii), 6(e), 6(f), 6(g)(i), 6(g)(ii), 6(g)(iii), 6(h)(i), 6(h)(ii), 6(h)(iii), 6(i)(i), 6(i)(ii), 6(i)(iii), 6(i)(iv), 6(j)(i), 6(j)(ii), 6(k), 6(m)(i), 6(n), 6(o)(ii), 6(s), 7, 8, 9, 11(b), 11(c)(i), 11(c)(ii), 11(d)(ii), 11(e)(i), 12(a), 12(b), 13, 14(a), 14(b), 15(a), 15(b), 17(a), 17(b) and 17(c) made by the Senate;

proposes that amendment 1(c)(iv) be amended by replacing the text of the amendment with the following:

"(b.1) to establish a fair, predictable and efficient process for conducting impact assessments that enhances Canada's competitiveness, encourages innovation in the carrying out of designated projects and creates opportunities for sustainable economic development;";

proposes that amendment 1(f) be amended by deleting subsections (4.1) and (4.2);

proposes that amendment 1(g)(ii) be amended by deleting the amendments to subsection 9(1) and deleting subsection 9(1.1);

proposes that amendment 1(k)(ix) be amended by replacing the text of the amendment with the following:

"sessment of the project that sets out the information or studies that the Agency requires from the proponent and considers necessary for the conduct of the impact assessment; and";

proposes that amendment 1(k)(xi) be amended by replacing the text of the amendment with the following:

"(1.1) The Agency must take into account the factors set out in subsection 22(1) in determining what information or which studies it considers necessary for the conduct of the impact assessment.

(1.2) The scope of the factors referred to in paragraphs 22(1)(a) to (f), (h) to (l) and (s) and (t) that are to be taken into account under subsection (1.1) and set out in the tailored guidelines referred to in paragraph (1)(b), including the extent of their relevance to the impact assessment, is determined by the Agency.";

proposes that amendment 1(l)(i) be amended by replacing the text of the amendment with the following:

"(3) The Agency may, on request of any jurisdiction referred to in paragraphs (c) to (g) of the definition jurisdiction in section 2, extend the time limit referred to in subsection (1) by any period up to a maximum of 90 days, to allow it to cooperate with that jurisdiction with respect to the Agency's obligations under subsection (1).

(4) The Agency must post a notice of any extension granted under subsection (3), including the reasons for granting it, on the Internet site.

(5) The Agency may suspend the time limit within which it must provide the notice of the com-";

proposes that amendment 1(l)(ii) be amended by renumbering subsection (7) as subsection (6);

proposes that amendment 1(o)(v) be amended by replacing the text of the amendment with the following:

"(2) The Agency's determination of the scope of the factors made under subsection 18(1.2) applies when those factors are taken into account under subsection (1).";

proposes that, as a consequence of Senate amendment 1(q)(ii), the following amendment be added:

"1. Clause 1, page 24: Delete lines 8 and 9";

proposes that amendment 1(r)(iii) be amended to read as follows:

"(iii) replace lines 20 to 26 with the following:

(8) The Agency must post on the Internet site a notice of the time limit established under subsection (5) and of any extension granted under this section, including the reasons for establishing that time limit or for granting that extension.

(9) The Agency may suspend the time limit within which it must submit the report until any activi-";

proposes that amendment 1(r)(iv) be amended by deleting section 28.1;

proposes that amendment 1(y)(i) be amended by replacing the text of the amendment with the following:

"of reference and the Agency must, within the same period, appoint as a member one or more persons who are unbiased and free from any conflict of in-";

proposes that amendment 1(z)(iv) be amended by replacing the text of the amendment with the following:

"net site — establish the panel's terms of reference in consultation with the President of the Canadian Nuclear Safety Commission and the Agency must, within the same period, ap-";

proposes that amendment 1(z)(v) be amended by replacing the text of the amendment with the following:

"President of the Canadian Nuclear Safety Commission.

(4) The persons appointed from the roster must not";

proposes that amendment 1(aa)(iii) be amended by replacing the text of the amendment with the following:

"net site — establish the panel's terms of reference in consultation with the Lead Commissioner of the Canadian Energy Regulator and the Agency must, within the same period, ap-";

proposes that amendment 1(aa)(iv) be amended by replacing the text of the amendment with the following:

"Lead Commissioner of the Canadian Energy Regulator.

(4) The persons appointed from the roster must not";

proposes that amendment 1(ab)(i) be amended by replacing the text of the amendment with the following:

"referred to in section 14.

50 (1) The Minister must establish the following rosters:";

proposes that amendment 1(ab)(ii) be amended by replacing the text of the amendment with the following:

"(2) In establishing a roster under paragraph (1)(b), the Minister must consult with the Minister of Natural Resources or the member of the Queen's Privy Council for Canada that the Governor in Council designates as the Minister for the purposes of the Nuclear Safety and Control Act.

(3) In establishing a roster under paragraph (1)(c), the Minister must consult with the member of the Queen's Privy Council for Canada that the Governor in Council designates as the Minister for the purposes of the Canadian Energy Regulator Act.";

proposes that amendment 1(ab)(iii) be amended to read as follows:

"(iii) replace lines 30 and 31 with the following:

opportunity to participate meaningfully, in the manner that the review panel considers appropriate and within the time period that it specifies, in the im-";

proposes that amendment 1(af)(ii) be amended to read as follows:

"(ii) replace lines 20 to 23 with the following:

(a) determine whether the adverse effects within federal jurisdiction — and the adverse direct or incidental effects — that are indicated in the report are, in light of the factors referred to in section 63 and the extent to which those effects are significant, in the public inter-";

proposes that, as a consequence of the amendment to amendment 1(af)(ii), the following amendment be added:

"1. Clause 1, page 41: Replace lines 25 to 27 with the following:

(b) refer to the Governor in Council the matter of whether the effects referred to in paragraph (a) are, in light of the factors referred to in section 63 and the extent to which those effects are significant, in the public interest.";

proposes that amendment 1(af)(iv) be amended by replacing the text of the amendment with the following:

"the Minister under section 59, the Minister, in consultation with the responsible Minister, if any, must refer to";

proposes that amendment 1(af)(v) be amended to read as follows:

"(v) replace lines 36 to 39 with the following:

whether the adverse effects within federal jurisdiction — and the adverse direct or incidental effects — that are indicated in the report are, in light of the factors referred to in section 63 and the extent to which those effects are significant, in the public interest.";

proposes that amendment 1(af)(vi) be amended by replacing the text of the amendment with the following:

"(1.1) For the purpose of subsection (1), responsible Minister means the following Minister:

(a) in the case of a report prepared by a review panel established under subsection 44(1), the Minister of Natural Resources or the member of the Queen's Privy Council for Canada that the Governor in Council designates as the Minister for the purposes of the Nuclear Safety and Control Act;

(b) in the case of a report prepared by a review panel established under subsection 47(1), the member of the Queen's Privy Council for Canada that the Governor in Council designates as the Minister for the purposes of the Canadian Energy Regulator Act.

(2) If the report relates to a designated project that includes activities that are regulated under the Canadian Energy Regulator Act, the responsible Minister must, at the same time as the referral described in subsection (1) in respect of that report is made,

(a) submit the report to the Governor in Council for the purposes of subsection 186(1) of that Act; or

(b) submit the decision made for the purposes of subsection 262(4) of that Act to the Governor in Council if it is decided that the certificate referred to in that subsection should be issued.";

proposes that amendment 1(ag)(i) be amended to read as follows:

"(i) replace lines 6 to 9 with the following:

whether the adverse effects within federal jurisdiction — and the adverse direct or incidental effects — that are indicated in the report are, in light of the factors referred to in section 63 and the extent to which those effects are significant, in the public interest.";

proposes that amendment 1(ag)(v) be amended to read as follows:

"(v) replace lines 19 to 22 with the following:

(b) the extent to which the adverse effects within federal jurisdiction and the adverse direct or incidental effects that are indicated in the impact assessment report in respect of the designated project are significant;";

proposes that amendment 1(an)(iii) be amended by renumbering subsection 94(1) as section 94;

proposes that amendment 1(ao)(i) be amended by replacing the text of the amendment with the following:

"95 (1) The Minister may establish a committee – or autho-";

proposes that amendment 1(ao)(ii) be amended by replacing the text of the amendment with the following:

"(2) The Minister may deem any assessment that provides guidance on how Canada's commitments in respect of climate change should be considered in impact assessments and that is prepared by a federal authority and commenced before the day on which this Act comes into force to be an assessment conducted under this section.";

proposes that amendment 1(ao)(iii) be amended by replacing the text of the amendment with the following:

"may be, must take into account any scientific information and Indigenous knowledge — including the knowledge of Indigenous women — provided with respect to the assessment.";

proposes that amendment 1(ap) be amended by replacing the text of the amendment with the following:

"meaningfully, in a manner that the Agency or committee, as the case may be, considers appropriate, in any assess-";

proposes that amendment 1(at)(iii) be amended by replacing the text of the amendment with the following:

"(a.2) designating, for the purposes of section 112.1, a physical activity or class of physical activities from among those specified by the Governor in Council under paragraph 109(b), establishing the conditions that must be met for the purposes of the designation and setting out the information that a person or entity — federal authority, government or body — that is referred to in subsection (3) must provide the Agency in respect of the physical activity that they propose to carry out;

(a.3) respecting the procedures and requirements relating to assessments referred to in section 92, 93 or 95;";

proposes that amendment 2 be amended by replacing the text of the amendment with the following:

"site — establish the panel's terms of reference in consultation with the Chairperson of the Canada-Nova Scotia Offshore Petroleum Board and the Agency must, within the same period, ap-";

proposes that amendment 3(a) be amended by replacing the text of the amendment with the following:

"tablish the panel's terms of reference in consultation with the Chairperson of the Canada–Newfoundland and Labrador Offshore Petroleum Board and the Agency must, within the same period, appoint the";

proposes that amendment 3(b) be amended by deleting subsection (3.1);

proposes that, as a consequence of the amendment to amendment 3(b), the following amendment be added:

"1. Clause 6, page 94: Replace lines 32 and 33 with the following:

Petroleum Board.";

proposes that amendment 4(a) be amended to read as follows:

"(a) On page 95, replace lines 33 to 36 with the following:

(b.1) a roster consisting of persons who may be appointed as members of a review panel established under subsection 46.1(1) and

(i) who are members of the Canada-Nova Scotia Offshore Petroleum Board and who are selected by the Minister after consultation with the Minister of Natural Resources, or

(ii) who are selected by the Minister after consultation with the Board and the Minister of Natural Resources;";

proposes that amendment 4(b) be amended to read as follows:

"(b) On page 96, replace lines 3 to 7 with the following:

(d) a roster consisting of persons who may be appointed as members of a review panel established under subsection 48.1(1) and

(i) who are members of the Canada–Newfoundland and Labrador Petroleum Board and who are selected by the Minister after consultation with the Minister of Natural Resources, or

(ii) who are selected by the Minister after consultation with the Board and the Minister of Natural Resources;";

proposes that amendment 5 be amended by replacing the text of the amendment with the following:

"8.1 (1) Subsection 61(1.1) of the Act is amended by adding the following after paragraph (a):

(a.1) in the case of a report prepared by a review panel established under subsection 46.1(1), the Minister of Natural Resources;

(2) Subsection 61(1.1) of the Act is amended by adding the following after paragraph (b):

(c) in the case of a report prepared by a review panel established under subsection 48.1(1), the Minister of Natural Resources.";

proposes that, as a consequence of Senate amendment 6(l), the following amendment be added:

"1. Clause 10, page 208: Replace line 39 with the following:

section 37.1 of that Act;";

proposes that amendment 6(m)(ii) be amended by replacing the text of the amendment with the following:

"within 90 days after the day on which the report under section 183 is submitted or, in the case of a designated project, as defined in section 2 of the Impact Assessment Act, 90 days after the day on which the recommendations referred to in paragraph 37.1(1)(b) of that Act are posted on the Internet site referred to in section 105 of that Act. The Governor in Council may,";

proposes that, as a consequence of the amendment to amendment 6(m)(ii), the following amendment be added:

"1. Clause 10, page 208: Replace line 7 with the following:

ter the day on which the Commission makes that recommendation or, in the case of a designated project, as defined in section 2 of the Impact Assessment Act, 90 days after the day on which the recommendations referred to in paragraph 37.1(1)(b) of that Act are posted on the Internet site referred to in section 105 of that Act, either approve";

proposes that, as a consequence of Senate amendment 1(bb), the following amendment be added:

"1. New clause 36.1, page 281: Add the following after line 24:

36.1 For greater certainty, section 182.1 of the Impact Assessment Act applies in relation to a pending application referred to in section 36.".

Hon. Grant Mitchell moved:

That, in relation to Bill C-69, An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts, the Senate:

(*a*) agree to the amendments made by the House of Commons to Senate amendments, including amendments made in consequence of Senate amendments; and

(*b*) do not insist on its amendments to which the House of Commons has disagreed; and

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

He said: Honourable senators, I am pleased to speak today to the message that we have received from the House of Commons on Bill C-69. The government has accepted 62 amendments outright and another 37 with some modification for a total of 99. This is historic. It is the greatest number of Senate amendments accepted by the House of Commons since this information was first recorded starting in the 1940s. This is clear evidence of a thriving bicameral Parliament and an increasingly independent Senate doing its job.

I want to acknowledge the exceptional work of so many senators in reviewing, debating and deliberating on this bill. I express my appreciation of Senator Galvez's tireless work as the chair of the Energy and Environment Committee. It was not an easy job.

So many senators and Senate administration staff members have also done remarkable work in supporting this effort. Thanks to each of them. Thanks, as well, to the remarkable work of so many public servants and ministerial office staff members.

Senator Plett: And the critic.

Senator Mitchell: I mentioned all kinds of senators in this chamber.

This message is the culmination of a long and arduous but credible policy-making process. It started with the realization that the Canadian Environmental Assessment Act, which I will refer to in the feature as CEAA 2012, was not working. It had failed to get critical projects built. It did not have the trust of Indigenous peoples nor the public at large and, as a result, had been mired in litigation that had so unsettled investors it had to be fixed. The government did what a responsible government facing this kind of challenge would do: They undertook a public consultation process of over two years to understand what stakeholders and the Canadian public in general would expect of project assessment processes.

From that, they identified fundamental principles to define the bill that would replace CEAA 2012. The impact assessment process would have to protect the environment, build public trust, provide certainty for investors, and respect Indigenous rights and interests.

A guiding principle to doing that properly was the understanding that we cannot simply elevate one set of interests arbitrarily over other sets of interests. The key to success in this process is to find a balance and an alignment amongst the competing interests inherent in resource development. Those principles became the lens through which the government evaluated our amendments.

Bill C-69, as we received it over a year ago, was the product of that rigorous process supplemented by the review undertaken in the House of Commons. It was, at that point, already a good bill that went a long way to addressing the weaknesses of CEAA 2012.

I applaud the efforts of Minister McKenna to undertake and pursue this challenge. It, too, was not an easy job. I also want to acknowledge the work of Ministers Sohi and Garneau.

The 99 amendments accepted in the message enhance this bill significantly and substantively by collectively addressing an array of key issues raised by stakeholders throughout our deliberations in the Senate. These include ministerial discretion, certainty, litigation risk, timeliness, public participation, the role of life cycle regulators, Indigenous rights, provincial jurisdiction and protection of navigable waters. A few key examples of accepted amendments relating to each of these categories will help illustrate the significance and the depth of the message.

First is ministerial discretion. Amendments reducing ministerial discretion will depoliticize the assessment process and provide greater certainty while maintaining political accountability for final decisions. The government has accepted many amendments shifting powers from the Minister of the Environment to the impact assessment agency in order to, among other things, manage time limits throughout the assessment process, determine when sufficient information has been received and appoint the chairs and members to review panels.

The agency's independence is reinforced by an amendment limiting the minister's ability to direct the activities of the agency. The minister will now be required to work directly with the Minister of Natural Resources in referring to cabinet any decisions on projects that involve the Canadian Energy Regulator, the CER; the Canadian Nuclear Safety Commission, the CNSC; or the Offshore Petroleum Boards of Newfoundland and Labrador and Nova Scotia.

They will also have to collaborate in naming people to the rosters from which review panel members will be chosen. Finally, for panel reviews, the agency will now make explicit recommendations to assist the minister in establishing project conditions.

An amendment restricting the minister's power in section 9 to designate projects that otherwise would not be designated was not accepted. That power was introduced, interestingly enough, in CEAA 2012 and provides important flexibility for the minister and, equally important, for proponents to deal with unforeseen circumstances. Experience shows that this power has not been misused. There were 37 requests to designate; only three have been granted, two at the request of proponents and the third at the request of Parks Canada.

Certainty is particularly important for proponents and investors. It is enhanced by a number of amendments. The recognition of the positive economic impacts of projects has been emphasized with amended wording in the purpose section of the bill.

Amended wording clarifies that the agency must set out the scope of factors to be assessed by the end of the early planning phase, early in the process. The agency will be able to tailor assessments so as not to overburden proponents while still allowing the public and Indigenous peoples to raise any matter of concern to them in the assessment and have those concerns heard.

Some amendments reintroduce the concept of significant effects. This specifically promotes environmental protection by emphasizing the significance of environmental effects of projects. It will also help to ensure the applicability of existing jurisprudence thereby increasing certainty for stakeholders.

A number of amendments were rejected because they would have made optional the assessment of factors like Indigenous rights, gender-based analysis and even comments from the public.

One amendment requiring the assessment of global emissions was rejected because, by definition, that would mean assessing downstream emissions. The government has been very clear in its commitment not to require the assessment of downstream emissions.

Third is litigation risk. An amendment to introduce a privative clause into the Impact Assessment Agency section of the bill was not accepted. There already is a privative clause in Bill C-69 for the CER. That is consistent with the current practice in CEAA 2012 which has a privative clause for the NEB, which will be replaced by the CER, but not for the current Environmental Assessment Agency. The Department of Justice argues that such a privative clause applies effectively to quasi-judicial tribunals, like the CER and the NEB, because the courts are more inclined to defer to quasi-judicial tribunals than to the work of review bodies, like the impact assessment agency.

A privative clause would therefore not have the effect of reducing the likelihood of litigation in this case. However, the amendments to scoping of factors help minimize litigation risks by making it clear early on what must be considered, to what extent and by whom. The likelihood of court challenges is also reduced by measures throughout the bill designed to build public trust including better consultation with the public and Indigenous peoples and, crucially, consideration of Indigenous rights at every stage of the process.

Timeliness: Several amendments were accepted to make the process more timely and efficient while retaining flexibility to address unexpected circumstances. Amendments have tightened timelines to ensure that both the review panel's report and the agency's recommendation to the minister must be finished within the 300- or 600-day limits. In addition, amendments provide that review panels will be appointed earlier in the process so that there is no delay between when the proponent's impact assessment is finished and when the actual impact assessment phase begins.

• (2100)

The agency will now be required to publish reasons for all extensions to legislated timelines, including those decisions made by cabinet. The agency will have the power in addition to set time limits for regional and strategic assessment in consultation with relevant jurisdictions.

Amendments to set maximum timelines were not accepted. A lack of flexibility to extend a decision could result in an arbitrary rejection of a project. The bill's significantly shorter legislated timelines in every category of review and supporting regulations, in addition to the amendments I have just described, will ensure a timely and efficient process without the need for a maximum timeline.

With respect to public participation, the agency's power to ensure that public participation will be meaningful and appropriate was reinforced in amendments to the early planning process, agency-led assessments, review panel assessments and regional and strategic assessments. These amendments underline that the agency has the power to manage public participation efficiently without detracting from the broad and meaningful public participation critical to restoring public trust.

Amendments to reintroduce the standing test were not accepted. These would have been contrary to the recommendations of the Report of the Expert Panel on the Modernization of the National Energy Board, which explicitly pointed to the standing test as having undermined the public trust since its introduction to the NEB process under CEAA 2012. And the bill already specifies that public engagement must occur within legislative timelines of an impact assessment. Public consultation cannot be a reason for extending time limits.

It is important to note that, in any event, over 60 per cent of the projects reviewed under CEAA 2012 have not been subject to a standing test which has applied only to NEB reviews.

The role of life-cycle regulators including offshore boards: Some amendments in the message will ensure that the expertise of the life-cycle regulators will be reviewed, will be fully integrated and will streamline certain offshore board activities as well. Life-cycle regulators include CER and CNSC, as well as the two offshore petroleum boards.

The minister will be required to consult the heads of life-cycle regulators in preparing terms of reference for assessments that fall under their areas of responsibilities. It will now be possible for members of CER, CNSC and the two offshore boards to chair review panels. Members will still not form majorities on panels. This will ensure that the expertise of the regulators will have a prominent place in the process while balancing panel membership to ensure public trust.

The agency will have to consult with heads of life-cycle regulators and offshore boards in choosing panel members. We heard the concern that offshore exploratory wells should no longer be subjected to well-by-well reviews, as is now required under CEAA 2012. Provisions to allow for exemptions from this requirement are already in the draft regulations. The message includes amendments putting this reassurance also directly into the bill.

A key element of the message is what it does to further recognize Indigenous rights. Concern had been raised that provisions in section 7 prohibited proponents from entering into impact benefit agreements with Indigenous communities. An amendment clarifying that these are not prohibited was accepted. Important amendments requiring the assessment of rights of Indigenous women and consideration of the knowledge of Indigenous women, both moved by Senator McCallum, were also accepted. Amendments that would have made consideration of Indigenous rights optional at key points in the assessment process were rejected.

Role of other jurisdictions: The message includes a number of amendments clarifying respect for provincial jurisdiction in the pursuit of one project, one review. An amendment proposed by Senator Carignan was accepted to affirm in the purpose section that the legislative competencies of provincial and federal governments will be respected. Another amendment clarifies the goal to harmonize impact assessment processes across the country, removing the additional reference to promoting uniformity.

An amendment was accepted to ensure that early planning timelines can be adjusted by 90 days at the request of another jurisdiction.

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

Senator Mitchell: I'm the sponsor. Do I not have 45 minutes?

The Hon. the Speaker: Rule 6-3(1) allows 45 minutes for a sponsor at second and third reading, but you're now speaking to the message. You had 15 minutes.

Senator Mitchell: Could I have another five minutes, please?

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

Hon. Senators: Agreed.

Senator Mitchell: Thank you very much. It is almost over.

It is now mandatory that when a joint regional assessment is undertaken with another jurisdiction, the committee undertaking the regional assessment will include at least one person recommended by the jurisdiction in question. Amendments that restricted the federal government from taking action in areas that fall under its jurisdiction were rejected, as the federal government has an obligation to act in these areas.

Canadian Navigable Waters Act: Amendments to this act help to ensure certainty and clarity, while maintaining the government's commitment to enhance protection of Canadian waterways. The message accepts amendments to reduce the administrative burden in proceeding with works that clearly will not affect navigation. Amendments restore the previous emergency provisions, referring to emergencies as events that threaten to cause social disruption or a breakdown in the flow of essential goods and services.

For greater certainty, a clause has been added to the definition section of the bill to affirm that "navigable water" does not mean irrigation channels or drainage ditches.

Amendments that would have weakened the new protections for navigable waters, such as those eliminating consideration of future use, were not accepted because they could inappropriately limit the public's right of access to waterways in the future.

Honourable senators, in conclusion, Bill C-69 has been built upon a very credible policy process based upon broad public consultation, enhanced by extensive parliamentary review. The Senate has done a remarkable job in our intense year-long deliberations on this bill. The government has listened and responded in a very significant way. I feel very confident in recommending that we accept the government's message. Thank you.

Senator Plett: I move the adjournment in my name.

The Hon. the Speaker: Senator Plett, I believe Senator Forest wanted to speak. Are you okay if he speaks first before you move the adjournment?

Senator Plett: Well, okay.

[*Translation*]

Hon. Éric Forest: Honourable senators, I just want to take a few minutes to speak to the message from the other place in response to our amendments to the environmental assessment bill.

I will be brief, because what's most important to me is that this bill, although imperfect, be passed as soon as possible.

[*English*]

At the end of the day, the bottom line for me is the necessity to restore the credibility of the environmental assessment process without delay.

[*Translation*]

As you know, I proposed an amendment, in collaboration with Senator Carignan, who sits on the Standing Senate Committee on Energy, the Environment and Natural Resources, to formalize municipalities' participation in the environmental assessment process.

The amendment would have essentially required that the federal government recognize municipal jurisdiction over land use planning and civil security; that impact assessments, regional assessments and strategic assessments consider the information provided by municipalities; and that municipalities be consulted from the time projects are first analyzed, so that their observations can be part of the documentation used in public consultations and so that developers can respond to the questions raised by the local municipal governments.

This minimum threshold seems to have been too much for the government.

I must admit that I'm surprised by the government's position, since the purpose of C-69 is to foster social licence, so how can the government move forward without the municipalities? Not only are they integral to social cohesion, but they are also responsible for land use planning and are the first responders in the event of a disaster.

• (2110)

The government's position is all the more surprising considering it comes less than two weeks after the Prime Minister, speaking at the Federation of Canadian Municipalities convention, said he sees municipalities as partners and is ready to work with them.

Like me, people in municipal government are uncomfortable with that. You can't go telling municipalities, "You're partners, we respect your jurisdiction over land management and public safety, and we want to have a government-to-government relationship with you," while at the same time telling them, "When we need to assess projects happening in your backyard, on your land, take a number, wait your turn, you can air your opinion at the same time as everyone else, and don't expect proponents to do anything about your public safety and land management concerns."

I'm disappointed in the government's response, but I won't insist on these amendments.

[*English*]

Although I am disappointed with the government's response, I will not insist on my amendment.

Some Hon. Senators: Oh, oh.

Senator Forest: Sorry.

[*Translation*]

Sometimes, we just need to allow matters to take their course.

[*English*]

Senator Tkachuk: Not that independent; just a little independent.

Senator Forest: Oh, yes; I know. Listen, listen.

Some Hon. Senators: Oh, oh!

[*Translation*]

Senator Forest: I'm certain that municipal officials will be able to engage with federal candidates when they go door to door during the upcoming campaign. This is already one of the demands of the Union des municipalités du Québec for the next election. Those interested in this issue will at least find solace in the fact that the Senate recognized the fundamental role of municipalities in land development and protection in our democracy.

With respect to the other amendments proposed by the Senate, I note that the government did show a certain openness by accepting, in whole or in part, 99 Senate amendments, especially those seeking to limit ministerial discretion. I understand why the government rejected certain concessions that would have watered down its election promise to Canadians, which sought to find a better balance between economic development and environmental protection. Overall, I believe that Bill C-69 is an improvement over the legal framework currently in place. It provides a better balance between environmental protection and economic development. Above all, by restoring greater credibility to the consultation process and fostering the participation of First Nations, Bill C-69 will make it possible, in my opinion, to better assess the social licence for resource development projects, which is essential these days.

I understand and respect the fact that some colleagues don't share my opinion and are disappointed with the government's response. At the same time, I'd like to remind senators that this bill is in response to a firm and detailed election promise of a government elected by Canadians in 2015. Allow me to read some excerpts from this election platform that says, and I quote:

> We will immediately review Canada's environmental assessment processes and introduce new, fair processes that will:
>
> • restore robust oversight . . .
>
> • ensure that decisions are based on science, facts, and evidence, and serve the public's interest . . .
>
> • require project advocates to choose the best technologies available to reduce environmental impacts. . . .
>
> We will also ensure that environmental assessments include an analysis of upstream impacts and greenhouse gas emissions resulting from projects under review. . . .
>
> We . . . will respect [Indigenous] legal traditions and perspectives . . . .

Clearly, most of the amendments rejected went against this election platform. Had the government accepted them, it could rightfully have been accused of breaking its promise to Canadians. However, Canadians will decide. I must say that I'm fairly comfortable supporting Bill C-69 as it stands today, especially because it may be one of the major issues in the next election campaign and Canadians will have an opportunity to decide for a second time. In 2015, they supported this legislation in principle. In 2019, they will have an opportunity to endorse or reject the final product.

Having said that, I would have wanted the government to have made more efforts to prevent the impact assessment process from duplicating the environmental processes of Quebec and the provinces. After I gave my speech at second reading, where I pointed out this problem, the Quebec environment minister, Benoit Charette, appeared before the Standing Senate Committee on Energy and called for Quebec to be responsible for environmental assessments in its jurisdiction. With Bill C-69, we are still a long way from respecting the principle of "one project, one assessment." However, I am certain that, with some goodwill on both sides, it will be possible to at least come close to respecting this principle with an administrative agreement.

Honourable colleagues, I urge you to not insist on our amendments, just as I'm not insisting on an amendment that is very important to me. Opinions about Bill C-69 are very polarized. Let's at least recognize that it establishes guidelines that make it possible to better reconcile economic development and environmental protection and respect the principles associated with sustainable development.

Honourable senators, I suggest that we allow the government to deliver what it promised Canadians in 2015 and let Canadians judge the results.

[*English*]

Let the government fulfill its commitment. Let Canadians decide.

Senator Plett: In order for us to reflect on Senator's Forest's recommendation for our not insisting on amendments, I'll take the adjournment in my name.

Senator Harder: Sleep well.

(On motion of Senator Plett, debate adjourned.)

(*At 9:17 p.m., the Senate was continued until tomorrow at 2 p.m.*)

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