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The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Thursday, February 6, 2020

The Senate met at 1:30 p.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

THE HONOURABLE NICOLE EATON

TRIBUTES

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, last month we saw the retirement of our former colleague Senator Nicole Eaton, who represented the province of Ontario in the Senate of Canada. For 11 years Senator Eaton was truly dedicated to her work as a member of the Senate, and she will be missed by colleagues on all sides of this chamber.

Public service and community involvement were ingrained in Nicole Eaton's life well before she was appointed as a senator. She is a proud direct descendant of Louis Hébert, Samuel de Champlain's apothecary. Her father, Jacques Courtois, chaired the Security Intelligence Review Committee and was President of the Montréal Canadiens. And, of course, she is a member of one of the most philanthropic families in our country, the Eatons.

Beyond her family ties, Nicole Eaton stands in her own right as a gracious, thoughtful and generous individual. She is a force to be reckoned with in whatever endeavour she undertakes. During my time as President of the Conservative Party of Canada, before either of us were appointed to the Senate, I had the privilege of working closely with Nicky to plan one of our party's conventions in Winnipeg. It was, in my opinion, our most successful convention ever, which was due in no small part to Nicky's expertise and formidable work ethic.

We've all witnessed these traits in her work as a senator. In addition to her duties as Speaker *pro tempore*, Senator Eaton contributed to many of our committees, perhaps most notably the Standing Senate Committee on National Finance, and, more recently, the Special Senate Committee on the Arctic. The senator applied her vast experience with charities to focus attention on the serious matter of interference by foreign foundations in Canada's domestic policy, and particularly in our energy sector.

Senator Eaton's work in this place will not soon be forgotten, and neither will her influence on our country's political landscape. Her involvement with the Conservative Party of Canada has been vital to its success, most particularly as a former director of the Conservative Fund and as chair of party policy conventions.

About three years ago our colleague lost the love of her life, her husband Thor. Their devotion to each other was evident to all who knew them. They were a wonderful team and through their family's charitable foundation they have made a lasting impact on hospitals and cultural organizations across Canada.

In her first speech as a senator, Senator Eaton quoted her father, who would always tell her:

... seek the work and the challenge, not the reward and the thanks.

Senator Eaton did just that and I am certain there is still much work and many more challenges that lie ahead for our former colleague. On behalf of our entire Conservative caucus and indeed all honourable senators, I wish Senator Eaton and her family all the best as she begins this new chapter of her life.

Some Hon. Senators: Hear, hear!

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of the Honourable Bernard Davis, Newfoundland and Labrador Minister of Tourism, Culture, Industry and Innovation. He is accompanied by Deputy Minister Charles Brown. They are the guests of the Honourable Senator Ravalia.

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

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of guests from the Tobique First Nation: Mr. T. J. Burke, former New Brunswick Minister of Justice and Attorney General, and his family. They are the guests of the Honourable Senator Lovelace Nicholas.

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

Hon. Senators: Hear, hear!

BLACK HISTORY MONTH

Hon. Mobina S. B. Jaffer: Honourable senators, as a child of Africa it gives me great pleasure to celebrate Black History Month and recognize how African culture has profoundly shaped North American culture — in music and art, literature and sports, business and politics.

Today, I would like to celebrate two inspiring Black women who left a mark on me and many others and contributed to making the world a more beautiful and peaceful place to live.

The late Kenyan Professor Wangari Maathai in 2004 became the first African woman to be awarded a Nobel Peace Prize. Her organization, The Green Belt Movement, assisted women in planting more than 51 million trees on community lands in Kenya.

Wangari Maathai's main focus was poverty reduction and environmental conservation, and to that end she campaigned against land grabbing and the reallocation of forest land in Kenya. Many times I observed her planting trees on the land grabbed by the government. She was arrested and imprisoned many times, but she would not stop planting trees.

• (1340)

I believe that if the world had more women and men like Wangari Maathai we would not have the climate crisis that we face today.

I would also like to recognize Leymah Gbowee. She is the second African woman to be awarded the Nobel Peace Prize. As a young woman, Leymah witnessed her country, Liberia, falling into civil war. She saw what destruction war brings on people physically and emotionally, so she trained as a trauma counsellor to treat former child soldiers.

As the Second Liberian Civil War started in 1999, Leymah, an inspirational leader, brought together thousands of women from different religions to stage pray-ins and protests demanding reconciliation. Her women's peace movement brought an end to the war in Liberia in 2003.

To this day, Leymah continues her efforts to build women's agency in fighting for sustainable peace, and brings attention to the particular vulnerability of women and children in war-torn communities. She is often seen in our parliamentary corridors advocating for all women.

Today, as we witness the continuing discrimination and injustice around the world, I would like to quote Wangari Maathai from her book *Unbowed*:

No matter how dark the cloud, there is always a thin, silver lining, and that is what we must look for. The silver lining will come, if not to us then to next generation or the generation after that. And maybe with that generation the lining will no longer be thin.

[Translation]

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Mike Delaney, Atlantic Grains Council, and William Van Tassel, Grains du Québec. They are the guests of the Honourable Senator Griffin.

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

Hon. Senators: Hear, hear!

[English]

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of the Honourable Lisa Dempster, Minister of Children, Seniors and Social Development for Newfoundland and Labrador, minister responsible for the Newfoundland and Labrador Housing Corporation, and minister responsible for the Status of Persons with Disabilities. She is accompanied by her Director of Policy, Ms. Dana English.

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

Hon. Senators: Hear, hear!

[Translation]

FOOD FREEDOM DAY

Hon. Robert Black: Esteemed colleagues, I'm delighted to see you again after our break. I hope you had a peaceful and relaxing time with your families.

[English]

I have no doubt that you're ready to start this new year with enthusiasm and a renewed spirit.

I rise today to draw attention to Food Freedom Day, which this year takes place on Saturday, February 8.

Food Freedom Day marks the date that the average Canadian will have earned enough money to pay their groceries for the entire year.

The Canadian Federation of Agriculture, or CFA, determines the date of Food Freedom Day each year by taking Canadians' total retail expenditure on food and beverages and dividing it by the total Canadian household disposable income.

Since 2008, Food Freedom Day has been as early as February 3 and as late as February 14. In the past two years, Food Freedom Day has fallen on February 9, but CFA has found that Canadians' disposable income slightly outpaced the increase in food expenditures this year. According to CFA, Food Freedom Day is an opportunity to appreciate all that goes into producing our food.

In 2018, the average Canadian spent 11 per cent of their disposable income on food. That may not seem like a lot but Canada has one of the safest and most affordable food systems in the world.

Canadian farmers work long hours doing physically and mentally demanding work to ensure we have good-quality Canadian food on our plates. There isn't anything more important in our lives than food and we are absolutely fortunate to have such a wide diversity of delicious food to enjoy here in Canada.

So as you enjoy dinner on Saturday please take a moment and spare a thought to the time, effort and hard work that went into producing the food you're enjoying.

If you're looking for further opportunities to celebrate Canada's amazing agriculture industry, don't forget about Canada's Agriculture Day, which takes place next week on Tuesday, February 11. There are celebrations happening across the country and here in Ottawa.

On Tuesday you might consider posting a selfie on social media raising a fork to Canadian agriculture. And the next time you get the chance, be sure to say thank you to a Canadian farmer.

Thank you, *meegwetch*.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Lori Marchand, Managing Director of the National Arts Centre Indigenous Theatre. She is the guest of the Honourable Senator McPhedran.

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

Hon. Senators: Hear, hear!

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Liam Wilkinson of UBI Works. He is the guest of the Honourable Senator Pate.

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

Hon. Senators: Hear, hear!

GUARANTEED LIVABLE INCOME

Hon. Kim Pate: Honourable senators, I rise today to draw attention to the issue of poverty in Canada.

Next year will mark the fiftieth anniversary of the Senate's landmark Croll report on the subject. Poverty costs Canada between \$72 billion and \$84 billion each year, including lost tax revenue, and health care, prison and legal system costs. Indeed, as former Senator Hugh Segal reminded us yesterday, 85 per cent of those in prison are impoverished.

Yesterday, a Nunavut court decision and Niigaan Sinclair's column in the *Winnipeg Free Press* provided windows into how, instead of addressing poverty and marginalization, we too often respond with criminalization and imprisonment.

The Croll report, as well as former Senators Segal and Eggleton, has called for the implementation of a national guaranteed livable income to help alleviate poverty. Last month, the Basic Income Canada Network outlined ways that a fully funded guaranteed livable income could be implemented — not as a pilot, not as a promise, but as a present-day national reality.

We also need federal action in support of Indigenous governments to address the particular needs of Indigenous peoples. As the Arctic and Aboriginal Peoples Committees know, as many as 46 per cent and 70 per cent of households in rural, remote and, particularly, northern communities are food insecure, and this number is rising. The lack of access to basic necessities, as well as educational and employment opportunities, are significant barriers to young people living and surviving, let alone learning their culture and their languages. Add to this social assistance requirements that individuals do nothing but look for non-existent jobs and is it any wonder that they are not able to access traditional languages, educational or vocational training or get out on the land?

A guaranteed livable income of the sort recommended in the report last month could provide increased stability.

As we approach the fiftieth anniversary of the Croll report, it is time to continue this work. I encourage you to review the decision, column and reports I have mentioned, and urge all of us to reflect on how guaranteed livable incomes can contribute to rebuilding our social safety net and help us create healthier, fairer and more resilient communities for all.

Meegwetch. Thank you.

[*Translation*]

THE LATE MARYLÈNE LEVESQUE

Hon. Pierre-Hugues Boisvenu: Honourable senators, on January 22, Marylène Levesque, a young woman in the prime of life, was murdered in Sainte-Foy. She died under appalling circumstances at the hands of a dangerous repeat offender who had been granted day parole barely 15 years after being convicted of murdering his wife in 2004.

I urge all senators in this chamber to spare a thought for Marylène and her family, friends and loved ones. Her funeral will be held this Saturday in her hometown of Saguenay, and I will be attending.

Marylène is also being mourned by all the relatives of murdered or missing people. Throughout the community of survivors of homicide victims and the associations that support them, this crime has caused great anguish and sparked an urgent desire to do something. I am a member of that community. I hope with all my heart that her death becomes the spark we need to change things and amend our laws.

Across Quebec, survivors of homicide victims are reaching out to you and asking each and every one of you, my parliamentary colleagues, to think about the vulnerable women who have no voice and can't speak up to defend their rights.

Today, let's remember Marylène, her family and friends, and the 118 women who were murdered in Canada in 2019. Thank you.

• (1350)

[English]

ROUTINE PROCEEDINGS

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

REPORT PURSUANT TO RULE 12-26(2) TABLED

Hon. Sabi Marwah: Honourable senators, pursuant to rule 12-26(2) of the *Rules of the Senate*, I have the honour to table, in both official languages, the second report of the Standing Committee on Internal Economy, Budgets and Administration, which deals with the expenses incurred by the committee during the First Session of the Forty-Second Parliament and the Intersessional Authority.

(For text of report, see today's Journals of the Senate, p. 273.)

[Translation]

THIRD REPORT OF COMMITTEE PRESENTED

Hon. Raymonde Saint-Germain, for Senator Marwah, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, February 6, 2020

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

THIRD REPORT

Your committee, which is authorized by the *Rules of the Senate* to consider financial and administrative matters, recommends the following:

1. That the revised *Policy on the Prevention and Resolution of Harassment in the Senate Workplace*, appended to this report, be adopted;
2. That the Standing Committee on Rules, Procedures and the Rights of Parliament be authorized to examine and report on the appropriate consequential amendments to the *Rules of the Senate* and that the committee present its report to the Senate no later than April 30, 2020;
3. That the Standing Committee on Ethics and Conflict of Interest for Senators be authorized to examine and report on the appropriate consequential amendments to the *Ethics and Conflict of Interest Code for Senators* and that the committee present its report to the Senate no later than April 30, 2020;
4. That the revised *Policy on The Prevention and Resolution of Harassment in the Senate Workplace* come into force on the first day after the day on which the Senate has adopted both

(a) the report of the Standing Committee on Rules, Procedures and the Rights of Parliament referred to in paragraph 2; and

(b) the report of the Standing Committee on Ethics and Conflict of Interest for Senators referred to in paragraph 3.

5. That, for greater certainty, the *Senate's Policy on the Prevention and Resolution of Harassment in the Workplace* from 2009 and the *Interim Process for the handling of harassment complaints* currently in effect are both rescinded and repealed at the time the revised Policy comes into force; however, any complaints in progress at that time continue as if the revised Policy never came into force.

Respectfully submitted,

SABI MARWAH

Chair

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

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

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

NOTICE OF MOTION TO AFFECT COMMITTEE MEMBERSHIP AND AUTHORIZE COMMITTEE TO STUDY SUBJECT MATTER OF BILL C-4

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

That, notwithstanding rules 12-2(2), 12-3(1) and usual practice, the Honourable Senators Ataullahjan, Boehm, Bovey, Cordy, Coyle, Dawson, Dean, Greene, Housakos, Massicotte, Ngo, Plett and Saint-Germain be appointed to serve on the Standing Senate Committee on Foreign Affairs and International Trade until a report of the Committee of Selection recommending the senators to serve as members of the committee is adopted or the members are otherwise named by the Senate;

That the Standing Senate Committee on Foreign Affairs and International Trade be authorized to examine the subject matter of Bill C-4, An Act to implement the Agreement between Canada, the United States of America and the United Mexican States, introduced in the House of Commons on January 29, 2020, in advance of the said bill coming before the Senate; and

That, for the purpose of this study, the committee have the power to meet, even though the Senate may then be sitting or adjourned, and that rules 12-18(1) and 12-18(2) be suspended in relation thereto.

BILL TO CHANGE THE NAME OF THE ELECTORAL DISTRICT OF CHÂTEAUGUAY—LACOLLE

FIRST READING

Hon. Pierre J. Dalphond introduced Bill S-213, An Act to change the name of the electoral district of Châteauguay—Lacolle.

(Bill read first time.)

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

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

[English]

QUESTION PERIOD

FINANCE

EXEMPTION FROM CARBON TAX FOR AGRICULTURAL PRODUCERS

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate, and I'm hoping that in the near future the government leader will be able to answer some of the questions instead of telling us he will get us the information. But we will allow an apprenticeship to continue for a little while longer.

Last month, the Minister of Agriculture said she needed to see more evidence from farmers as to how the federal carbon tax is impacting their operations. On Monday, the Agricultural Producers Association of Saskatchewan released figures that clearly show the minister just how devastating the carbon tax is for them. In less than two years from now, leader, Saskatchewan farmers can expect to lose 12 per cent of their total income to the carbon tax, up to \$17,000 for a 5,000-acre grain farm. Though these figures are based on Saskatchewan farm bills, farmers in other Western provinces, including my own, surely have similar costs.

[Senator Gagné]

Senator Gold, our farmers have no choice. They have to dry their grain. They have to get their grain to market. Your government made this much more expensive. Now that the minister has the evidence she asked for, will your government exempt our farmers from the carbon tax?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question and for your indulgence in this period of apprenticeship. Before I answer the question as best as I can, I appreciate the opportunity to invite all members in the Senate with questions of a particular nature, and thank those who do so, to provide me with advance notice so that I can be in an even better position to provide the answers to you. I am your humble servant, and as a representative of the government, I do want to provide meaningful information to you. It would be helpful to have opportunities to get that information and be able to provide it to the chamber. But when I can't, you can rest assured that I will do my best to make the appropriate inquiries.

As the Government Representative, I'm advised that the government is working closely with provinces, territories and, indeed, with farmers and their representatives, to find ways to ameliorate the impact, which is obvious on those who are burdened by changes in the market situation but are also affected by the introduction of carbon tax pricing.

The government position has been clear and you don't need me to remind you that the government's position is, and has been, that the carbon tax is the most cost-effective, fair and effective way to address the challenges that we face in the environment. As Government Representative in the Senate, I know, as do you, that there are measures in place to offset the burden of this carbon tax on individuals and families.

• (1400)

I will close with this: As I said, the government and the Deputy Prime Minister, in particular — but also other ministers — are working closely with their counterparts in the provinces and stakeholders to find the best ways to ameliorate the impact on farmers. It is not my understanding, however, that there is a plan in place to exempt farmers from the carbon tax. But there is a commitment, as I understand it, to work closely with provinces and stakeholders so that the burden can be dealt with in a fair and equitable manner.

Senator Plett: Thank you for that effort at an answer. For us to send you something in writing so that the minister can give us a non-answer doesn't bring us any closer to what we want, so we will continue to ask you the questions. You are a member of the Privy Council and we trust that, over the course of time, you will be able to answer for the government so we don't have to get the minister to write us a non-answer and send it over here.

It is very likely that the minister will soon be presented with even more evidence of how the carbon tax is hurting our farmers. The Grain Growers of Canada stated in a release just last week that it is working with member groups to compile data to provide to the minister.

What amount of evidence is enough to convince this minister to do the right thing? How high do the losses have to go before this government provides our agricultural producers, who perhaps don't all vote for them, with an exemption from this very hurtful carbon tax?

Senator Gold: Thank you for the question and for your confidence, which I accept, in my willingness and ability — you will be the judge — to provide answers to you.

My understanding is that this government — and indeed all governments — should make policies based on the evidence. It is helpful. I applaud the efforts of farmers, their representatives, the provinces and others to gather the information about the impact of this matter of public policy, or any matter of public policy, and make it available to the government and known more broadly.

I can only say that this government takes seriously, as all governments do and should, the responsibility to all their citizens, wherever and in whatever industry, to make sure the impact of their public policies and the decisions that are made do not fall unfairly upon, and do not unfairly or unreasonably burden, particular segments. I'm advised that the government takes this very seriously. It is working assiduously with its partners, as I said before.

Once again, I'm comfortable stating that the government welcomes the data and the information. It will help the government make the best public policy decisions in the best interests of Canadians.

PUBLIC SAFETY

DESIGNATION OF ISLAMIC REVOLUTIONARY GUARD CORPS AS A FOREIGN TERRORIST ORGANIZATION

Hon. David Tkachuk: Honourable senators, my question is also for the Leader of the Government in the Senate. On January 13, days after Ukraine International Airlines Flight 752 was shot down by the Iranian regime, B'nai Brith and the Council of Iranian Canadians joined together to call upon the Government of Canada to designate the Islamic Revolutionary Guard Corps as a listed terrorist entity under the Criminal Code. These groups asked that the work be completed in 30 days, as no further delays were acceptable. The government has never — not once — provided an adequate explanation as to why it will not live up to its word and list the IRGC.

If the government won't answer parliamentarians, will it at least provide an answer to B'nai Brith and the Council of Iranian Canadians?

Hon. Marc Gold (Government Representative in the Senate): Thank you very much for your question. Also, may I just add my voice to those who congratulated you on a distinguished career in the Senate. I'll miss you, as all of our colleagues will.

Senators will know that the Government of Canada continues to list the IRGC's Quds Force as a terrorist entity under the Criminal Code. Senators will also know — and I will remind them — that last year, the Government of Canada listed three

additional Iran-based groups as terrorist entities under the Criminal Code. These include Al-Ashtar Brigades, a Shia militant group supported by Iran, which has as its major objective the overthrow of Bahrain's Sunni monarchy. The second group recently listed as a terrorist entity was the Fatemiyoun Division, which is directed by the Quds Force. It's an Hazara Shiite militia that fights in Syria. It comprises mostly Afghan refugees who were recruited both from Iran and Afghanistan. The third group listed as a terrorist entity is Harakat al-Sabireen, another Iran-based Shia group that operates in the Gaza Strip that borders Egypt and Israel.

It is my understanding that the Government of Canada has not and will not waver from condemning terrorist acts, wherever and whenever they take place. That remains the position of the government, as I understand it.

Senator Tkachuk: The problem is that the Prime Minister, his backbench MPs and members of the cabinet, including the current and former minister of Public Safety and Foreign Affairs, all stood in the other place on June 12, 2018, to vote in favour of immediately listing the IRGC as a terrorist entity. I'm sure you'll agree, Senator Gold, that whether it's in this house or in the other place, that should mean something. If the government had voted "no" back in June 2018, at least that would have been honest and given hope to groups and many Canadians who want to see change.

Shouldn't the government have the courage of its convictions and immediately list the IRGC as a terrorist entity? Will you convey that to the Prime Minister?

Senator Gold: Thank you again for your question. As I promised, I will certainly convey your concerns and your wishes to the government. One of my jobs that I take seriously is being a conduit to the government for your views.

That said, the management of foreign affairs is the prerogative of the government; indeed, it flows from the Crown prerogative. No one in this chamber needs to be reminded of how complicated, sensitive and multi-faceted such issues are, especially dealing with a country as volatile, and whose behaviour is so significant, both in the region and in the world, as Iran. I would be happy to transmit your views to the government.

It is my understanding that the government is deeply engaged in working through the best ways — and I stress "ways" — to deal with and engage with Iran as it seeks to diffuse tensions in the region, protect Canadian interests both here and abroad, and find ways in which we can be a useful partner in reducing conflict and tension in the world.

INTERGOVERNMENTAL AFFAIRS

INTER-PROVINCIAL TRADE

Hon. Robert Black: Honourable senators, my question is for the Government Representative in the Senate.

First of all, congratulations, Senator Gold, to you on your appointment in this position. I look forward to working with you and your colleagues.

In Canada, we have been long burdened with unnecessary barriers to interprovincial trade. Our provinces and territories often function in silos, which limit the ability of our agricultural industry to reach its full potential. In the most recent election, the Prime Minister campaigned on a promise to reduce internal trade barriers. The Standing Senate Committee on Agriculture and Forestry also made calls to address this issue in a recent report on growing Canada's value-added food sector. One example of a barrier is different trucking regulations causing trucks to have to stop between provinces to change tires.

• (1410)

Does the government have plans to implement the recommendations of the Agriculture Committee's report and address these inconsistent laws and regulations across the provinces in order to allow Canadian agriculture to flourish?

Hon. Marc Gold (Government Representative in the Senate): Thank you very much for the question; I appreciate it in many ways. As an old-school, pre-Charter constitutional lawyer, to talk about interprovincial barriers to trade and federalism, you make me feel at home as I otherwise do in this chamber.

It also gives me an opportunity to report to the Senate that which you already know. The Senate reports and the work we do in committee are not only well-respected by Canadians, often cited — as our former colleague Senator Baker would remind us — four times more in Supreme Court decisions than the House of Commons, but one of the most gratifying things since I've taken on this position and, indeed, became a senator, is how many times members of Parliament and members of the cabinet congratulate us as a Senate for the quality of the work we do.

I have been advised that the government is very much aware of the Senate committee report, and I'm further advised that the government is looking at and very seriously considering those recommendations and, as you would know, working towards the best ways to work collaboratively with the provinces to put into place measures to lower these interprovincial barriers to trade. It is sometimes easier to move things across countries in Europe than it is in Canada, and we've all experienced that in our lives when we attempted to do certain things from one province to another.

Equally important, I want to remind senators that removing interprovincial trade barriers was specifically identified in the mandate letter of Minister Freeland, and she takes this responsibility, as she does all others, very seriously.

[Translation]

INNOVATION, SCIENCE AND ECONOMIC DEVELOPMENT

STATISTICS CANADA—CENSUS

Hon. René Cormier: Honourable senators, my question is for the Government Representative in the Senate. I would like to congratulate you and your teammates on your new roles.

[Senator Black (Ontario)]

In the mandate letter of the Minister of Economic Development and Official Languages, the Prime Minister instructs the minister to undertake the following:

... an enumeration of rights-holders and a thorough post-census survey to better account for and better serve minority language communities.

Many francophone organizations, especially in the education sector, want the long- and short-form census to include questions that would give the government a count of how many people are rights-holders under section 23 of the Canadian Charter of Rights and Freedoms that is truly representative of the Canadian population.

What specific questions about rights-holders is the government planning to include in the long-form census? Can the senator tell us whether the government is also planning to include those questions in the short-form census, which is crucial for official language minority communities?

Hon. Marc Gold (Government Representative in the Senate): I thank the honourable senator for the question.

It is vitally important to have a full and accurate picture of the rights-holders under section 23 of the Charter. We cannot have public policy without accurate information. As you know, Statistics Canada conducts the census and determines the questions to include based on objective methodological principles.

With respect to this objective included in the mandate letter you mentioned, my office has already taken steps with the minister's officer to obtain the exact details you are looking for. Unfortunately, so far — and I double-checked just five minutes ago — we still have not received that information.

I will ask for a detailed answer and I promise the information will be tabled in the Senate in due time.

Senator Cormier: Thank you for your answer, honourable senator. I hope the response you will be submitting to us will also tell us when the decision on these questions will be made. I understand that that depends on Statistics Canada. However, the government has a responsibility to ensure that the questions asked in the census will enable us to gather the information we need.

Thank you for verifying when this decision will be made.

Senator Gold: Thank you for the clarification. Indeed, I will be pleased to do so.

[English]

NATIONAL DEFENCE

NORTH WARNING SYSTEM

Hon. Dennis Glen Patterson: Honourable senators, my question is for the Leader of the Government in the Senate. Congratulations to you, Senator Gold.

On January 14, 2020, James Ferguson, deputy director for the Centre of Defence and Security Studies at the University of Manitoba and a recognized defence expert, wrote an article condemning the government's apparent neglect of the aging North Warning System. This system was created during the Cold War but unfortunately remains relevant today in the face of international Arctic mobilization, particularly in Russia.

It requires modernization. The system has not kept up with the latest missile capabilities of Russia. Mr. Ferguson tells us that a failure on Canada's part to move forward relatively quickly could prove disastrous.

My question is this: Seeing as goal 7 of this government's Arctic policy framework is to ensure that:

The Canadian Arctic and North and its people are safe, secure and well-defended.

Will the government be investing in the modernization of the North Warning System in the near future? And what is the status of the currently expired North Warning System operating contract between the government and Raytheon?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question, Senator Patterson.

Thank you for pointing out the aging infrastructure that makes up this important system in the North. The sites that make up the North Warning System were constructed starting around the mid-1980s and were completed by 1992. All of us know how much has changed technologically, on the one hand, and how much more active our neighbours are in the Arctic. We also know all of the risks posed not only to our sovereignty but to the people and communities that live in the North. Add to that climate change and the like and this is a serious problem. Thank you for your question.

Canada is collaborating with the United States on the development of new technologies to improve Arctic surveillance including improving the North Warning System, which is showing its age. Indeed, the importance of this was identified by the government as part of its national defence policy, which it introduced during the last Parliament.

In terms of investments, I'm advised that National Defence is investing more than \$100 million in the All Domain Situational Awareness Science and Technology Program in order to develop innovative solutions to address the surveillance challenges in the North. The senator knows better than any of us how challenging communication is in the North. I had the privilege of travelling to Iqaluit and elsewhere as part of a Senate study on marine search and rescue, and one of the most striking things was that, just for the day-to-day life of folks in the North and as it concerns the importance of communicating to make sure that lives are saved and not lost, the communications challenges are enormous. It is critical that these investments bear fruit and that they continue.

These investments that I alluded to will include surveillance solutions for enhanced surveillance of air and maritime surface and subsurface approaches to Canada and with a particular emphasis on the Arctic.

• (1420)

Senator, I would be happy to speak with you further on this issue and arrange a meeting, if that would be helpful to you, with the ministers responsible.

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

INTERNATIONAL CIVIL AVIATION ORGANIZATION CONFERENCE— TAIWAN

Hon. Thanh Hai Ngo: Honourable senators, my question is for the Leader of the Government in the Senate.

Last week, despite the coronavirus outbreak being declared a global health emergency, the International Civil Aviation Organization, also known as ICAO, headquartered in Montreal, saw fit to start blocking en masse users who raised the issue of Taiwan's inclusion in the international organization, as well as users who merely retweeted the tweets. ICAO labelled the tweets and retweets irrelevant, comprising offensive material. Suppressing of freedom of expression and engaging in censorship is exactly what the Chinese Communist Party is all about.

Now ICAO, with, at its head, a former Chinese Communist Party aviation official as the Secretary-General — this speaks for itself — has engaged in censorship, suppressing freedom of expression, contrary to its principles of inclusion, fairness and transparency. This is not new to anyone. This is a total affront to the freedom of expression, freedom of public communication and information, and values that Canadians hold so dear.

ICAO blocking practices have been denounced by, among others, the United States department and also by the U.S. House of Representatives Committee on Foreign Affairs.

My question to you, Mr. Leader, when will Canada follow suit and denounce ICAO's actions of censorship and suppressing freedom of expression that simply has no place in a UN organization?

Hon. Marc Gold (Government Representative in the Senate): Senator, thank you for the question. I'm really not in a position to know what the government's intentions are in that. At the risk of disappointing you, I will simply say I will make inquiries and get back.

I should leave it at that, but I will allow myself to share, because I know we and all Canadians watching are very concerned about the fate of Canadians in China who are trying to get home under such difficult circumstances.

I'm pleased to report that the first plane that was chartered by the government will leave Wuhan, China, today, with approximately 211 Canadians, and a second government-chartered plane carrying any remaining Canadians are scheduled to leave China on Monday.

With regard to your question, I will have to get back to you.

Senator Ngo: Thank you, Mr. Leader. Ironically, the Secretary-General of the ICAO and the Director-General of the World Health Organization both emphasized the importance of coordinated efforts and for all of us to work together in the spirit of solidarity and cooperation to contain the spread of the coronavirus. The WHO Director-General stated that we are all in this together and we can only stop it together.

Well, I don't think so. If you are from Taiwan, you are not included at all. By not including Taiwan, ICAO and WHO are purposely compromising aviation and health safety worldwide, putting almost 24 million Taiwanese at risk, but also every human being on this planet as it can easily — and probably will — generate gaps in the treatment and management of the virus.

Since the Prime Minister has expressed support for Taiwan's meaningful participation in international, multilateral fora, could you tell us what concrete actions and measures Canada will take to ensure that Taiwan is actually included in those UN organizations in order for global human health to be put above political considerations?

Senator Gold: Thank you for your question. The Government of Canada continues to support Taiwan's meaningful participation in international, multilateral fora, especially as is the case when their presence provides important contributions to the public good on a global basis.

I'm advised that the government continues to believe that Taiwan's role as an observer in the World Health Assembly meetings is in the best interests of the global health community. It is the position of the Government of Canada that it welcomes participation from Taiwan — indeed, from the entire international community — with the objective of promoting global health.

[Translation]

FINANCE

FEDERAL FISCAL DEFICIT—ECONOMY

Hon. Jean-Guy Dagenais: My question is for the Leader of the Government in the Senate. Over the first eight months of the fiscal year, your government's budget deficit has reached \$11.8 billion, which is five times higher than last year's already unacceptably high deficit of \$2.1 billion.

Although personal income taxes and the new taxes concocted by your government generated \$5.7 billion during this period, that covers just half of the \$11 billion in overspending.

Leader, I think you would agree that any individuals or businesses that spend twice as much as they earn and do not pay back their debts are headed for bankruptcy. How does the Minister of Finance plan on getting things back on track? How much longer will the Minister of Finance be showing Canadians, quarter after quarter, that he sadly does not know how to count?

Hon. Marc Gold (Government Representative in the Senate): Could Senator Dagenais repeat the last part of his question? There was some noise and I didn't catch it all. I would like to give him a proper answer to his question.

Senator Dagenais: I would be happy to repeat the last part of the question. Does the Minister of Finance have a plan to get things back on track? If so, what is it? How much longer will the Minister of Finance be showing Canadians, quarter after quarter, that he sadly does not know how to count?

Senator Gold: I thank the honourable senator for the question. The minister has been very clear on the government's position over the past few weeks, and even before that. Like everyone in this chamber, I look forward to welcoming the Finance Minister and the other ministers, who will be able to answer your questions more directly and more thoroughly.

I have been told that the government will continue to focus on investing, including in infrastructure and in SMEs, first in order to maintain economic growth, but, more importantly, to promote the kinds of international agreements that are good for Canada as a trading nation.

Also, despite the size of the debt that you mentioned in the first part of your question, if you take a look at the debt-to-GDP ratio in Canada, it is still the lowest in the G7.

I have also been told that the government expects the debt-to-GDP ratio to continue to drop, not only for the coming year, but for the next 10 years. If that is the case, the Canadian economy will remain strong.

Thank you for the question.

The Hon. the Speaker: Senator Dagenais, I'm sorry but the time for Question Period has expired.

• (1430)

[English]

ORDERS OF THE DAY

ETHICS AND CONFLICT OF INTEREST FOR SENATORS

FIRST REPORT OF COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Sinclair, seconded by the Honourable Senator Patterson, for the adoption of the first report (interim) of the Standing Committee on Ethics and Conflict of Interest for Senators, entitled *Developments and actions in relation to the committee's fifth report regarding Senator Beyak*, deposited with the Clerk of the Senate on January 31, 2020.

The Hon. the Speaker: Honourable senators, pursuant to rule 12-30(2), a decision cannot be taken on this report, as yet. Debate on the report, unless some other senator wishes to adjourn the matter, will be deemed adjourned until the next sitting of the Senate.

Is that agreed, honourable senators?

Hon. Senators: Agreed.

(Pursuant to rule 12-30(2), further debate on the motion was adjourned until the next sitting.)

[Translation]

THE SENATE

MOTION TO INVITE MINISTERS OF THE CROWN WHO ARE
NOT MEMBERS OF THE SENATE TO PARTICIPATE IN
QUESTION PERIOD— DEBATE ADJOURNED

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of February 5, 2020, moved:

That, notwithstanding usual practice, the Senate invite any Minister of the Crown who is not a member of the Senate to enter the chamber during any future Question Period and take part in proceedings by responding to questions relating to his or her ministerial responsibilities, subject to the Rules and practices of the Senate.

The Hon. the Speaker: It was moved by the Honourable Senator Gagné, seconded by the Honourable Senator Gold, that notwithstanding — Shall I dispense?

Are honourable senators ready for the question?

Some Hon. Senators: No.

(On motion of Senator Martin, debate adjourned.)

ADJOURNMENT

MOTION ADOPTED

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of February 5, 2020, moved:

That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, February 18, 2020, at 2 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to.)

CRIMINAL CODE

BILL TO AMEND—SECOND READING—
DEBATE ADJOURNED

Hon. Pierre-Hugues Boisvenu moved second reading of Bill S-207, An Act to amend the Criminal Code (disclosure of information by jurors).

He said: Honourable senators, I rise today at second reading of Bill S-207, which I am sponsoring.

I would like to take this opportunity to extend my heartfelt thanks to Senator Moncion for all her help and particularly for sharing the human side of her experience as a former juror. Thank you very much, senator.

This bill, entitled An Act to amend the Criminal Code, disclosure of information by jurors, seeks to implement an important recommendation made by the House of Commons Standing Committee on Justice and Human Rights.

In its report entitled *Improving Support for Jurors in Canada*, which was released in May 2018, the committee issued recommendation number 4 regarding a more lenient secrecy rule for jury deliberations, which states:

That the Government of Canada amend section 649 of the Criminal Code so that jurors are permitted to discuss jury deliberations with designated mental health professionals once the trial is over.

It is important to remember that his recommendation was supported by all members of the Standing Committee on Justice and Human Rights during the Forty-second Parliament, regardless of political affiliation. This report was based on an eight-day study of the issue.

I would add that this bill is based on humane considerations. Jurors are the backbone of our justice system. They must be given as much support as offenders receive.

Later, on October 29, 2018, the member for St. Albert—Edmonton, Michael Cooper, tabled Bill C-417 in the House of Commons, which unanimously supported this bill. The bill went on to the Senate at second reading and then died on the Order Paper with the dissolution of Parliament last September. Bill S-207, which I tabled on December 13, incorporates the elements of Michael Cooper's Bill C-417.

Bill S-207 is about a non-partisan issue that has already been studied at length in the other place. This bill amends the Criminal Code to provide that the prohibition against the disclosure of information relating to jury proceedings does not, in certain circumstances, apply in respect of disclosure by jurors to health care professionals.

We all know that the mental health of jurors is a matter that transcends political allegiances. This bill will help build a more humane justice system and help our jurors, the people who serve Canada's justice system. It is our duty to work together to assist them.

Mark Farrant, a former juror who now advocates for the rights of jurors Canada-wide, said this:

Jury duty is the cornerstone of our justice system. Jurors are often exposed to disturbing video and audio evidence. It is fair to say that jury duty has not kept pace with the increasing demands of our modern world, and my mission is to demand change. This bill's simple amendment to the Criminal Code will make an enormous difference for jurors seeking help after a trial.

Throughout its study, the Justice Committee heard from former jurors whose lives changed forever after they did their civic duty. Because of the disturbing testimony they heard during terrible trials, former jurors developed mental health problems, including post-traumatic stress disorder.

Several former jurors became what I would call victims of our justice system because the system prevented them from getting effective therapy.

According to the former jurors who testified, the secrecy rule currently enforced on jurors under the Criminal Code prevents them from accessing the mental health services they truly need. Pursuant to section 649 of the Criminal Code, every juror who discloses any information regarding jury deliberations in their lifetime, even to a mental health professional, is guilty of an offence.

Being a juror in a criminal trial such as, for example, the trial of Paul Bernardo, can be one of the most stressful experiences in a juror's life, if not the most stressful. Post-traumatic stress is a real possibility. This morning I met with Tina Daenzer, a juror who served on Paul Bernardo's trial. She told me about the post-traumatic stress suffered by those who wanted to serve justice and take on the role of a juror in a criminal trial.

This is precisely the purpose of the bill. It aims to create an exemption to the secrecy rule to allow former and new jurors who experience mental health problems as a result of their duties to talk about all aspects of their role with a health care professional.

The integrity of the secrecy rule will be protected, because the juror will be disclosing information in a confidential setting after the trial with professionals who are bound by their own confidentiality rules.

However, this exemption would allow former jurors to discuss essential topics with their health care professionals to get the help they need and are entitled to. If there ever was an amendment to the Criminal Code that everyone could agree on, it would most certainly be the amendment proposed in this bill.

• (1440)

Consider someone who is part of a 12-member jury who has to watch and hear recordings and look at photos of murders, violent assaults or other heinous crimes. That whole experience can be devastating to one's mental health. In a way, these individuals protect our society from the criminals who are the subjects of

those trials. They are the shields that protect the public from the bloodiest, most disturbing details surrounding crimes like the ones committed by Paul Bernardo.

Let's think about what might happen to the 12 people called to form a jury. They do their duty without any training, psychological preparation or experience. They are plunged into a macabre world. Then, after they have been sequestered and have deliberated, and after the ruling is handed down, the justice system sends them merrily on their way, at their most vulnerable and without any assistance. Today I cannot help but think about the jury members who served in the trial of my daughter Julie's murderer. Those individuals were faced with the most horrific, unimaginable details. That is what I call surviving the unspeakable.

Consequently, we must now ensure that the bill moves through the Senate. I am hopeful that this bill will have the support of all my Senate colleagues, no matter their political affiliation. Once again, I thank Senator Moncion from the bottom of my heart. She unreservedly supports this bill and is especially interested in it because of her past experience.

As Senator Moncion stated:

During the last Parliament, legal experts, mental health professionals and members on both sides of the House of Commons supported this bill because its merits transcend partisanship. In view of the interest generated by the proposed change, I believe it is vital that this legislation move through the Senate in the spirit of cooperation.

Honourable senators, today I urge you to adopt this bill at second reading as quickly as possible so that it may be considered in committee.

Thank you.

Hon. Lucie Moncion: Honourable colleagues, I rise today as the critic for Bill S-207, An Act to amend the Criminal Code, regarding disclosure of information by jurors. This bill implements one of the main recommendations of the twentieth report of the House of Commons Standing Committee on Justice and Human Rights regarding a more lenient secrecy rule for jury deliberations. In its report entitled *Improving Support for Jurors*, the House Justice Committee proposed, in recommendation number 4, "That the Government of Canada amend section 649 of the Criminal Code so that jurors are permitted to discuss jury deliberations with designated mental health professionals once the trial is over."

Right now, the secrecy rule for jury deliberations prohibits jurors from disclosing any information pertaining to their deliberations to anyone. In this speech, I will tell you about the impact this rule has on the lives and well-being of jurors by sharing with you the testimony of former jurors and my own experience when I was selected to be a juror in a first-degree murder trial. I will also talk about what legal experts and mental health professionals have to say about this bill.

I would like start out by emphasizing something Senator Boisvenu said a few minutes ago: legal experts, mental health professionals and members of all parties belonging to the other

place's Justice Committee endorsed the form and content of the bill during the Forty-second Parliament. I would also note that the bill had gone through every stage in the House of Commons successfully. That is how I picture this bill moving through this chamber.

What do legal experts have to say about Bill S-207? In her testimony before the Justice Committee, Professor Vanessa MacDonnell, a member of the Criminal Lawyers' Association, explained that introducing a very narrow exception to the juror secrecy rule would in no way undermine the finality of deliberated decisions, the integrity of the process and the desire to protect jurors from potentially being harassed. Given that this is a unanimous recommendation from Justice Committee members, there is no reason the rule should not be amended and no risk of violating the underlying legal principles.

Section 649 of the Criminal Code reads as follows:

Every member of a jury . . . who . . . discloses any information relating to the proceedings of the jury . . . is guilty of an offence punishable on summary conviction.

It is immediately obvious that this provision lacks consideration for the well-being and mental health of jurors. The changes to the Criminal Code proposed in Bill S-207 create an exception to allow jurors to disclose information about the deliberations to a mental health professional after the trial.

Jurors agree that this very specific exception does not compromise the substance or functionality of the rule of secrecy of jury deliberations within our judicial system.

With respect to the division of powers issue, the Justice Committee at the other place recognizes that, on the surface, the regulation of juries falls under provincial or territorial jurisdiction. Indeed, the administration of justice is a provincial responsibility under subsection 92(14) of the Constitution Act, 1867. Nonetheless, this provincial jurisdiction is limited when it comes to criminal law, which is a federal jurisdiction under subsection 91(27) of the Constitution Act, 1867. This explains the depth and scope of Bill S-207, which amends a very specific section of the Criminal Code while respecting the division of powers.

Of note, Victoria, in Australia, enshrined a similar exception to resolve this problematic situation. The recommendations in the Justice Committee report are based in part on that example.

To demonstrate just how important Bill S-207 is to former jurors, I will mention a few high-profile trials. These examples will help us better understand how being a juror can affect the lives of ordinary Canadians.

Take the case of Kristen French and Leslie Mahaffy. Imagine you are sitting on a jury bench. You are shown video evidence of the torture, rape and murder of these two teenage girls.

Take the case of little Victoria Stafford, or Tim Bosma. You are shown photos of their mutilated corpses, the autopsy reports and the details of their cause of death.

[English]

While conducting your civic duty, you are subjected to graphic images, gruesome details and immense suffering by the victims. You feel the horror of their death and are exposed to great anguish. Unspeakable harm has been done to human beings. As a member of the jury, you cannot discuss the evidence with other jurors or with members of your family for the duration of the trial that precedes the deliberations. Depending on the length of the trial, this period may seem endless. The jury room is the only space where you will be able to speak of these things and being among strangers, very little of your personal feelings and emotions are shared. All of this becomes stuck inside your head. It will stay with you for the rest of your life.

You are confronted by the accused. For the duration of the trial, you share the same courtroom space. You see the person daily. You can feel disgust, anger, anxiety. You can be fearful and develop uneasiness toward your personal safety and that of your family.

• (1450)

You must remain available for the length of the trial and be able to understand and interpret the enormous amount of information that is provided during the proceedings. At the end of the trial, you must keep all of this to yourself.

[Translation]

Right now, our courts are creating victims, the jurors, and denying them access to the means of remedying the harm they have suffered while performing a civic duty. The problems associated with the secrecy rule negatively affect the public's perception of the Canadian justice system. We are asking ordinary Canadians to take on a task integral to the justice system without preparing them or giving them the tools they need to cope with the horrors they are exposed to.

It is crucial that former jurors be permitted to access the essential health care and services they might need. As a result, introducing this exemption to section 649 of the Criminal Code would increase the public's confidence in the justice system while ensuring the well-being of our jurors. The report entitled *Improving Support for Jurors in Canada*, which was unanimously adopted in the other place, contains many recommendations that reflect the testimony of former jurors who experienced mental health problems, anxiety, post-traumatic stress and problems in their interpersonal relationships after serving on a jury.

I would like to read some of the testimony heard by the committee. Patrick Fleming, a former juror who appeared before the House committee as an individual, shared other negative impacts of the secrecy rule. He said, and I quote:

I felt isolated from my family and friends. I would distance myself, and I could not share what I was going through . . . I felt guilty for not being present for my family emotionally and physically.

Another former juror, Daniel Cozine, told the committee the following:

The trial was three weeks away from work and things like that. It impacts family life during those three weeks, and not just you but your spouse and your family. It is substantially longer than that when you come out of a trial and you're trying to get your bearings again.

[English]

It is worth noting that most of the witnesses heard by the Justice Committee gave their evidence in a personal capacity since there was no organization or lobby overseeing the interest of the jurors at the time. They had the burden of mobilizing themselves to assert their rights and explain the problems associated with their experience. The Canadian Juries Commission has since then been formed, bringing a collective approach to this issue on a national platform.

[Translation]

I could have been a witness at this committee by telling my own story. In 1989, I was called to do my civic duty at a first-degree murder trial. The trial lasted two months and was an exceptional opportunity for me to learn about the criminal justice system. It was a setting where collaboration between strangers with diverse skills and backgrounds could lead to a unanimous verdict.

During the trial, we heard witnesses, received exhibits, saw photographs of the victim and received various reports, including the autopsy report and reports from the police who worked on the case.

[English]

Here again, I invite you to imagine the scene. You are in your jury seat. They show pictures of the victim when he was found lying on his side with grass in his hands as if this was the last hold he had on life. You feel his pain but you also feel helpless. This is not a movie. This is real and this is a human being. They show you gunshot wounds, six, two from a 12-gauge sawed-off shotgun and four from a .22-calibre handgun. Next, they show you pictures of the autopsy of the victim and explain how he died from internal injuries, drowned in his own blood. I could go on and explain where he was shot and the damage the bullets made, but I think you get the picture.

During deliberations, we spent several days sequestered without being able to communicate with our families, a particularly difficult time for the mother of a three-year-old and a five-year-old. Moreover, at the time of leaving, the judge informed us that section 649 of the Criminal Code indefinitely prohibited us from disclosing any information relating to the jury deliberations. In doing so, we would be prosecuted.

[Translation]

The trial ended on a Saturday afternoon. I went back to my regular routine, picking up where I had left off two months earlier. I was no longer the same person. Although it was positive, the experience left a mark and caused deep-seated fears,

which led to post-traumatic stress. I didn't really stop and think about this problem again until 12 years later, when I was doing my training in neuro-linguistic programming. That training helped me find the source of my deep-seated fears, gain a better understanding of their impact and the spontaneity of my reactions, and treat my post-traumatic stress without disclosing the details of the legal proceedings. As you can see, it still affects me today.

But only when the subject comes up.

As part of my study of this bill, I met with a former jury member, Mark Farrant, who shared his story with me and told me about the mental health struggles he has been experiencing for the past five years and the limited resources available. Mark is a fighter, a strong person. He is on a personal crusade to assert the rights of jury members. I decided I wanted to help him reach his goal.

[English]

As previously mentioned, the Canadian Juries Commission is a non-profit created by Mark in 2019. The mandate of the commission is drawn directly from some of the recommendations in the twentieth report of the House of Commons Justice and Human Rights Committee on improving jury duty in Canada.

Although the organization remains unfunded to this today, the road to achieving their objectives is well under way as they continue to build their program and to work directly with many stakeholders. For example, the Canadian Juries Commission is currently working with the Canadian Mental Health Association to construct a juror peer-support program which will train former jurors to consult with fellow jurors across the country. Deliberation has already been identified as a key stressor for many former jurors, thus the importance of Bill S-207 in allowing this organization to address an enormous issue effectively and without restrictions.

[Translation]

Mark is part of a group of former jurors who are prepared to testify so they can tell their story. These people want Canada's justice system to stop creating victims and to give citizens who do their civic duty access to professional health services. What do health professionals think of Bill S-207?

Clearly, people who do jury duty can develop anxiety, post-traumatic stress, depression or problems in their interpersonal relationships. Yet, in most provinces, jurors carry out their duties in the absence of any consideration for their well-being.

[English]

Let me give you some examples of what a person may be subjected to as a juror. Jurors may be exposed to disturbing evidence. They may experience stressful situations by rubbing shoulders with the accused at the entrance of the courthouse or in the parking lot. They may develop a sense of guilt, unable to come up with the desired verdict expected by the victim or his family, or they may become victims of the media's relentless harassment by arriving at a verdict that would presumably not render justice to the injured person. In addition, jurors can be

sequestered for a long period of time, sometimes weeks. During this period, they lose access to their support system, being their family and friends, and they may feel guilty that they must leave their spouses or children alone for several weeks.

These situations can explain why some former jurors develop mental health problems. In fact, when it comes to scientific evidence of the impact of jury duty on people's mental health, Dr. Patrick Baillie, who testified before the Justice Committee, confirmed that some evidence points to the occurrence of post-traumatic stress, symptoms of anxiety, depression, anorexia, sleeplessness and other forms of nervousness. With respect to the deliberation process specifically, research has shown that it can be the most difficult and stressful part of jury duty.

• (1500)

[Translation]

How can jurors manage their mental distress at the end of a trial when the last instruction they are given by the judge is a reminder that they cannot talk about the deliberations with anyone? A number of health care professionals agree that the existing juror secrecy rule restricts research on the effects of jury duty on an individual's mental health.

This means that the juror secrecy rule hinders progress, and former jurors carry an even larger burden when they want to advocate for themselves, because they are the only ones who truly understand the jury experience. Again, the juror secrecy rule prevents former jurors from accessing the services of health care professionals.

Mark Farrant, who suffers from post-traumatic stress as a result of his juror experience, told me that he had been refused mental health services many times. Health care professionals are fully aware of this rule and have adapted their practices at the expense of the well-being and mental health of former jurors.

When a legal regime ends up denying a portion of the population access to essential health services, that is a big problem. The law, not the profession, is to be blamed for this bizarre situation. This experience, shared by former jurors, is just one example of the flaws associated with excessive latitude regarding the jury secrecy rule.

In light of the testimony, we can clearly conclude that Bill S-207 is a step in the right direction, at least according to mental health professionals. I want to point out that Bill S-207 is tackling a problem that transcends partisanship, namely the mental health of jurors in Canada.

By allowing the disclosure of information about a trial to a mental health professional, Bill S-207 takes aim at one of the greatest difficulties many jurors face after a trial. Jury duty is the cornerstone of our justice system. Besides being a civic duty that is sometimes crucial to ensuring the accused's fundamental rights, forming a jury is one way to introduce the public's perspective into the machinery of justice and ensure that civil society is represented in court to some degree.

However, serving on a jury should not negatively impact the mental health or well-being of jurors. Although it is vital, Bill S-207 is only a first step in the right direction. Under the division of powers, provincial and territorial legislatures are partly responsible for the reform of the justice system regarding the well-being of jurors.

I would like to mention an interim solution that is in place in some provinces and that could help jurors. It involves giving jurors access to debriefing sessions so that they can discuss, express and better understand the emotions they are feeling under the supervision of mental health care professionals. The group process would mitigate negative emotions and could help released jurors transition more easily to normal life.

For those who need one-time assistance, access to mental health care services and professionals would help them heal and find balance in their lives again. Any situation that allows former jurors to express themselves helps with healing. By expressing themselves verbally or in writing, jurors would have an opportunity to describe the psychological damage they sustained after experiencing traumatic events that put them either directly or indirectly in situations where they became victims.

In my case, I was juror number one in a first-degree murder trial, and this put me in a situation that made me a victim of the criminal justice system. I had to carry out my civic duty and I did not have a choice. A debriefing session might have allowed me to lighten the burden and gain a better understanding of the emotions I felt for several years, such as the sense of powerlessness in the face of abhorrent situations, the anger over wrongdoing and the confusion I felt about a society that trivializes these actions.

Bill S-207 does not address this problematic situation. However, the federal government must on its own initiative always seek to encourage the provinces and territories to offer these services, especially by exercising its spending power and by establishing programs to fund organizations working in this area. The government can provide leadership to make things happen.

[English]

In addition, in our discussions about the bill, Dr. Baillie raised an interesting point. He suggested an amendment that would ensure that no information disclosure to a mental health professional may be compelled as evidence by a court. This amendment echoes the language of section 10 of the Divorce Act.

The proposed amendment was also brought forward before the Justice Committee during Dr. Baillie's testimony. I would suggest that the committee assign to this bill's study the possibility to add an observation or a recommendation to this effect in their report.

To conclude, I would like to ask the following question: We have known for a long time the psychological damage suffered by jurors when they exercise their jury duty, so why did we wait so long before discussing and legislating the well-being of

jurors? Is it because the law of silence no longer holds for jurors or because mental health issues are stigmatized and relatively new in the political arena?

[Translation]

Dear colleagues, setting partisanship aside, we can take action to help Canadians who are called to serve on a jury to have a better experience as jurors and to survive the act of doing their civic duty. I urge you to vote for this bill and to ensure that it is sent back to the House of Commons as quickly as possible. Thank you for your attention.

Hon. Senators: Hear, hear!

[English]

Hon. Vernon White: Thank you, Senator Moncion, for your speech.

Honourable senators, I am pleased to rise today to speak to Bill S-207, An Act to amend the Criminal Code (disclosure of information by jurors), introduced by Senator Boisvenu and inspired by Bill C-417, which was adopted unanimously in the other place last year.

Bill S-207 seeks to amend section 649 of the Criminal Code, which provides for the secrecy of jury deliberations, also known as the “juror secrecy rule.” This provision specifically prohibits jurors from discussing the content of jury deliberations with anyone, including health care professionals. For clarity, there are limited exceptions related to a disclosure and they pertain to criminal investigations regarding obstruction of justice.

The amendment to the legislation that is proposed by Bill S-207 arose from a study on counselling and other mental health supports for jurors conducted by the House of Commons Standing Committee on Justice and Human Rights in 2017-18, and specifically recommendation 4 of the report:

That the Government of Canada amend section 649 of the *Criminal Code* so that jurors are permitted to discuss jury deliberations with designated mental health professionals once the trial is over.

This Bill addressed this recommendation of the report by proposing to amend section 649 to provide the following exception to the “juror secrecy rule,” allowing former jurors to discuss jury proceedings with health care professionals if needed after the completion of a trial:

(c) any medical or psychiatric treatment or any therapy or counselling that a person referred to in subsection (1) receives from a health care professional after the completion of the trial in relation to health issues arising out of or related to the person’s service at the trial as a juror or as a person who provided support services to a juror.

In essence, what this amendment will do is make it possible for someone to seek mental health and/or medical assistance if they have served on a jury and are adversely affected or traumatized

by that experience. This will bring the protection and support members of a jury often need to deal with the circumstances which they were exposed to during a jury trial.

Every year, thousands of Canadians are called on to serve on a jury. Allow me to walk you through the jury process, if I may.

For criminal cases, section 11(f) of the Canadian Charter of Rights and Freedoms grants any person charged with an offence the right:

. . . to the benefit of trial by jury where the maximum punishment for the offence is imprisonment for five years or a more severe punishment . . .

As provided in section 471 of the Criminal Code, it also identifies the exceptions by which an accused may exempt themselves from a jury trial. In fact, when a person is charged with certain offences and crimes listed in the Criminal Code, the trial will automatically take place before a judge and jury unless the person charged with the offence and the Attorney General agree to a trial without a jury.

• (1510)

There are also a number of ways we can have jury trials through the civil process. I won’t talk much about that other than to say that there are also circumstances whereby people outside of the criminal jurisdiction could find themselves in similar circumstances.

Coroners’ inquests, which aim to inform the police and the public of the circumstances of a death, utilize the jury system as well.

The parameters for jury duty are set out in provincial and territorial legislation. The legislation establishes the criteria to serve as a juror to be exempted, as well as the juror selection process and any compensation that may be provided. The administration of jury duty can vary considerably from one province or territory to another.

Suffice to say serving as a juror involves significant stress, seriously affecting jurors’ lives. The decision-making process during deliberations can be stressful as there is some fear of making the wrong decision and rendering a verdict that will have a life-altering impact on the former victim or the accused. Some proceedings deal with horrible crimes and involve extremely traumatic evidence.

An example I personally saw was when I was with the RCMP in Yellowknife and I was the primary investigator for the Giant Mine explosion. A striking miner had entered the mine where he set up 50 kilograms of explosives and, using a trip wire, he murdered nine people, leaving their remains spread out across a large area of the mine underground.

The men and women of that jury looked at hundreds of photos and videotape evidence, heard the words of the investigators at the scene picking up pieces of everything and then watched the video where the accused described how he set up that explosion. The sheer amount of evidence that was presented spanned months and there was potential for anyone involved to be traumatized by what they saw and what they heard.

Watching these jurors as they participated in that trial watching videos that were often horrific in nature, looking at crime scene photos and hearing from victims of abuse and offenders as they describe their crimes is difficult for anyone, but only a few people in that courtroom must hear all the evidence: the judge, courtroom staff, the prosecutor, the defence and the defendant and, of course, the jurors. There is no escape from what they hear and, other than those in the jury room, often no one to speak to.

Not all jurors are affected in the same way by legal proceedings, and stress levels can vary between individuals. Those who witness a traumatizing event or hear details about it can later be diagnosed with PTSD. This can be the case for jurors as well who, without any training, are presented with traumatic and often devastating material.

When the trial ends, the people I mentioned can decide if they need support, often from mental health professionals, as a result of what they saw or heard — except for those who served on the jury. They cannot access the same level of help that I was able to along with many others I worked with. That's why this bill is so important. It will allow jurors to discuss the events they participated in and access the case for the purpose of their own mental and physical health.

To truly access the help needed, it is important that those requiring that help have the ability to expose their inner thoughts and feelings and, often, the things they saw and heard.

But instead, all of the parties involved have clear and open access to whatever help they need, except for jurors.

Honourable senators, it is extremely important that we all support this legislation. It is my hope this bill will get processed in committee and adopted in this place expeditiously so help can be offered to those in need. Thank you.

(On motion of Senator Duncan, debate adjourned.)

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Kim Pate moved second reading of Bill S-208, An Act to amend the Criminal Code (independence of the judiciary).

She said: Honourable senators, the purpose of Bill S-208 is to accord judges the discretion not to impose minimum penalties where they consider it just and reasonable.

Bill S-208 echoes other proposed legislation aimed at ensuring that minimum penalties do not impede judges in their duty to deliver fair and fit sentences. Notable examples include bills introduced by former Minister of Justice Irwin Cotler in 2015, then-Green Party Leader Elizabeth May in 2016 and former NDP MP Sheri Benson in 2018.

Debate on a previous version of this bill last Parliament emphasized the need for legislative action to correct ongoing injustice. This urgent need was also underscored by related discussions during the Legal Committee's study of court delays and Bill C-75.

We owe the Canadian public the timely referral of this bill to committee for consideration. Each passing day of inaction leaves a system in place that we know interferes with the right of an accused to a proportionate sentence; causes some prisoners to be subjected to cruel and unusual punishment; perpetuates delays and costs within the court and legal systems; discriminates against those who are racialized and who are most marginalized, particularly Indigenous peoples, women and those with disabling mental health issues; contributes to miscarriages of justice and undermines public safety.

At first blush, some might think that the idea of using a one-size-fits-all approach to sentencing sounds fair and equal. In reality, however, mandatory minimum penalties eradicate the ability of judges to craft fair sentences based on individual circumstances. Bill S-208 provides a safety valve to enable judges to exercise their expertise to not apply mandatory minimum penalties when to do so would be unjust or inappropriate.

To be clear, judicial discretion with regard to mandatory minimum penalties does not give judges free rein to act arbitrarily. Judges are obligated to provide reasons for their sentencing decisions in accordance with section 726.2 of the Criminal Code:

When imposing a sentence, a court shall state the terms of the sentence imposed, and the reasons for it, and enter those terms and reasons into the record of the proceeding.

Their decisions must be rooted in legal principles and they are subject to scrutiny from the general public, the legal community and other judges through appeal processes.

Such transparency is in sharp contrast to what occurs in cases where mandatory minimum penalties exist. Mandatory minimums often shift discretion from judges to others with virtually no accountability either to the public or to the appeal process. For example, by determining what charges to lay and whether to pursue a charge with a mandatory minimum penalty, Crown prosecutors in effect make key sentencing decisions. Their reasons may have little to do with legal principles. For instance, such practices are too often used as bargaining chips when authorities are seeking to extract guilty pleas to lesser charges.

Additionally, Bill S-208 would not prevent judges from imposing mandatory minimum sentences — consistent with section 718.2 (e) of the Criminal Code, often referred to as the *Gladue* factors. It would merely require judges to reflect on and provide reasons justifying the fairness of imposing a mandatory minimum. Mandatory minimum penalties prevent justice from being done.

The 1987 Canadian Sentencing Commission found that nine in 10 judges concluded that mandatory minimum penalties had interfered with their ability to render a just sentence. In the decades since then, the number of mandatory minimum penalties in Canada has grown exponentially. At the time of the sentencing commission, there were about 10 types of convictions that would yield a mandatory minimum. The Department of Justice now lists 72.

Colleagues, here are 10 reasons why we need this bill.

First the proliferation of mandatory minimum penalties is fundamentally at odds with the long-recognized principle that individuals have a right — and judges have a duty — to craft sentences that are proportionate in the circumstances of each case. Section 718.1 of the Criminal Code requires that:

A sentence must be proportionate to the gravity of the offence and the degree of responsibility of the offender.

In ruling a mandatory minimum penalty unconstitutional in 2015, the Supreme Court reminded us that sentencing must be “a highly individualized exercise.”

Mandatory minimum penalties are, by definition, the opposite; a universal standard set in advance with zero flexibility.

There has long been non-partisan consensus regarding the need to repudiate mandatory minimum penalties. To give just one example, in 1976, as they debated the replacement of the death penalty with mandatory life sentences, parliamentarians on both sides of the aisle questioned what Conservative MP David MacDonald called the “trade-off” of “one barbarous, cruel and unacceptable punishment for one that is not equally as bad but is certainly moving in that direction.”

• (1520)

When Senator Wetston spoke to the previous version of this bill, he quoted Professor Kent Roach who described mandatory minimums as flawed because they are:

. . . blind to whether offenders live in abject poverty, have intellectual disabilities or mental-health issues, have experienced racism and abuse in the past or have children who rely on them. The mandatory-minimum sentence does not allow a judge to decide if incarceration is necessary to deter, rehabilitate or punish . . .

Anatole France once wrote that:

The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets and to steal bread.

His words remind us that if sentences are to do justice rather than perpetuate injustice, we need to consider the circumstances and behaviour of individuals in the context of the choices available to them.

Intuitively, this is something that all of us know. Research has demonstrated that members of the public who initially appear to support mandatory minimum penalties will characterize even mandatory life sentences as unjust and unfit once they are provided with factual details about individual cases.

The second reason we need this legislation is that courts are increasingly ruling mandatory minimum penalties unconstitutional. As Senator Plett noted when he spoke to the previous version of this bill, in some cases, such as the recent *R. v. Nur* and *R. v. Lloyd* decisions of the Supreme Court,

mandatory minimum penalties have been found so grossly disproportionate that they violate constitutional guarantees against cruel and unusual punishment.

I agree with Senator Plett’s assessment that:

This is not acceptable and should be addressed, as recommended by the Supreme Court of Canada.

It is for Parliament to act, not to wait for the courts to strike down these sentences one by one. That would be an abdication of our responsibility.

The Supreme Court in *R. v. Lloyd* observed that:

. . . the reality is that mandatory minimum sentences for offences that can be committed in many ways and under many different circumstances by a wide range of people are constitutionally vulnerable because they will almost inevitably catch situations where the prescribed mandatory minimum would require an unconstitutional sentence.

Canadian courts have found a significant number of mandatory minimum penalties invalid on such grounds. Nearly half, some 31 of the 72 minimum penalties currently in force, have been found unconstitutional by at least one court. Of these, about 25 mandatory minimums have been struck down as invalid in various provinces. In 11 cases, the court that struck down the mandatory minimum was a Court of Appeal or the Supreme Court of Canada. The consequence of these frequent constitutional challenges is the confusing and inconsistent patchwork referred to by Senator Wetston in his speech last Parliament.

This hodgepodge exists because, in the absence of legislation such as Bill S-208, mandatory penalties have to be challenged one by one before the courts, tying up significant court and government resources and requiring individual Canadians to shoulder the heavy burden of mounting constitutional challenges. In too many cases, those facing a potential unconstitutional mandatory minimum simply do not have the means to defend their rights.

At the same time, for those with sufficient means, mandatory minimum penalties incentivize drawn-out litigation, including constitutional challenges. Individuals have nothing to lose and everything to gain by going to trial and trying every avenue to avoid a harsh sentence, rather than seeking early resolution.

The report of the Standing Senate Committee on Legal and Constitutional Affairs on court delays identifies the strain that mandatory minimums place on scarce judicial resources and the pressing issue of trial delay. During the study, at least 11 different criminal justice experts singled out mandatory minimum penalties as a factor contributing to overall delays and inefficiencies in the court system.

The third reason we need this legislation is that Canada's rigid and harsh approach to mandatory minimums has made us an outlier internationally. The current situation in Canada can be contrasted with the experiences of other democracies whose laws include mandatory minimum penalties. Most, including England and Wales, New Zealand, South Africa, Australian jurisdictions and even a number of U.S. states, have taken steps to ensure the integrity and constitutionality of their laws and the rights of their citizens by allowing some form of judicial discretion. In most cases, this judicial discretion extends to even the most serious life sentences.

In its 2016 decision in *R. v. Lloyd*, the Supreme Court drew attention to Canada's precarious position with respect to mandatory minimums and called on Parliament to:

... build a safety valve that would allow judges to exempt [from the application of mandatory minimum penalties] outliers for whom the mandatory minimum will constitute cruel and unusual punishment.

Bill S-208 will implement this recommendation by offering such an outlet. It allows judges the discretion to not impose a mandatory minimum.

The fourth reason we need this legislation is that it represents one of the commitments the government made to reconciliation with Indigenous peoples. Bill S-208 is responsive to the Calls to Action of the Truth and Reconciliation Commission and the Calls for Justice of the National Inquiry into Missing and Murdered Indigenous Women and Girls.

The work of these commissions established clear links between the trauma and marginalization that are the legacy of residential schools and other colonial policies, and the current overrepresentation of Indigenous peoples as victims, accused and prisoners. As Niigaan Sinclair pointed out yesterday — the same day a court denounced the arrest of an Inuk woman who was seeking protection from an abuser — Indigenous peoples too often get jails instead of justice, jails instead of addressing trauma, jails instead of reducing the number of Indigenous children in the care of the state, jails instead of dealing with poverty and the lack of food, shelter and other basic necessities.

In 2015, the government's election platform included a promise to implement the Calls to Action of the TRC. In 2019, the Minister of Justice's mandate letter reiterated the need for progress toward this goal and toward the implementation of the Calls for Justice of the National Inquiry into Missing and Murdered Indigenous Women and Girls. Both demand that minimum sentences be remedied.

Instead of redress and reconciliation, the situation has worsened. New statistics released by the Office of the Correctional Investigator indicate that 30 per cent of all federally sentenced prisoners and 42 per cent of all federally sentenced women are Indigenous. This rate has increased by 43 per cent since 2010. During the same period, rates of non-Indigenous incarceration decreased by 14 per cent.

The Correctional Investigator pointed to the ongoing failure of the criminal legal system to respond to needs, histories and social realities of Indigenous peoples as the root of these high rates of

criminalization. Mandatory minimum penalties make it impossible for the court to follow section 718.2(e) of the Criminal Code to ensure what we know as *Gladue* factors are taken into account.

This brings us to the fifth reason why we need this legislation: Mandatory minimum penalties discriminate against those who are marginalized and result in a less fair and a less just society for all.

In 1995, concerns about discrimination against Indigenous peoples led Parliament to enact section 718.2(e) of the Criminal Code, otherwise known as the *Gladue* factors. This provision requires "... judges to consider all available sanctions other than imprisonment" at sentencing and to direct particular attention to the circumstances of Indigenous peoples "... which may specifically make imprisonment a less appropriate or less useful sanction." Mandatory minimum penalties make it impossible to ensure this provision has its intended effect.

The sixth reason is closely related. Mandatory minimum penalties undermine the rule of law by encouraging wrongful guilty pleas. The harshest mandatory minimum penalty in the Criminal Code is life in prison. In the past decade, 45 per cent of women sentenced to life imprisonment were Indigenous. That is a staggering number.

The 1995 conviction review by the Department of Justice overseen by Justice Lynn Ratushny revealed an apparent and appalling connection between mandatory life sentences and criminalization of survivors of abuse. After reviewing the cases of 98 women convicted of using lethal force to protect themselves or their children from abusers, Justice Ratushny determined that far too many women had pleaded guilty to lesser charges, such as manslaughter, despite having a potentially valid claim of self-defence or defence of other.

Faced with circumstances ranging from limited financial resources, to navigating a legal system that had failed to protect them from violence, to fears of having to put their children through the harrowing process of testifying in criminal court, the "choice" of abused women not to risk going to trial was propelled by the spectre of mandatory life sentences.

• (1530)

While mandatory minimums are often advertised as being "tough on crime," in reality, they are too often the toughest on those who are already most marginalized and victimized. The *Persad* decision rendered last month in Ontario reminds us that one function of sentencing is to communicate "... values which ought to be important to the community."

In this case, the court reduced the length of a sentence due to abhorrent conditions in pretrial custody, including frequent lockdowns; cell-confinement for up to seven days at a time without access to fresh air, showers or telephone calls; clothing, bedding and towels that were stained with urine, feces or blood; and prisoners sometimes having to go for months without a change of clothes. Citing Professor Allan Manson, the court reflected that the consideration of an individual's circumstances for the purpose of sentencing also required "consideration of

society's collective interest in ensuring that law enforcement agents respect the rule of law and the shared values of our society."

Where a minimum penalty applies, judges are constrained in how much they can reduce a sentence to take into account inhumane conditions in pretrial detention as well as police misconduct. Bill S-208 would ensure that judges could craft a just and appropriate sentence, which, according to Justice LeBel in the *Nasogaluak* decision, "... includes consideration of society's collective interest in ensuring that law enforcement agents respect the rule of law and the shared values of our society."

Time and again, mandatory minimums have led to the increased criminalization and imprisonment of individuals who are impoverished, women who have experienced lifetimes of violence, those who live with disabling mental health issues and those who are racialized, especially Indigenous peoples. When we think of the purpose of a sentence, from people taking responsibility and being held accountable for their actions, to working through the factors that led to their criminalization, to integrating into and contributing to the community, inhumane prison conditions and repeated human rights violations are not supposed to be part of the penalty. In his speech on the previous version of this bill, Senator Dean noted:

We know that criminalization causes significant social harms to individuals and their families, and as the Law Reform Commission of Canada has pointed out, longer sentences with harsher penalties are not an effective means of preventing crimes.

This is reason number 7 why this legislation is urgently needed. In addition to all the harm they cause, minimum penalties do not deter crime. In the *Nur* decision, the Supreme Court of Canada summarized a significant body of literature on mandatory minimum penalties and crime prevention in just 13 words:

Empirical evidence suggests that mandatory minimum sentences do not, in fact, deter crimes

At least 50 years of research and evidence indicate that, in fact, we should focus instead on other factors such as appropriate non-criminal-justice interventions and the certainty of being held accountable.

Reason number 8 is that mandatory minimum penalties also fail to serve the interests of victims. A representative of the victims advocate group Mothers Against Drunk Driving Canada testified to the House of Commons Standing Committee on Justice and Human Rights that:

As a mom, as a stepmom, as a victim, I can't support it. There's no evidence to support that this will actually make a difference. We know once we bury our children or bury a loved one, it's too late. We need to focus on deterring it before it actually happens.

In my years of working with those convicted in relation to homicides, I can tell you that it is the rare person who would not give up his or her life if it would bring back the person who died.

No sentence can do this, so we try to do our best to otherwise remedy such wrongs by providing other ways for people to pay their debts and provide future positive contributions to society. Longer prison sentences too often represent the least effective and most costly way of achieving these goals.

Reason number 9 for why we need this legislation now is the enormous and needless financial cost of minimum penalties. For those convicted and sentenced to a mandatory minimum penalty, the cost to taxpayers of administering a harsher-than-necessary sentence is significant. For a woman in federal prison, for example, each additional year of her prison sentence was estimated by the Parliamentary Budget Officer to needlessly cost taxpayers between \$343,000 and \$600,000 per annum. By contrast, the cost of supporting a woman for a year while she serves a sentence in the community is \$18,000, which also increases her chances of reintegrating successfully into that community, thereby decreasing her likelihood of being criminalized again in the future.

Twenty-five per cent of those in federal prisons are seniors, oftentimes as a result of life sentences. Many live with disability and illness, including dementia. Caring for individuals in provincial health care systems is not cheap, but it is significantly less costly than keeping them in prison. We must ask ourselves if paying hundreds of thousands of dollars per person per year for the label of being "tough on crime" is worth it when we know that mandatory minimums do not achieve the safer society they promise.

This brings us to the tenth and final reason why, in my humble opinion, we so urgently need legislation to address mandatory minimum penalties: The majority of Canadians know that it is the just thing to do. Last Parliament, the Minister of Justice and his predecessor were mandated to:

... review ... the changes in our criminal justice system and sentencing reforms ... [with the o]utcomes of this process [to] include increased use of restorative justice processes and other initiatives to reduce the rate of incarceration amongst Indigenous Canadians ...

The work of the Department of Justice included public consultations in which 9 in 10 Canadians supported judges having the discretion to not impose mandatory minimums. Unfortunately, no legislation resulted from this process. Minister Lametti, to his credit, has recently reiterated that there is "a great deal of scholarly literature on the benefits of judicial discretion" and that sentencing reform is a "critical part" of his responsibility as a minister.

Since the precursor to Bill S-208 was first introduced in 2018, the overrepresentation of Indigenous peoples in prisons has continued to increase steadily by several percentage points, representing too many people every year. At least 50 new cases have been released by courts, finding various mandatory minimum penalties to be unconstitutional. Witnesses testifying to the Senate committee on Bill C-75, including Aboriginal Legal Services, the Canadian Bar Association, the Barreau du Québec and the Canadian Association of Chiefs of Police, have taken pains to reiterate the need for urgent action to fix the harmful consequences of mandatory minimum penalties.

Bill S-208 responds to the recommendations, concerns and priorities set out by such authorities as the Supreme Court of Canada; the Senate Legal Committee; and many other committees, commissions and inquiries, including the Truth and Reconciliation Commission, and the National Inquiry into Missing and Murdered Indigenous Women and Girls.

Colleagues, this bill is not a replacement for systemic review and reform of sentencing. We still need a sentencing and/or law reform commission to review the overall system. Three out of four Canadians said this to the Department of Justice during 2018 consultations.

Urgent action is needed to prevent injustices associated with mandatory minimum penalties in the meantime. This legislation is admittedly a small but important step. I look forward to us working together to send this bill to committee and to deliver long-overdue legislative action on mandatory minimum penalties. *Meegweetch*. Thank you.

Hon. Frances Lankin: Honourable senators, I'm pleased to have this opportunity to speak to Bill S-208, a bill that was introduced by our colleague Senator Pate, as we know. It amends the Criminal Code to give judges more discretion in their sentencing and allows them not to impose mandatory minimum sentences.

I want to take a moment to thank Senator Pate for her vigilance, her persistence, her passion and her expertise. We are fortunate to count her as a colleague among us and for the insight she brings to our deliberations.

I want to touch on a couple of reasons why we should allow judges not to impose mandatory minimum sentences. It's a little hard to do that after Senator Pate just went through 10 reasons, but I'll touch on a couple of them; I won't go through the whole list.

First of all, as we know, in all aspects of life, every situation is unique. In this case, it deserves not just a legal remedy but also to have a human perspective and a human screen through which we look when we look at the circumstances and facts in front of us.

Allowing every situation to be judged individually ensures the opportunity for justice to be preserved through the law. Justice for the victims, of course, but also for perpetrators where circumstances warrant. I want to stress that. We are always talking about where the circumstances warrant.

• (1540)

Another reason, and Senator Pate touched on this, is court delays. In this chamber we're all very familiar with the *R. v. Jordan* case and that coming out of that the Supreme Court set deadlines for provincial and superior courts in order to prevent unreasonable delays. I remember from my time back in the Ontario legislature when the *Askov* decision came down and there were many cases that ended up being thrown out because of unreasonable delay, many of them very serious cases. Justice was certainly not done in those circumstances.

It is often thought that mandatory minimums are tough on crime, but if we end up in a situation where justice is completely denied because court cases are thrown out, we're not being tough on crime at all. In fact, this Senate's own Legal Committee, in its 2017 report entitled *Delaying Justice is Denying Justice* recommended:

... that the Minister of Justice undertake a thorough review of existing mandatory minimum sentences in order to ensure a reasonable, evidence-based approach to when they are appropriate ...

A shorter sentence, where appropriate, would reduce the cost of incarceration. Senator Pate just took us through that. I won't reiterate all of that. But these things are all factors to be considered when we look at the broad evidence about the effectiveness of mandatory minimums.

One of the most important motivators for me in supporting this particular bill is that mandatory minimum sentences lead to an over-representation of people from marginalized communities. I saw this first-hand. Many of you know that very early in my career — so that was a lot of years ago — I worked in the corrections system.

We've often talked about the injustice for Indigenous peoples in this chamber in our deliberations. We know that mandatory minimums are one of the reasons for over-representation of Indigenous peoples in prisons. Denying judges the ability to fully consider an individual's Indigenous history in their sentencing is a contributing factor to that over-representation. As we heard — and this shocks and sickens me — Indigenous women, in particular, are being overrepresented in our prisons. In fact, they represent 42 per cent of the Canada-wide female prison population. Compared to their share of the population, these numbers reflect an injustice that stares at us in the face.

The Prime Minister, in his mandate letter to his cabinet members, promised to continue:

... moving forward on reconciliation with Indigenous peoples.

Reconciliation includes allowing judges to waive mandatory minimum sentences for Indigenous offenders where appropriate.

This is also true for racialized communities and for people who live in poverty. Again, I saw first-hand the carnage in people's lives with over-representation and overcriminalization within our criminal justice system.

Now, there are counter-arguments that support mandatory minimum sentencing. I want to touch on some of those because it's important to understand why we came to implementing these. It wasn't a malicious effort. There were reasons that people looked at that they thought were evidentiary. I know, over time, that most of this has been debunked, but let's take a look at it.

Some argue that surely there are categories of crime that are so heinous that judges should automatically assign a minimum sentence. It's true, there are a lot of very serious crimes, and a lot of harm done to victims and to communities. I'm going to give an example. A crime such as kidnapping is extremely serious, but every case needs to be assessed individually. I put to you the case of a parent who is escaping from an abusive partner and who may "kidnap" the child from the parent who has custody at that time as a matter of safety for themselves and for the child. Each case has a specific context. Surely we want our justice system to look at the situational context that is in place in each case before coming to a conclusion. We often say in politics that one size does not fit all. In terms of regional considerations, we often talk about Ottawa or our provincial capitals coming down with policy directions that don't relate to local communities and local complexities. One size does not fit all in many situations. This is so true in sentencing.

We hear about a counter-argument that these sentences will be an aid in deterrence, and we've heard that many times over the years. When the introduction of mandatory minimum sentences was brought forward in Canada, that was one of the very important reasons that was considered and that Parliament determined to move forward with. As we've heard — and I won't go into all the detail and cite studies today — there is a significant body of evidence that mandatory minimums do not act as an effective deterrent.

Furthermore, and I want to stress this, to me this is really important and it's important for those who are hesitant and who believe that there are good reasons for mandatory minimum sentences. This bill only allows judges to have the discretion not to apply a mandatory minimum sentence. In certain serious cases, a judge will use their discretion to apply mandatory minimum sentences or sentencing guidelines, or, as we know in some cases, longer than mandatory minimum sentences. It's about the discretion and it's about looking at the fact case, the evidence and the situational context in every case that comes forward.

I believe we should not limit a judge's discretion for reducing prison terms on a number of criminal offences if they believe the facts of the case do not warrant such a sentence.

I also want to acknowledge some of the reasons that contribute to our country developing public policy and the move to adopt mandatory minimum sentences. Every one of us knows of a case or cases where justice was not done for victims or for communities because of sentences that were shockingly too short, that in our moral and values consciousness, did not accord to the damage and the harm of the crime that was perpetrated. All of us know of those cases. I have seen way too many cases that involved violence against women and where the sentencing failed to provide justice for those victims.

Many of us participated in the debate during the last Parliament, and this bill is coming back to us. It is important that the government should reinforce its judges' training as it relates to their awareness of Indigenous issues, sexual assault cases and other sensitive systemic issues that courts have failed to address in the past. I don't want to simply blame the courts — courts, policing, all aspects of the criminal justice system are striving to come to a higher level of understanding of the sensitive issues that can affect the situational context that is before them.

On Tuesday, Justice Minister David Lametti reintroduced a bill that was originally brought forward by the Honourable Rona Ambrose. I supported that bill as it came from the other place to our Senate Chamber. That bill did not make it through the process in the Senate the last time around, and for lots of reasons. We don't need to place blame. We need to review that bill urgently and bring it forward. I want to be clear that I support that bill and will support it as it comes through.

• (1550)

Senator Pate's bill, Bill S-208, is a step in the right direction. It will offer a way for judges to use the training that we just talked about to assess each situation individually, to apply the appropriate cultural and historical context, and to bring, as I said earlier, a human perspective, a human lens to the sentencing of individuals.

This bill was before us in the last Parliament as Bill S-251. It was considered by this chamber and it was referred to the Legal Committee. Once again, I ask you to join those of us who have spoken and will speak, who support this bill, to refer this to the Legal Committee to be studied.

We heard from Senator Pate, and I want to repeat: Our Standing Senate Committee on Legal and Constitutional Affairs collectively, in their 2017 report, *Delaying Justice is Denying Justice*, and the more recent National Inquiry into Missing and Murdered Indigenous Women and Girls, and many other voices, reports, academics and advocacy voices — voices of victims as well as the criminal defence bar, et cetera — have recommended reviewing mandatory minimums. With this in mind, it is important that the Senate study this issue and bring it forward.

It is my belief that we need to allow our judges to make decisions on criminal matters to protect our society and to focus on justice. When I say that, I am talking about justice writ large. Thank you, *meegwetch*.

[Translation]

Hon. Pierre-Hugues Boisvenu: Congratulations and thank you for your speeches, Senator Lankin and Senator Pate.

You referred to the study done by the Standing Senate Committee on Legal and Constitutional Affairs, of which I was a member, on delays in the justice system. It is known as the *Runciman Report*, and I applaud it. The committee recommended that the government review minimum sentences. However, Senator Pate's bill talks about eliminating them. Do you think the terms "eliminate" and "review" have the same meaning?

[English]

Senator Lankin: In neither my dictionary nor in my language does that have the same meaning. But let me comment on the fact that, as a member of the Legal and Constitutional Affairs Committee over the last couple of years, there have been numerous bills before us that would amend the Criminal Code — the hybridization bill, a number of others. This issue of mandatory minimum sentences came up over and over again. The government of the day has made a commitment to eliminate mandatory minimum sentences.

Every time we asked what are you doing, when are you doing it, the hybridization of many of the indictable offences did not eliminate mandatory minimum sentences for some of those that carry that qualification, that requirement. And the answer was: We are going to review it; we are going to do it all together.

It hasn't been done. Now, governments always have a lot of priorities, but this is a commitment, as Senator Pate has repeatedly stated, that there has not been adequate, sufficient or timely movement on. So that is why I support this measure coming forward. Whatever review is going on within the Department of Justice, I hope that they will come forward in a timely manner to intervene in the study of this proposed legislation at our Legal Committee at second reading. Thank you very much.

[Translation]

Senator Boisvenu: If I understand your position correctly — and it seems entirely logical to me — you would be more in favour of reviewing the scope of mandatory minimums, rather than eliminating them.

[English]

The Hon. the Speaker: Are you asking for five minutes to answer the question?

Senator Lankin: No, I'm asking for 30 seconds.

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

Hon. Senators: Agreed.

Senator Lankin: Thank you, colleagues. That review within the Justice Department I hope will be coming forward. I hope that the commitment of the government both to review and I think the sentiment to move towards abolishing will come forward in that review. I await the hopeful collision of their review with second reading of this bill.

(On motion of Senator Duncan, debate adjourned.)

PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING— DEBATE ADJOURNED

Hon. Patricia Bovey moved second reading of Bill S-210, An Act to amend the Parliament of Canada Act (Parliamentary Visual Artist Laureate).

She said: Honourable senators, I rise today to speak to Bill S-210, An Act to amend the Parliament of Canada Act (Parliamentary Visual Artist Laureate). First introduced in 2016, this bill was passed unanimously by this chamber on May 8, 2018. Unfortunately, the then Bill S-234, died on the Order Paper in the other place. May we be more successful in the other place this time around. This is a good bill that I believe would add to Parliament's ability to reach out to Canadians across our country through the visual arts.

This bill establishes the position of the visual artist laureate as an officer of the Library of Parliament, providing independence from Parliament, like other officers of the Library such as the Parliamentary Budget Officer.

Bill S-210 provides that the Speaker of the Senate and the Speaker of the House of Commons, acting together, shall select the visual artist laureate from a list of three names, reflecting Canada's diversity, submitted confidentially by a committee composed of the Director of the National Gallery of Canada, the Commissioner of Official Languages for Canada, the Chairperson of the Canada Council for the Arts, the President of the Royal Canadian Academy of Arts, or their designates. The Chair of the Committee of Selection would be the Parliamentary Librarian.

Like the Poet Laureate, the parliamentary visual artist laureate's term will be two years, serving at the pleasure of the Speakers of the Senate and the other place. The mandate of the parliamentary visual artist laureate is to promote the arts in Canada through Parliament by fostering knowledge, enjoyment, awareness and development of the arts.

[Translation]

The bill defines the powers of the parliamentary visual artist laureate, including the following: produce or cause to be produced artistic creations, especially for use in Parliament on occasions of state; sponsor artistic events, including art exhibitions; give advice to the Parliamentary Librarian regarding the collection of the Library and acquisitions to enrich its cultural holdings; perform such other related duties as are requested by either Speaker or the Parliamentary Librarian.

[English]

Also included in Bill S-210 is a definition of the visual arts, which includes drawing, painting, sculpture, printmaking, design, crafts, photography, videography and filmmaking.

Colleagues, that is the “how” and the “what” of creating the parliamentary visual artist laureate. The “why” is something I have spent my career working on. As you well know, the arts are near and dear to me, as I believe they are for many senators in this chamber today.

• (1600)

The previous bill garnered significant, solid and palpable support across this country. While Canada has not had a parliamentary visual artist laureate, there are precedents. Many states, some Canadian cities — including Toronto and Victoria — and some countries have visual artist laureates. A recent U.K. Children's Laureate, Chris Riddell, incorporated the power of the visual into his work by doing daily online illustrations and said, “I want to show how much fun you can have with drawing.” I witnessed the huge positive impact of his work and the increased reading abilities of children.

Indigenous artist Christi Belcourt received the 2014 Ontario Arts Council's Aboriginal Arts Award Laureate. Internationally highly-esteemed Canadian artist Geoffrey James became Toronto's first photography laureate. As the city's ambassador for the visual and photographic arts, he championed photography and the visual arts, engaged in discussions of contemporary issues and thus created a unique legacy project.

We know from many studies and commentaries that "the arts are the most powerful tool we have for social change." As we deal with issues of poverty, race discrimination, crime prevention, reconciliation, health and more, we need those tools more than ever before.

[Translation]

Art is widely recognized as a lever for social and cultural change. The work artists do reflects society. It leads people to think about many issues, as we do in the Senate, by challenging, exploring and presenting social problems, often long before society recognizes them.

I think that by visually presenting what is going on in both chambers of Parliament, we will be encouraging our young people to engage as well as helping them gain a better understanding of civil society and our democratic and bicameral system. I also believe that the work of a visual artist laureate will inspire us all and open new doors to countless refugees, new Canadians and citizens across the country.

[English]

Honourable senators, art is integral to every aspect of our society. It portrays humanity and defines who we are and our regional and societal concerns past, present and future. Through art, we engage people of all diversities and ages with acute insights.

[Translation]

Artists are not afraid to articulate society's critical issues and problems. They depict the beauty and fragility of the environment and life all around us. Their works often help us find solutions to contemporary problems. We will truly benefit from having this capacity in Parliament and for Parliament.

In my opinion, society has not yet developed a true understanding of the major impact of the arts on all aspects of contemporary life. Our parameters for measuring the impact and meaning of art are far too narrow and assessed far too quickly.

[English]

My research over the past 15 years and more has focused on the societal concerns defined by politicians of all stripes and all levels of government and the role — or roles — the arts play in each. My research, both empirical and anecdotal, has unequivocally shown that the arts are essential in solving or even addressing each of these. The basic facts about the arts' indispensable contribution to our society are compelling. As John Ralston Saul said, "Culture is the motor of any successful society."

[Senator Bovey]

The arts are the third-largest employer in Canada, making up 3.3 per cent of our workforce — double the number in forestry and more than double the number in banks; 609,000 work in the cultural sector to 135,000 in the automobile industry. That is an impressive — and little known — fact. The arts industries contribute about 7.4 per cent of the country's GDP and pay in taxes — in total, to all levels of government — more than three times the \$7.9 billion the three levels of government paid directly on culture in 2007.

Health statistics are equally compelling. International studies have proven that people who engage in the live arts live, on average, two years longer and have better health. They cost the health system less and, post elective surgery, tend to be discharged from hospital one or two days sooner. They also miss less work. Just think how a visual artist laureate could present our concerns in these areas.

Multiple studies have proven that the arts, in school and extracurricularly, improve educational outcomes at all levels and the crime prevention statistics are overwhelming, particularly where professional artists work with youth.

In Fort Myers, a creative pilot project focused on vulnerable 11- to 14-year-olds through a theatre, visual art and writing project where professional artists mentored the youths' collaborative production in a safe place, and raised the grades of the students. And since the program's inception, juvenile crime dropped 28 per cent and the rate of recidivism for these 11- to 14-year-olds dropped 64 per cent.

The arts have a positive impact on rural revival too. Powell River's international choral festival, the Aurora Winter Festival and many other examples have given new life and business to shrinking communities.

Artists also draw attention to environmental issues such as pollution, acid rain and clear cuts, giving voice to the crises as well as visionary resolutions. We are concerned with all of these issues in this chamber.

Lastly in my research, and equally important, was tourism. The contribution of the arts again is truly significant in some of Canada's centres, including Toronto, accounting for more than 22 per cent of all hotel bookings.

Senators, artists have the insight and vision to see and express societal crises long before the rest of society sees them. I have spoken before of Canada's Indigenous artists' work and Joane Cardinal-Schubert's 1990s art installation "The Lesson," her gutsy, clairvoyant and clarion call to the understanding and redress of residential schools, predating the establishment of the Truth and Reconciliation Commission.

And I have talked about Faye HeavyShield's 1985 work "Sisters," its gold, pointed shoes in a circle. Toes, pointing outwards, drew attention to the issues of murdered and missing women — how long before the National Inquiry into Murdered and Missing Women and Girls was established?

Our Senate Standing Committee on Foreign Affairs and International Trade studied cultural diplomacy, its impacts and benefits from a 360-degree perspective — the artist, arts organizations, foreign trade, trade missions, business and for projecting Canada's profile abroad. We did so comparatively with what is being done elsewhere. We heard from Canadian and foreign diplomats, funding agencies at home and abroad, the Canada Council, Heritage Canada, artists of all disciplines, educators, academics and more. It is clear that Canada's leading international role is significantly enhanced by the work of artists in all disciplines, their connecting of many international dimensions defining our national values and underlining Canada's profile abroad, both economic and social.

I am pleased our report *Cultural Diplomacy at the Front Stage of Canada's Foreign Policy* has garnered such great support at home and abroad. It was mentioned in several ministerial mandate letters. Training at Global Affairs has begun and important public sessions have taken place.

Visual artists are at the forefront of defining how others see us on the international stage. We should afford these same artists the opportunity to help define who we are to each other at home. We need this understanding between our regions now more than ever before. A visual artist laureate would do just that.

Our former colleague and poet Senator McIntyre touched on a very important point when it comes to creating the position of visual artist laureate. He said in this chamber:

Visual arts have a particular ability to shape the spirit of our society and great nation. Whether the art reflects our present, past or imagination, it is a portrait depicting our lives and history; a powerful way to bring communities from coast to coast together and create a shared vision of ideals, values and hopes for the future.

[Translation]

Today, it is important that we, as Canadians from different regions, learn to understand each other. Our experiences and history as individual provinces collectively make Canada a great country. We must understand and appreciate ourselves at every level, for the sake of our future. I believe that a visual artist laureate would enhance this understanding and be helpful to us in these difficult times we are living in.

• (1610)

[English]

Senators, the visual arts are an international language giving non-verbal expression to the soul and substance of who we are as Canadians. A visual artist laureate in Parliament will bring the public perspective of Parliament, the important of our democracy today and the issue and works of parliamentarians to the fore for every Canadian in ways that will communicate to all — to lifelong and new Canadians, immigrants and refugees — regardless of their mother tongue. Creating this position will demonstrate Parliament's leadership in underlining the importance of the arts and significant contributions they make to Canada's overall economy. We as parliamentarians obviously

have a strong societal responsibility, so too do artists. I look forward to bringing Parliament and artists together in a concrete, meaningful way through the visual artist laureate.

We have an opportunity now to lead and underline the importance of the arts while gaining a new means of bringing our work to the public. I therefore ask for your support once again to make this legislation a reality. I know artists, collectors, galleries and academics from coast to coast and throughout the North were really disappointed when this bill fell off the Order Paper in the other place near the end of the session. I have had many requests that the bill be passed speedily at the beginning of this session. It is needed and much wanted. Let's get this bill back to the other place soon. Thank you.

Hon. Senators: Hear, hear!

(On motion of Senator Poirier, for Senator Martin, debate adjourned.)

CHARITABLE SECTOR

MOTION TO PLACE FIRST REPORT OF SPECIAL COMMITTEE
DEPOSITED WITH CLERK DURING FIRST SESSION OF
FORTY-SECOND PARLIAMENT ON ORDERS
OF THE DAY ADOPTED

Hon. Terry M. Mercer, pursuant to notice of December 11, 2019, moved:

That the first report of the Special Senate Committee on the Charitable Sector entitled *Catalyst for Change: A Roadmap to a Stronger Charitable Sector*, deposited with the Clerk of the Senate on June 20, 2019, during the first session of the Forty-second Parliament, be placed on the Orders of the Day under Other Business, Reports of Committees – Other, for consideration two days hence.

He said: Honourable senators, the reason for this motion is quite simple. The Special Senate Committee on the Charitable Sector completed its work and submitted its report to the Senate. The committee is now dissolved as a result of the completion of its work. However, with the dissolution of Parliament for the election, the report died on the Order Paper.

In order for all of us here to debate the report, which I know many of you will want to comment on, I should give you a little bit of background detail. Senate Communications tells me that it is the most downloaded report last year, so the Canadian public is interested in this as well. In order for all of us here to debate the report, which I must say is an excellent report that you should all read, this motion will allow us to get the report back on the Order Paper. It will then allow us to move a motion for its adoption where we can then debate it.

This is a procedural requirement and I ask for your support to adopt this first motion today. Thank you, honourable senators.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[Translation]

NATIONAL SECURITY AND DEFENCE

MOTION TO AUTHORIZE COMMITTEE TO STUDY THE
CORRECTIONAL SYSTEM AND THE PAROLE BOARD—
DEBATE ADJOURNED

Hon. Pierre-Hugues Boisvenu, pursuant to notice of February 4, 2020, moved:

That the Standing Senate Committee on National Security and Defence be authorized to examine and report on the manner in which the correctional system and the Parole Board of Canada managed the case of an inmate accused of the murder of a young woman while he was on day parole in January of this year, including a review of the training of commissioners, the report of the Auditor General (Report 6 — Community Supervision — Correctional Service Canada) and existing rehabilitation programs at Correctional Service Canada, with a view to recommending measures to be taken to ensure another tragedy such as this never happens again, when and if the committee is formed; and

That the committee submit its final report no later than April 30, 2020.

He said: Honourable senators, I move the adjournment of the debate.

(On motion of Senator Boisvenu, debate adjourned.)

[English]

DEFICIENCIES OR GAPS IN SENATE POLICIES

INQUIRY—DEBATE ADJOURNED

Hon. Lillian Eva Dyck rose pursuant to notice of December 12, 2019:

That she will call the attention of the Senate to the deficiencies or gaps in the policies of the Senate of Canada compared to other parliamentary bodies on behaviours of individual senators that constitute bullying, harassment, or sexual misconduct that occur during parliamentary proceedings.

She said: Honourable senators, I rise today to speak to my inquiry to bring the attention of the Senate to the deficiencies or gaps in the policies of the Senate of Canada compared to other parliamentary bodies on behaviours of individual senators that constitute bullying, harassment or sexual misconduct that occur

during parliamentary proceedings. I have brought this inquiry forward, in part, as another avenue to continue to modernize our institution with respect to our policies and rules concerning the conduct of senators.

Colleagues, as honourable senators, we are entrusted and expected to act and behave in an honourable manner; that is, to conduct ourselves with the utmost dignity, respect and ethical standards expected of public officials. We serve Canadians in this privileged place and our conduct towards one another, the administration, the staff and the public should always live up to the highest of standards.

In the last Parliament, however, at the June 11, 2019 meeting of the Standing Senate Committee on Aboriginal Peoples, some members continually patronized, demeaned and belittled me in my role as chair of the committee. Their dishonourable conduct was in sharp contrast to that expected of a senator.

Honourable senators, each and every one of us has a right to be treated with honour, respect and courtesy. A safe and respectful environment allows us to carry out our Senate duties efficiently and effectively. Our former colleague Senator Joyal recently reminded us of what the title “honourable” means. He said:

As you will understand, senators are in a very privileged position in terms of title. You are “honourable” and you should act honourably not only when you are a senator but once you have left this chamber . . .

He essentially meant that the actions of a senator should be honourable to preserve the authority, dignity and reputation of the Senate of Canada. The conduct of some members at the June 11 meeting, however, was not dignified and besmirched the reputation of the Senate. This damage to the Senate’s reputation was confirmed in an unsolicited email from a member of the public who attended the June 11 meeting. They wrote:

I must admit that I was deeply disturbed and disheartened by the tactics and verbal behaviour that bordered on abuse, especially by senator “X.” I feel that senator “X” and at times senator “Y” crossed the lines of dignity and basic respect towards you as Chairperson of that meeting.

Colleagues, as a matter of courtesy, I chose not to read into the record the names of the senators.

• (1620)

Continuing with the email, they wrote:

This is NOT what I expected to find in a Senate committee which I understood to be a process of sober second thought amongst respectful peers.

Later, it continued:

. . . Senator Dyck I admire your grace, dignity and resilience under extreme pressure.

Colleagues, what happened to me at the June 11 meeting fits the definition of harassment in the Senate policy on the prevention and resolution of harassment in the workplace:

Any improper conduct by an individual, that is directed at and offensive to another person or persons in the workplace, and that the individual knew or ought reasonably to have known would cause offence or harm. It comprises any objectionable act, comment or display that demeans, belittles, or causes personal humiliation or embarrassment, and any act of intimidation or threat.

Colleagues, I lodged a complaint of harassment, but the Human Resources Directorate replied that they could not accept a complaint regarding a senator's conduct that occurred during Senate proceedings, like a committee meeting.

After consulting with the law clerk and a September 2019 clarifying decision from the steering committee of CIBA, Human Resources concluded that the policy does not apply to a complaint of harassment by a senator when the conduct occurs as part of parliamentary proceedings, which are protected by parliamentary privilege and thus beyond the scope of the policy.

I initially tried to lodge a complaint of harassment through the Senate Ethics Officer based on a breach of the Senate *Ethics and Conflict of Interest Code for Senators*, which states:

7.1(1) A Senator's conduct shall uphold the highest standards of dignity inherent to the position of Senator.

7.1(2) A Senator shall refrain from acting in a way that could reflect adversely on the position of Senator or the institution of the Senate.

7.2 A Senator shall perform his or her parliamentary duties and functions with dignity, honour and integrity.

However, according to a letter from the SEO dated July 31, 2019, a complaint of harassment can only be made after a finding of harassment has been determined via the Senate policy on harassment. But as I noted earlier, according to the Human Resources Directorate, the policy does not cover a senator's conduct during parliamentary proceedings because they are protected by parliamentary privilege and thus beyond the scope of the policy.

In other words, honourable colleagues, there is no way for a senator to bring forth a complaint of harassment during Senate proceedings by another senator. This conundrum presumably applies to any other person who tries to lodge a complaint of harassment by a senator that occurred during parliamentary proceedings.

Colleagues, this is a serious gap, a loophole in the application of our harassment policy. This loophole leaves senators and other persons at risk for harassment by other senators during Senate proceedings in Senate committee meetings in Ottawa, and presumably elsewhere, when committees travel on Senate duties, and what about when senators travel with parliamentary associations?

Colleagues, much of the work of the Senate is done at committee meetings. The February 2019 CIBA Subcommittee on Human Resources report on modernizing our harassment policy states:

Those who harass others must be held accountable for their actions.

And later:

Perpetrators should face real consequences for their actions.

But the loophole in our policy allows senators to harass others during committee meetings without having to face any consequences. At committee meetings, senators, committee clerks and staff are not protected against bullying or harassment by senators. Surely this situation must be rectified as soon as possible to ensure that senators are held accountable for their conduct at committee meetings.

Colleagues, the application of privilege in the Senate harassment policy is one-sided. While the parliamentary privilege of the harasser is taken into account to protect them, that of the victim is overlooked. The victim too should have their privilege taken into account, so that they can carry out their parliamentary activities free from any undue interference or obstruction caused by harassment.

In the situation where one senator harasses another senator during a committee meeting, both have their individual parliamentary privileges and their privileges should be equal. However, the way our harassment policy works now, only the parliamentary privilege of the harasser is recognized. This is not equality amongst peers. This is clearly unfair to victims of harassment.

Colleagues, surely this serious gap — this loophole — which leaves senators and other persons vulnerable to harassment during Senate proceedings should be closed as soon as possible. I will now move to an example where this has been done.

In the United Kingdom, the House of Lords adopted a robust code of conduct in July 2019. Under their code, behaviour that amounts to bullying, harassment or sexual misconduct is a breach of their code under rule 17. In other words, preventing these behaviours is not just a matter of policy, they are explicitly included in their code of conduct. Furthermore, rule 17 applies to members performing their parliamentary duties and activities on the parliamentary estate or elsewhere. There is no loophole in the application of their harassment policies.

In addition, the British equivalent to the Canadian Human Rights Act has been incorporated into the code of conduct for the House of Lords. These human rights are just as valid as the parliamentary privilege of a senator. Their definition of harassment states:

Under the Equality Act 2010, harassment is related to one or more of the relevant 'protected characteristics' which include age, sex, race, disability, religion or belief, sexual orientation and gender reassignment.

Honourable colleagues, the House of Lords has adapted their rules to balance the privileges of the perpetrator and of the victim. Furthermore, their rules include the equality rights of the victim to be free from harassment. Thus, they have a fairer system than the Senate to define and deal effectively with bullying, harassment and sexual misconduct of their members in all aspects of their parliamentary work. I believe the Senate must do this as well.

I believe these are important changes that the Senate of Canada should emulate. We ought to ensure that senators meet the highest ethical standards of conduct, courtesy and mutual respect to all others with whom they interact during all our parliamentary activities. A senator should not be shielded by their parliamentary privilege from accountability for dishonourable conduct during Senate committee meetings.

Honourable senators, as noted in the many Senate reports concerning the policy, the code and the Meredith case, the parliamentary privilege of the Senate as a whole overrides the privilege of an individual senator, and as a whole, the Senate can invoke privilege to protect the dignity and reputation of the Senate.

The way forward to close the loophole in our harassment policy is clear. We as a body have the power of parliamentary privilege to amend our code to exempt the use of parliamentary privilege when a senator's conduct constitutes bullying, harassment or sexual misconduct. By doing so, first, we would be holding senators to account during committee meetings; second, we would be creating greater fairness for victims of harassment; and third, we would move towards providing the openness and accountability necessary to reinforce public confidence in the way in which senators conduct themselves during Senate proceedings.

It is my hope that through this inquiry we may gather some consensus and perhaps devise and propose a motion to amend the *Ethics and Conflict of Interest Code for Senators* to close the loophole in our code.

As a first step, to close the loophole as soon as possible, we could consider a motion that instructs CIBA to reverse their decision which exempts senators from the harassment policy during Senate proceedings, such as at committee meetings.

• (1630)

Another logical step would be to adopt a motion to amend sections 7.1 and 7.2 of our code to define and include bullying, harassment and sexual misconduct and to make such types of conduct a breach of our code. That would emulate *The Code of Conduct* of the U.K. House of Lords. The SEO would then be able to respond to complaints of bullying, et cetera, that occur during parliamentary proceedings, such as committee meetings.

Honourable senators, collectively we have the power of parliamentary privilege to regulate our own internal affairs. We are the architects of our ethics code. We can choose to amend the code so that conduct such as harassment, bullying and sexual misconduct are unacceptable, unethical behaviours for a senator during all Senate proceedings. Without adopting such changes, I fear that these types of behaviours will continue to disrupt the

Senate's ability to continue its work effectively and efficiently and in a respectful and honourable way by placing senators and even support staff in difficult circumstances.

Furthermore, if we do not close the loophole in our harassment policy, public confidence in the Senate will continue to erode.

In conclusion, I look forward to other interventions on this inquiry. It is my hope that, through this inquiry, we may gather some consensus and adopt a motion to have the Standing Committee on Ethics and Conflict of Interest for Senators amend our ethics code to ensure that senators are accountable for their conduct during all parliamentary proceedings. I believe that this is an important change that the Senate of Canada should embrace. If we make this change, the Senate will, one, reinforce public confidence in the Senate; two, provide a respectful and safe working environment for all of us to carry out our parliamentary work; and three, ensure that a senator's conduct meets the highest standards of dignity inherent to the position.

Thank you. *Kinanâskomitin*.

(On motion of Senator Duncan, debate adjourned.)

[Translation]

NATIONAL SECURITY AND DEFENCE

MOTION TO AUTHORIZE COMMITTEE TO STUDY THE CORRECTIONAL SYSTEM AND THE PAROLE BOARD—DEBATE

Leave having been given to revert to Motions, Order No. 18:

On the Order:

Resuming debate on the motion of the Honourable Senator Boisvenu, seconded by the Honourable Senator Seidman:

That the Standing Senate Committee on National Security and Defence be authorized to examine and report on the manner in which the correctional system and the Parole Board of Canada managed the case of an inmate accused of the murder of a young woman while he was on day parole in January of this year, including a review of the training of commissioners, the report of the Auditor General (Report 6 — Community Supervision — Correctional Service Canada) and existing rehabilitation programs at Correctional Service Canada, with a view to recommending measures to be taken to ensure another tragedy such as this never happens again, when and if the committee is formed; and

That the committee submit its final report no later than April 30, 2020.

Hon. Pierre-Hugues Boisvenu: Honourable senators, as I mentioned several times this week, last Thursday a known criminal, who was convicted of the violent murder of his wife in 2004, was formally charged with the second-degree murder of a 22-year-old woman, Marylène Levesque. Barely at the beginning of her life, Marylène was a sex worker, a segment of the population that has been recognized as being very vulnerable and very often exposed to abuse, murder and other violent and criminal acts.

I would like to go over some facts. I will first talk about the repeat offender. When he stabbed Marylène to death, the alleged killer, Eustachio Gallese, had been on day parole since March 2019. The murderer had a history of domestic violence.

More specifically, Eustachio Gallese was sentenced to life in prison in 2006 for the murder of his wife, Chantal Deschênes. He stabbed her 42 times with a knife in October 2004. This was a very serious case in Canada's correctional and parole systems.

Quebec's premier, François Legault, shared his disbelief following the murder. He stated that he was troubled by what had happened, and I quote:

I cannot understand how this man was released.

The Quebec Minister of Justice, Sonia LeBel, asked Ottawa to explain why a man suspected of murder, who had already served a life sentence for murder, was out on parole at the time of the last murder. In reference to the issue of training, the minister added that it was important to determine whether the Parole Board members were "sufficiently equipped to assess the risk posed by this type of criminal." As you can see, reactions are now coming from outside the political sphere. The most striking comments are from former members of the Parole Board. They have revealed some very serious problems with the parole system, a system that, I would remind senators, was created to protect the public and the most vulnerable members of our society, like Marylène Levesque. Former Parole Board members have pointed out serious problems in terms of training. In the case of Eustachio Gallese, why did members with very little experience have to manage such a difficult case?

Why did two members with very little experience work on the same very high-risk file, when best practices required an experienced member to assist inexperienced members? In a letter published in the Quebec newspaper *Le Devoir* on January 28, Professor Dave Blackburn, a former Parole Board member with a PhD in psychology and criminology, pointed out a number of problems within the Parole Board. He said, and I quote:

That kind of repeat offence while a federal offender is on day parole should never happen.

He reviewed the facts. He noted that the Liberal government had literally fired competent board members with exactly the right kind of experience to make decisions about criminals such as murderers, sex offenders, and members of organized crime. Despite their expertise and specialized skills, the most experienced members did not get their contracts renewed. There were former police officers, such as Richard, who had been the director of Montreal's major crimes unit, former Crown prosecutors, and a person with a PhD in social sciences. There were very competent people. According to Professor Blackburn, these changes to the Parole Board had the following devastating effects on the Parole Board's ability to function:

. . . loss of the members' expertise, knowledge and experience, lack of guidance from experienced members during hearings, the work environment within the organization, and overwork of members and staff.

Major media outlets revealed that the board was weakened by long delays in filling vacant positions beginning in 2017. Of 16 appointments, only two experienced members remained on the job. That means 14 new people replaced experienced board members.

In 2015, the Quebec members had 240 years of experience between them. In 2018, the new members who had been appointed had a total of 40 years of experience, that is, six times less. Clearly, between 2015 and 2018, the government took actions that contributed to the death of Marylène. Minister Blair was asked about this in the other place. He replied that Parole Board members who are appointed receive at least five weeks of training and are chosen through a merit-based process. You will understand, honourable senators, that those five weeks, for such an important role, are extremely worrisome for a new board member who has no knowledge of the criminal world. That is very worrisome.

Canadians were also shocked to learn that in November 2017, a group of about a dozen Parole Board members sent a letter to Justin Trudeau and the Clerk of the Privy Council of Canada to express concerns specifically about the changes to the appointment and renewal process. They never got an answer to their concerns.

Clearly there were some shortcomings, particularly in the area of training for the members as well as for parole officers of the Correctional Service of Canada.

The text of the decision that the Parole Board handed down on September 20, 2019, talks about a strategy developed so that Gallese could meet women, "but only to have his sexual needs met."

Professor Blackburn added the following in his letter to the media, and I quote:

Never in my career did I see an offender who had been jailed for murdering his spouse obtain day parole and benefit from a strategy developed by his case management team . . . to allow him to meet women to satisfy his sexual needs.

It is unheard of.

• (1640)

A lot of questions need to be answered about the rehabilitation and supervision programs at Correctional Service Canada. In that regard, in the fall of 2018, Auditor General Michael Ferguson published a report entitled *Report 6—Community Supervision—Correctional Service Canada*. I strongly encourage you to read that report.

He talks about significant flaws within Canada's correctional service and the Parole Board of Canada. The purpose of the audit was to determine whether Correctional Service Canada had adequately supervised offenders released into the community, such as the individual who murdered this woman.

As of April 2018, approximately 9,100 federal offenders—or almost 40% of all federal offenders—were supervised in the community. The number of offenders in the community increased by 17% between the 2013–14 and 2017–18 fiscal years. . . . The number of offenders in the community is expected to keep rising.

It is therefore worrisome if we cannot verify what type of training these people receive and what type of tools they have to monitor offenders in their community. In this report, the Auditor General highlighted serious gaps in the Correctional Service of Canada's ability to monitor offenders released into society on parole. Despite the Auditor General's devastating findings, the Minister of Public Safety, who is responsible for this file, did nothing after the report was tabled.

Having closely studied the Correctional Service of Canada, I would like to mention the problem with its programs, including those aimed at reducing the risk of reoffending. There has never been an in-depth, independent review of their effectiveness. Yet these programs are vital to reducing of the risk of reoffending. As is the case for all such offenders, a parole officer with the Correctional Service of Canada was responsible for Eustachio Gallese's file. Every parole officer supervises a certain number of offenders. The officer must generally assess the risks. He or

she analyzes the offender's behaviour and actions. He or she looks for whether there has been progress made in the offender's rehabilitation. Every evaluating officer must then make recommendations to the Parole Board.

Eustachio Gallese had had hearings before the Parole Board of Canada. The Parole Board does its own risk analysis based on the analyses and reports provided by Correctional Service Canada officers. In Gallese's case, I want to note that this offender, whose crimes I would consider very serious, went through several stages of the parole process without raising any alarms about the risk he posed. The focus of this process is supposed to be public safety. The parole officers recommended day passes, and the board accepted these recommendations and approved the day passes. Later, parole officers recommended day parole. The board decided to accept the recommendation and grant this murderer day parole, which was renewed. In every case, board members must follow the criteria for protecting the public and managing the risk an offender poses to society. It is clear that the board failed to do either of these things.

This whole process, which is supposed to protect the public, failed. The main criterion must be the protection of the public.

Let's not forget that the officers recommended that he pay for the services of a sex worker to meet his sexual needs. However, the Criminal Code clearly prohibits that. How was he allowed to go see prostitutes, people who are at very high risk of being the victims of these criminals? That is a criminal offence to me. The Parole Board members should have suspended his parole, but they didn't. The Parole Board could have taken action and ordered his return to custody.

I am proposing, by way of my motion, to study the three elements that I described at length and that the Auditor General set out in his report, namely, the training of Parole Board members and parole officers and the rehabilitation and monitoring programs, including the assessment and reduction of the risk of reoffending, all in the context of the Auditor General's report.

These are facts that merit consideration. These are legitimate questions, and the Standing Senate Committee on National Security and Defence must get answers. Both organizations, Correctional Service Canada and the Parole Board of Canada, must be studied and questioned because something as horrible as this must never happen again, especially considering that the number of people released over the next five years will go up. We need to act now to prevent such tragedies.

To protect the public, we need answers as soon as possible so we can address these concerns. We need to restore public confidence in Canada's parole system. That is the principle on which rests the board's existence.

We must not allow other victims, other women, to pay for the system's failures. Given all of these factors, I move the following: That the Standing Senate Committee on National Security and Defence be authorized to examine and report on the manner in which the correctional system and the Parole Board of Canada managed the case of an inmate accused of the murder of a young woman while he was on day parole in January of this year, including a review of the training of commissioners, the report of the Auditor General and existing rehabilitation programs at Correctional Service Canada, with a view to recommending measures to be taken to ensure another tragedy such as this never happens again. I move that the committee submit its final report no later than April 30, 2020. Thank you.

Hon. Senators: Hear, hear!

[English]

POINT OF ORDER—SPEAKER'S RULING RESERVED

Hon. Murray Sinclair: I have a point of order that I would like to ask Your Honour to rule upon.

I had a concern during the senator's entire speech about whether or not the *sub judice* rule, which usually applies in debate, not to participate in debate around matters that are currently before the court or even before tribunals that are connected to the court, might not have been applicable. Now I have even more concern that he is asking a committee to study a matter that is still before the court, and that has to do with the fact that the individual he has referred to a number of times in his speech has been charged with an offence and has not yet gone to trial.

I wonder if it is out of order for this matter to proceed any further at this stage, because if the matter is still before the court and the Senate is participating in a study of what led to the matter being before the court, I think that might be an issue where the Senate might come in conflict with what the court will ultimately decide. I have a concern about that.

I ask for a ruling from Your Honour on that point.

The Hon. the Speaker: Does any other senator wish to enter the debate on the point of order?

[Translation]

Hon. Pierre-Hugues Boisvenu: I understand what Senator Sinclair is saying, and I know that he has legal experience. However, I don't consider this to be a review of the murder itself. We want to look into the training that Parole Board members and corrections officers have before they review such cases.

I remind honourable senators that I've been asking for this for years. If we wait for the end of the trial, we could be waiting three or four years, if the case does not end up before the Supreme Court, which could take seven years. In the meantime, women will be in danger because criminals will be released. This case raises some serious concerns. What takes precedence? Would we rather take a look at the people who are releasing dangerous criminals or wait five to seven years to take action? I'll be very concerned if we decide to wait.

[English]

Hon. Kim Pate: With respect, this is on the point of order of Senator Sinclair. While I am concerned as well about the manner in which misogynist violence is dealt with within our system, perhaps Senator Boisvenu could tailor his motion or his request for a study to be more focused on how the system does not respond to those sorts of issues writ large.

The Hon. the Speaker: I would thank honourable senators for their input on this point of order, and I will take it under advisement.

• (1650)

CARBON EMISSIONS

INQUIRY—DEBATE ADJOURNED

Hon. Mary Coyle rose pursuant to notice of February 4, 2020:

That she will call the attention of the Senate to the importance of finding the right pathways and actions for Canada and Canadians to meet our net-zero carbon emissions targets in order to slow, arrest and reverse human-caused climate change to ensure a healthy planet, society, economy and democracy.

She said: Honourable colleagues, I rise today in a spirit of openness and a sense of urgency to launch a Senate inquiry into finding the right pathways and actions for Canada and Canadians to meet our net-zero carbon and other greenhouse gas targets in order to slow, arrest and hopefully reverse human-caused climate change to ensure a healthy planet, a healthy society, a healthy economy and a healthy democracy.

Réchauffement de la planète, greenhouse effect, climate change, climate crisis, climate catastrophe, Anthropocene extinction — no matter what we call it, the din of the headlines is getting louder every day.

New York Times: "Climate Change Is Accelerating, Bringing World 'Dangerously Close' to Irreversible Change."

CTV News: "Ottawa River flooding the top weather story of 2019."

Toronto Star: "Beyond Frozen." Nature's freezer is heating up and it's wreaking havoc in Canada's North.

Finance Post: "Global warming could render the assets of many financial companies worthless, Mark Carney warns."

The Hill Times: "The ugly side of climate change denial may lead to violence."

Calgary Sun: "... 'back off' ..."

Calgary Herald: "Take a deep breath. Oil and gas fairies aren't coming back."

Global News: "How Alberta's oil and gas sector is using technology to fight climate change."

Le Devoir: “*Le Canada sur la voie de l’échec climatique.*”

The Globe and Mail: “Climate change is the world’s biggest risk, survey of political, business leaders say;” and “Climate change might mean Miami’s 11th Super Bowl is its last.”

The Guardian: “Katharine Hayhoe: ‘A thermometer is not liberal or conservative’.”

Honourable colleagues, as we start this Forty-third Parliament and this critical new decade, we, the Senate of Canada, have a tremendous opportunity to take a leadership role in examining and influencing action on the defining issue of this century: climate change.

We represent our respective regions, and we have a duty to serve the public good of all Canadians. As senators, we can be less partisan and balanced in our work. We have the good fortune of being able to take a long-term perspective on controversial issues due to the stability of our chamber through election cycles.

Just a couple of weeks ago, I listened to former Governor General David Johnston speak to parliamentarians about our shared responsibility as builders of trust in our democratic institutions. He referred to trust as the glue and grease in our society. In that vein, he reminded us that a large majority of Canadians voted in the recent federal election for strong action on climate change.

[Translation]

Honourable colleagues, today I hope to have an open discussion about what we have to offer as a nation, as Canadians and as citizens of the world to honour the commitments made by Canada and to help our global neighbours reach their net-zero emission targets and other targets related to greenhouse gas emissions.

[English]

My intention is to touch briefly upon what Canada has actually committed to, provide background on those commitments, highlight climate change impacts and consequences, identify solutions and suggest how we could proceed toward making the necessary and complex choices our commitments will require of us.

First, let’s look at what Canada has committed to. At the COP25 meetings in Madrid in December 2019, Environment Minister Jonathan Wilkinson pledged that Canada would introduce net-zero-by-2050 legislation, with legislated milestones every five years paired with a just transition act. He also promised to not only meet our 2015 Paris agreement target but to exceed it. Canada is also committed to reduce GHG emissions by 30 per cent below 2005 levels by 2030.

Although we’ve known about human-caused climate change for some time, concrete global action really just began in 1988 with the creation of the Intergovernmental Panel on Climate Change, or the IPCC. In 1994 was created the United Nations Framework Convention on Climate Change. In that framework, governments agreed “. . . to stabilize greenhouse gas

concentrations in the atmosphere ‘at a level that would prevent dangerous anthropogenic (human induced) interference with the climate system.’”

In 1995, the first Conference of the Parties met in Berlin, followed by the 1997 Kyoto Protocol, the first greenhouse gas emissions-reduction treaty, which came into force in 2005. This protocol recognized that countries that had gone through industrialization earlier were responsible for the rise in GHG emissions and it therefore placed a heavier burden of “differentiated responsibilities” on those countries, including Canada.

A 2018 IPCC report stated that, to have a 50 per cent chance of keeping global warming to 1.5 degrees Celsius, carbon dioxide emissions should reach net zero by 2050, with emissions of other greenhouse gases tightly constrained as well.

In September 2015, Canada adopted the UN 2030 Agenda for Sustainable Development, including Goal 13: “Take urgent action to combat climate change and its impacts.” The 2030 Agenda also importantly links the impacts of climate change with inequality and poverty.

So why are things heating up now?

Global warming at higher levels and rates is occurring because the more carbon dioxide and other greenhouse gas emissions we emit, the more they build up in the atmosphere and they trap more of the heat that radiates from the Earth’s surface as it absorbs sunlight. With the overall warming trend, we are seeing far more catastrophic weather events.

In his presentation, “The Cost of Inaction: Climate Change Globally and in Canada,” Craig Stewart, the Vice-President of Federal Affairs of the Insurance Bureau of Canada, stated that approximately 1 million homes, or 10 per cent of all residences in Canada, are at risk of flooding. Severe weather in Canada cost \$1.3 billion in insured damages last year. In a *Global News* interview, Mr. Stewart said:

In terms of the number of events and the severity of the events, there’s no doubt that climate change is causing an increase in severe weather across Canada.

Hotter oceans and atmosphere lead to more severe storms and disrupt the water cycle, meaning more floods, droughts and wildfires, as well as a rise in sea levels predicted to be most extreme on Canada’s eastern and northern coasts. Loss in biodiversity is another serious consequence.

Canada is an Arctic nation, and much of the Arctic is Indigenous land. The Arctic is warming at two to three times faster than anywhere else on the planet, causing a loss of 40 per cent of ice coverage in the last 40 years. The Arctic is the Earth’s air conditioner. Arctic ice and snow reflect about 80 per cent of the sun’s radiation, but due to melting, the resultant dark water only reflects 20 per cent.

Similarly, the melting of permafrost causes the release of methane, methane gas traps even more heat than carbon dioxide. With that loss of ice and permafrost, there is a dramatic change in wildlife and fish habitat and damage to buildings, critical infrastructure and people's livelihoods.

[Translation]

Of course there are direct and indirect costs, the costs of mitigation and the costs of adaptation linked to all the devastating consequences of climate change for the environment.

[English]

Canada has 0.48 per cent of the world's population and we are responsible for 1.6 per cent of the world's annual emissions. Each Canadian produces 22 tonnes of GHGs per year — three times the G20 average. Forty-five per cent of our emissions are from burning fuel to generate energy for industry, or heat and electricity for our homes and public buildings, 28 per cent from transportation: 8.4 per cent from agriculture; 7.8 per cent from flaring, unintentional emission and leaks; 7.5 per cent from industrial processes and product use; and 2.6 per cent from garbage and waste water. Energy-related sources account for 81.8 per cent of Canadian emissions. It should be noted that we do not have Canadian numbers for emissions caused by the destruction of nature, but the IPCC estimates them to be 23 per cent globally.

• (1700)

Colleagues, we know what the impacts of climate change are, we know the sources of Canada's emissions, we know our target is to reach net-zero carbon emissions by 2050. We know that governments, at all levels, citizens, civil society organizations and businesses are taking actions to arrest climate change. Our youth are important change leaders, like Autumn Peltier, Wikwemikong water protector, and Rylan Urban, Pembina Institute award-winning founder of energyhub.org.

According to the IPCC, we have 10 years to quickly steer ourselves onto the right pathways. In order to do this, we will need everyone on board moving in the same direction. We need to be bold, smart, innovative, wise, fair, inclusive and collaborative.

We have many resources to draw from. The Pan-Canadian Framework on Clean Growth and Climate Change, which has a large focus on carbon pricing. We have *Charting our Course, Bringing clarity to Canada's climate policy choices on the journey to 2050*, by the newly minted Canadian Institute for Climate Choices.

[Translation]

We have the Climate Action Network's initiative known as Getting Real about Canada's Climate Action.

[English]

We have Mark Jaccard's new *Climate Emergency: The Citizen's Guide to Climate Success*, and many others. We need to be able to imagine what a successful economy with low or no GHG emissions looks like.

Glen Hodgson, former chief economist with the Conference Board of Canada, identifies three main areas for action. First, produce and use energy with low or no GHG emissions, phasing out energy produced by combusting coal, oil and gas, and focus on electrification fuelled by renewables. Second, reposition investment priorities towards the green economy. Third, refocus expertise, knowledge and skills of the workforce towards electrification of the economy and on redesigning and producing products, services, built structures and communities that result in low or no GHG emissions.

Mark Carney, Governor of the Bank of England, talks of the need for significant government investment and policy leadership, as well as change driven by financial markets. He talks about a just transition from brown to green for Canada's economy, using the ingenuity of Canadians and supporting the Canadian financial system to lead the way.

The World Wildlife Fund of Canada makes a strong case for investing in nature-based solutions, which have the power to deliver 30 per cent of global emission reduction targets. This would involve stopping further destruction of our natural carbon sinks, stewarding what we have and restoring the lost ones.

David Victor, chair of the Global Agenda Council on Governance for Sustainability at the World Economic Forum says that:

Decarbonization requires a string of technological revolutions in each of the major emitting sectors. We count 10 sectors that matter most, including electricity generation, cars, buildings, shipping, agriculture, aviation, and steel. These 10 sectors account for about 80 per cent of world emissions.

In addition to the significant technical, financial sector, consumer, conservation, and labour force changes, our transition will require reconciliation with our Indigenous neighbours, international collaboration on solutions and supports, and most of all, it will require collective societal will and courageous political leadership.

According to Texas Tech University's Katharine Hayhoe, we need to come to that tipping point where people realize that climate impacts do pose a far higher threat than the solutions. Our challenge is getting to that tipping point in opinion and motivation well before the natural tipping point of no return.

In the December Speech from the Throne, Governor General Julie Payette said:

Canada's children and grandchildren will judge this generation by its action – or inaction – on . . . climate change.

Colleagues, let us be inspired by the wise Iroquoian principle that decisions we make today should result in a sustainable world seven generations into the future. My hope is that this inquiry we are launching today in the Senate Chamber will be a spark joining many other sparks to create the energy — renewable, of course — needed for a serious and respectful pan-Canadian conversation on solutions to climate change. With this, honourable colleagues, I am extending an open hand to invite

each of you to join in the inquiry and demonstrate to all Canadians, and our global neighbours, our interest and commitment to them and to a stable future with secure, sustainable jobs, a healthy planet, a more united society and a thriving, accountable democracy.

Colleagues, this is why we are here. Let's do it. Who is up next?

Wela'liog. Thank you.

(On motion of Senator Mitchell, debate adjourned.)

NON-GOVERNMENT BUSINESS

INQUIRY—DEBATE ADJOURNED

Hon. Murray Sinclair rose pursuant to notice of February 4, 2020:

That he will call the attention of the Senate to the need for this House of Parliament to reevaluate its rules, practices and procedures as they relate to non-government business.

He said: Honourable senators, I rise to commence a Senate inquiry on a subject that I have been working closely on with our colleague Senator Dalphond. In common parlance, today we will be delivering what is known as a doubleheader.

Our aim is to begin a conversation on the need to change the Senate's Rules in relation to non-government business. Specifically, the problem we wish to remedy is that the relevant Senate Rules, in place since major changes in 1991, favour and reward obstruction rather than decision-making. We hope that all Senate groups can work collaboratively to strike a better balance between the need to debate and the need to decide. Indeed, our initial ideas are based, in significant part, on Rule changes previously proposed in the Senate by the Conservative caucus.

Why do we need to change the Rules around non-government business? We have three reasons in mind.

First, democracy. As senators experienced in the previous Parliament, and as Canadians and members of Parliament observed, the Senate Rules make it almost impossible to trigger votes on private members' bills from the House of Commons. Even after lengthy proceedings — in some cases, years — a majority of senators cannot vote on a bill if even a handful of their colleagues employ procedural tactics of delay.

I believe that our primary right and duty as senators is to decide on all matters that come before us. This is particularly the case for bills that express and address the decisions of the elected House of Commons. In the previous Parliament, however, 15 Commons private members' bills sent to the Senate did not receive votes. In parliaments before that, similar situations have occurred.

[*Translation*]

It is an institutional problem. Since we are appointed to this chamber, it is important to respect the fundamental role of democracy in our society. This means that we must be diligent when we examine the work of our elected colleagues and when we vote on bills, and that we must respect the democratic processes in this place. We must amend the Rules to discharge this responsibility.

[*English*]

The second reason to change the Senate Rules is that our debate and voting processes ought to be more transparent to Canadians. The current Rules are complex and difficult to understand even for many experienced parliamentarians. For example, it is difficult to explain to stakeholders why the Senate may vote on an item as soon as tomorrow, or possibly never. In contrast, since 1986, and with subsequent improvements, the House of Commons Rules have provided an example of a fair, effective and accessible system of voting on the initiatives of individual parliamentarians. After 34 years, we think it's time for the Senate to catch up.

• (1710)

Third, we think a more independent Senate ought to have a viable procedural avenue to vote on its policy contributions in addition to amending government bills or motions. This is particularly the case in a minority government, where government bills coming to us will be the product of compromises between political parties. The Senate should be able to vote on Senate initiatives including Senate public bills, common committee reports and motions.

For these reasons, we have developed five proposals to change the *Rules of the Senate* in relation to non-government business that we would like to encourage all of you to consider and discuss. Their unifying purpose is to create mechanisms for senators to vote on items after reasonable periods of time, with fair opportunities for debate and scrutiny.

Before moving to specifics, it's important to explain why the Senate's legislative record justifies making these changes. The purpose of providing this background is not to relitigate the proceedings of the previous Parliament; however, since we are making the case for change, it is essential to explain how the current rules have been applied.

In the previous Parliament, public attention focused on five instances of delay of non-government bills in the Senate.

First, the late Member of Parliament for Ottawa-Vanier, Mauril Bélanger, advanced Bill C-210 to make Canada's national anthem gender neutral. The legislation proposed simple changes to the lyrics; however, Senate proceedings on this bill stretched on for over a year and a half. During that period, some senators obstructed the holding of a vote by repeatedly moving amendments, sub-amendments and sub-sub-amendments and deferring votes on these measures.

Under the current Rules, the problem is that sub-amendments may be moved and debated virtually ad infinitum. Even with the support of a large majority of senators, a bill may never reach a vote once we are into this procedural spin cycle. In the end, the bill's sponsor, Senator Lankin, was able to trigger a vote only through an innovative procedural mechanism that was within the Rules, but is not an ideal model for the regular conduct of business because the mechanism lacks certainty and can be seen as something of a last resort.

As a second example, our former colleague Senator Willie Moore proposed Bill S-203 to phase out the captivity of whales and dolphins for entertainment purposes. This commenced the longest process to pass a bill in Canadian history. Senate proceedings on this bill lasted for nearly three years, taking 34 months to reach a vote. By comparison, House of Commons proceedings on Bill S-203 lasted for eight months. In the Senate, the timeframe was due to repeated adjournments of debate, albeit with little actual debate. Report stage alone lasted six months, whereas those debates typically conclude within days or at most weeks.

Third, we had Bill C-337, a unanimously adopted House of Commons initiative from the Honourable Rona Ambrose, the former Leader of the Opposition. This legislation proposed to require judicial training in relation to sexual assault. This bill spent over two years in the Senate, including over a year at committee.

In the end, Bill C-337 received neither third reading debate nor a vote. This is because repeated one-hour standing votes, combined with two-hour dinner breaks, protracted Senate proceedings until midnight, when the Senate had to adjourn. Senators were therefore unable to debate or vote on any item of non-government business that appeared later on the Order Paper. Two motions to bring the item forward were blocked.

Four, the former Member of Parliament Romeo Saganash advanced Bill C-262, requiring an action plan for federal laws to be harmonized with the United Nations Declaration on the Rights of Indigenous Peoples. Bill C-262 did not receive third reading debate, nor a vote. That legislation was affected by the same dynamic as Bill C-337 despite a unanimous motion from the house calling on the Senate to vote on both bills immediately.

Five, our former colleague Senator Nancy Greene Raine advanced Bill S-228 to restrict how food and beverages may be advertised to children. I was looking forward to the day that M&Ms could stop talking to my grandson and to me, but that is not to be.

Originally, the Senate voted unanimously to pass this legislation. The house subsequently amended the bill to make it slightly less strict. At that point, the Senate considered a motion to accept the changes outlined in the message from the House of Commons. That motion was before us for nine months. Eight months in, senators opposed to the bill moved an amendment and a sub-amendment to put Bill S-228 back into the spin cycle from whence none return.

As I noted, the Senate did not vote on 15 bills from the House of Commons. These bills embodied years of work and dealt with important subjects, including organ donation, community benefits in federal contracts, maternity assistance, drinking water standards and the Calls to Action of the Truth and Reconciliation Commission.

If we were elected members of Parliament how would we feel about the Senate Rules for private members' business? Would we think them fair and reasonable?

[Translation]

Senator Dalphond and I are of the opinion that any bill that is sent to the Senate by the House of Commons deserves to have a vote.

[English]

In considering this issue, it is important to note that Senate public bills, our version of private members' bills, are treated fairly under the house rules, coming up for scheduled debates and votes. As a chamber, we have an institutional interest in defending and strengthening reciprocity with the House of Commons.

So how should we change the Rules? We propose the following five changes for your consideration and the input of Canadians and other senators.

First, we would like you to think about the possibility, at second reading and combined report stage and third reading, that we think that Commons private members' bills be voted on by default after being called on 15 Senate sitting days. In practical terms, the Senate typically sits three days a week but often does not call private members' bills on Wednesdays. Plus, there are break weeks. So this change would give senators about a maximum of a couple of months to speak to a bill at each of second and third reading.

Of course, the Senate could vote sooner. We are also open to allowing a five-day sitting day extension at both stages, if requested by a senator with reasons and if approved by the Senate.

Second, for all non-government items, including Senate public bills, committee reports and motions, we believe that if an item has been called 15 times and debated for at least two hours, the sponsor, critic or mover of the report should be able to trigger a final debate and a vote. This idea is based loosely on a 2014 proposal of the Conservative Senate caucus, spearheaded by the late former Speaker Senator Pierre Claude Nolin.

Third, we think committees should have time limits for how long they can hold non-government bills so that the legislation is not indefinitely and fatally backlogged. Such a system exists in the house, limiting the time for study to 60 sitting days, with a 30-sitting-day extension available with reasons if approved by the house. In the Senate, we think a reasonable period would be approximately six months. We therefore propose time limits of 40 Senate sitting days with a possible extension of 10 sitting days, with reasons, if approved. If this limit is exceeded, a bill would come back to the Senate unamended.

Fourth, we wish to look at the reinstatement of private members bills and Senate public bills. Currently, if Parliament prorogues, the event wipes out progress that private members' bills have made in the Senate and progress that Senate public bills have made in both chambers. In contrast, the house has a rule that reinstates Commons private members' bills to their previous stage, with an option to reinstate Senate public bills. Based on a 2009 Conservative proposal, we suggest that the Senate should adopt similar rules.

Fifth is dinner breaks. Currently, the Senate requires unanimous consent not to interrupt a sitting from 6 to 8 p.m. for a dinner break. We think a dinner break can be useful, such as for leadership discussions or an important event, such as eating M&Ms. However, the break can also be used to prevent the Senate and committees from working. We therefore propose that, absent unanimity, the Senate have an immediate vote without bells on whether to break for dinner.

• (1720)

I would like to thank you, senators, for considering these ideas. I look forward to any opportunity you may have to discuss them further. I look forward as well to continuing this conversation and working with you to implement these or similar changes you may have this spring. With that, I will pass the baton to Senator Dalphond.

Hon. Pierre J. Dalphond: Honourable senators, I also rise to make the case for the collaborative initiative that Senator Sinclair has outlined. They say sequels are never as good, but I'll let you be the judge.

[Translation]

The beginning of a Parliament is the ideal time to make changes to the *Rules of the Senate*. We don't know yet what legislative measure could be introduced by members of Parliament or, with some exceptions, by our colleagues here in the Senate.

[Senator Sinclair]

This situation makes it possible to objectively explore and develop improvements to the *Rules of the Senate*. The time is all the more propitious as we are at a juncture where bills introduced by parliamentarians, rather than by the government, may play a greater role in this Parliament.

Changes are being made in both the House of Commons and the Senate. Because there is a minority government in the House of Commons, the government party cannot prevent a majority of members from other political parties from introducing and passing bills. Similarly, in a Senate that is more independent than before and that now comprises various groups, it is easier to take legislative initiative outside of the government's control.

[English]

We have a perfect window in time where we may simply ask what is fair and to fix what is not fair. Colleagues, I never thought I would say these words, but I am somewhat excited about Senate procedure and our five proposals.

I would like to return to the main reasons we think it's necessary to consider changes to these rules about non-government business. As you know, there are two sources of non-government bills, private bills from the House of Commons and bills introduced by members of this house. I will begin with private bills from the House of Commons. In our view, it is the responsibility of the Senate to respect democracy by voting on bills passed by the elected House of Commons.

In 2016, political science Professor Andrew Heard of Simon Fraser University appeared before the Special Senate Committee on Senate Modernization. In his written submissions to the committee, he wrote:

The most problematic aspect of the Senate legislative record lies in its inefficient handling of House of Commons private members' bills. In comparison to the Senate's treatment of government bills from the Commons, private members' bills are far less likely to be considered in detail or to be given third reading.

Professor Heard noted that between 2000 and 2015, the House of Commons sent 107 private bills to the Senate. Of those, 45 per cent died on the Senate Order Paper.

In the last Parliament, as noted by Senator Sinclair, 15 private members' bills died on the Order Paper.

Let me refer again to Professor Heard:

Clearly, the Senate needs to address its treatment of private members' bills already approved by the Commons. . . . changes in the House of Commons procedures have created greater opportunities for these bills to pass and to be concerned with more substantial areas of public policy than was the case in previous decades.

For this reason, Senator Sinclair and I propose that specific milestones be included in the Rules once the Senate receives a bill in order to force second reading, report stage and third reading.

Let me now address the second source of non-government business, bills coming from members of this house.

Canadians and senators may have different views on the Senate as an initiator of legislation, given its primary role as an appointed chamber of sober second thought. However, as Senator Harder noted in his policy paper on the Senate's complementary role, Senate public bills are a proven parliamentary vehicle to address policy gaps. In writing about tenure — some who have much more than me — Senator Harder wrote that length of tenure:

. . . allows senators' work to continue on a bill over the span of several Parliaments where necessary, affording the time for groundbreaking policy proposals to change hearts and minds. . . . Senators' long tenure also fosters institutional memory of legislation that may have come close to passage in the past. Further, senators' appointed status affords them greater institutional liberty to explore policy areas that may not be top of mind for a Member of Parliament . . .

[Translation]

In the last Parliament, 11 Senate public bills were passed, including a bill introduced by Senator Carignan to better protect journalistic sources, a bill that uses the Magnitsky Act to sanction foreign nationals who violate fundamental rights, a bill that makes it easier for pleasure boaters to cross the Canada-U.S. border, as well as a bill, as my colleague mentioned, that put an end to keeping whales and dolphins in captivity.

Two other Senate bills were not adopted, but they prompted the government to take measures to ban the precursor chemicals used in the production of fentanyl and the import of shark fins. However, 25 bills introduced by senators died on the Order Paper. I admire the patience of Senator Pate, who has repeatedly come back to the issue of restoring judicial discretion in matters pertaining to criminal offences and sentencing. This topic is extremely interesting and important. Unfortunately, we were never able to vote on that bill in the last Parliament, which had just one session lasting no less than four years.

That is why Senator Sinclair and I are suggesting that, if a bill's sponsor wants to trigger a vote, the following two simple conditions must be met at second and third reading: the bill must have been on the Order Paper for 15 sitting days and must have been debated for two hours. We believe that two hours is a

reasonable time because it is the maximum time allocated to debates on private members' bills at each stage in the House of Commons.

Basically, what we are trying to do today is pick up where the late Pierre Claude Nolin left off and try to finish the work that, sadly, he could not. I worked with his father at the Quebec Superior Court, so it is an honour to quote the son. Back in 2014, the subcommittee made up of senators Nolin, Joyal and White suggested that once any item of non-government business had been called 15 times and debated for a minimum length of time, the senator sponsoring the bill could move a motion to begin the final debate and the vote.

This rule would have applied to non-government bills and to motions and committee reports. Much like the other amendments we are proposing to the *Rules of the Senate*, this amendment will allow senators to vote within a reasonable period of time, which shows respect for the democratic decisions of the House of Commons and for the right of all senators to see the bills they introduce be studied, debated and voted on.

When Senator Nolin proposed this approach, he said the following to the Committee on Rules, Procedures and the Rights of Parliament:

While ensuring that there is ample opportunity for debate, this provision would provide a tool to ensure that if the majority of senators want to reach a decision on an item, they can do so without undue delay.

In my opinion, such amendments would help increase trust between the two chambers and would increase public confidence in the Senate.

• (1730)

[English]

The proposal carried at the Rules Committee and proceeded to this chamber. In presenting the report, the chair at the time, our colleague Senator White, noted that mechanisms to trigger votes exist in upper chambers in the United Kingdom, Australia, France and the United States. Senator White continued to describe this idea:

. . . this proposal will actually encourage debate The sponsor, if he or she is thinking of invoking this process, will want to ensure that senators speak. Similarly, senators who oppose a proposal will have every interest in ensuring that their remarks actually get onto the record in a speech. Speeches will actually get prepared and be given within a reasonable time . . . I am convinced that this proposal will . . . foster public respect for this institution.

Senator Frum also spoke eloquently in support of this message, stating:

When the House of Commons passes a bill and sends it to us to be considered, that is what they expect us to do. It is our role. This proposed rule change will oblige us to do our duty rather than allow us to simply ignore or endlessly defer debate on any proposed legislation that we find challenging.

Senator Sinclair and I agree with Senators Nolin, Joyal, White and Frum that clear rules providing for default votes on private bills from the House of Commons, senators' public bills, reports of committees or motions all encourage debate and show respect for the proper functioning of our parliamentary institution.

Honourable senators, I will close with a few remarks about the process that we are initiating today. Our hope is that this inquiry is the beginning of a collegial conversation about the suggestions we are proposing today as we work to implement them or similar measures through a motion to be presented later on.

Thank you. *Meegwetch*.

Hon. Terry M. Mercer: Would the honourable senator take a question?

Senator Dalphond: Do you mean Senator Sinclair or me?

Senator Mercer: Either one. Under the Rules, it will have to be you.

One of the interesting things about private members' bills that come from the House of Commons is what the members do with the bill once they have passed it.

The usual method in the past — and this is an interesting situation that we find ourselves here now with a large group of people who call themselves independent in this place — has always been that contacts would be made with their political allies that they have here in the Senate. Have you analyzed how many of those bills that have died on the Order Paper have been sponsored by members of Parliament who do not have natural allies in this place historically — for example, New Democrats and Bloc Québécois? For bills that were passed, in the case of the Conservatives, in the case of the Liberals, when they had a caucus in this place, they would make contact with their friends.

When I had bills passed here that were sent to the House of Commons, I went to see my friends there. I spoke to them about sponsoring and grabbing the bill to help them get it through the House of Commons.

Did you analyze that aspect of the bills that died on our Order Paper?

The Hon. the Speaker: Senator Dalphond, your time is about to expire. Are you asking for five minutes to answer questions?

Is leave granted, honourable senators?

Hon. Senators: Agreed.

Senator Dalphond: It will not take me five minutes to answer. Certainly this is a call for action, and that call for action can only be possible if we build bridges with the other side.

For example, I have worked in the past with the Honourable Rona Ambrose regarding the bill that she had introduced in the House of Commons, and in which I had the pleasure and honour to revive at the stage where the Senate was more or less keeping it in abeyance. I was very honoured to work with her to revamp the bill and to stimulate the debate in this place. With Rona Ambrose and Senator Andreychuk, with whom I also worked closely, we came up with a series of proposals to amend the bill. That was finally agreed to at the Legal Committee in this house and with Ms. Ambrose, who said this week in a press conference that this bill, as improved by the Senate, was a good bill.

Yes, it's possible to work with the other house. Senator Sinclair did it, and many members of the committee did it with NDP member Mr. Romeo Saganash who had proposed and introduced the bill on the UNDRIP principles. So, yes, it's possible. If we speak to each other, we may open the eyes of some members in the other place, perhaps including some members of the NDP that may see some value in this place.

(On motion of Senator Poirier, for Senator Martin, debate adjourned.)

ARCTIC ISSUES

INQUIRY—DEBATE ADJOURNED

Hon. Patricia Bovey rose pursuant to notice of February 4, 2020:

That she will call the attention of the Senate to the need to renew and further its interest in Arctic issues.

She said: Honourable senators, it's late, and I'll be quick.

I'm looking to a productive 2020, a year of vision forward. I do so today by commencing an inquiry to renew and further the Senate's interest in Arctic issues.

I'm going to start by recalling where we left off in June 2019, specifically on June 12, when our Special Standing Committee on the Arctic released its year-long report, *Northern Lights: A Wake-up Call for the Future of Canada*. As a committee, we examined multiple issues facing the North and its peoples, Indigenous and non-Indigenous. Our time was short, the project huge, the territory large and the witnesses passionate. I applaud the dedication of our committee chair, Senator Patterson, and all our members and the staff. The commitment was stellar.

The report's findings and recommendations echoed much of what we all feared when we first established the special committee. The issues facing the Arctic are wide, multi-dimensional, interconnected and the need is great. The committee's report has received very positive response, and I am pleased that the Prime Minister has already acted on one of our recommendations to appoint a Minister of Northern Affairs, that being the Honourable Dan Vandal, MP for St. Boniface, who took the role last November.

There was unanimity in the committee that we must continue our work and take time for deeper investigations and look to the North through one lens to better understand the interrelationships between the myriad issues. The concerns are regional, national and indeed international. The chamber rose just a few days after the launch of our report and time did not allow for its discussion in the Senate. So today I launch this inquiry to continue the discussion and to seek a way to continue our work formally.

I felt strongly last spring, as did the committee, that our recommendation for a permanent committee on the Arctic was the only path. But events, new information and time has softened my approach somewhat. My real concern is for the Senate to continue our work as soon as possible. So now I don't mind if we do that with another Special Committee on the Arctic, a permanent committee or perhaps even a joint committee with the other place. What I do mind is that we establish a committee expeditiously.

We need to develop a viable framework to seek strategic solutions for the critical issues that face the lives and cultures of Canada's northern peoples and to ensure the security of our foreign borders. Issues of sovereignty, food security, food prices, culture, natural resources, the environment and the North's fragile ecosystems, climate change with the devastating effects of melting sea ice and the impacts on living standards, the species of fish and whales moving North are paramount.

B.C.'s salmon, for instance, were in much shorter evidence on that coast this past summer when I was out fishing with grandchildren, but 20- and 25-pound salmon were in abundance in Tuktoyaktuk. That poses threats to their natural fish stocks, especially Arctic char. With the melting permafrost, the levels of mercury in the Arctic food sources have increased. Caribou herds are smaller, birthing grounds and migration paths are compromised. All this is changing and compromising food sources, particularly fish, marking a truly disturbing safety issue. We need solutions to ensure a healthy and livable future.

The economy of the North has shifted exponentially over the decades, with oil, diamond mines and mineral extraction attracting international interests and investments, endeavours that are providing much-needed jobs. Yet, with traditional lifestyles compromised these shifts have in some parts been cataclysmic.

• (1740)

[*Translation*]

We have to find a way to increase educational opportunities with standards equal to those in the South and with internships to increase the number of higher-scale jobs. We must create a balance between empirical scientific evidence and traditional knowledge.

We all feel great consternation over the alarming youth suicide rate. Living conditions well below Canadian standards, the serious lack of running water and small, uninsulated homes that house multiple generations represent serious problems. The North also lacks opportunities for students to conduct research and further their education. It also lacks recreational resources and reliable internet connections. Of course, health is also a major concern.

[*English*]

Every day newspaper headlines around the world warn us about the increasing potential impacts of global warming on our environment and livelihoods. Canada's polar regions are widely predicted to be the first and most seriously affected.

I had the opportunity to represent our Arctic committee work at a recent conference on Antarctica in London and was only too pleased to share our findings as we work together globally to undertake the much-needed ongoing scientific research, in our Arctic, in Antarctica and in fact all regions of the globe, to improve our knowledge and understanding of the challenges of global warming and to seek viable means of mitigation.

With decreasing levels of sea ice and, in turn, the opening of the Northwest Passage, and access to oil and shipping creating international claims to the North, coupled with the lengthening shipping season, and opening the North to large cruise vessels, the Arctic waters are shifting. We need to address these impacts — the good and the troubling.

Circumpolar links are critically important for many reasons, too — international security, trade and business, education and culture, as evidenced by the relationships between Canada's Inuit peoples and the Sami of the Scandinavian countries. I am encouraged by the relationships between universities around the circumpolar region and the collaborative work being done on circumpolar studies. Canada is very much part of these issues and initiatives. But there is more to do — from our perspective at home and on the international stage.

These are only some of the concerns I have. I think it behooves us to dig deeper in a multi-pronged way in order to get a greater understanding of the concerns, not only of the North but for the North.

The conclusions our report put forward are urgent, born out of a crisis resulting from years of neglect and/or lack of regard and comprehension for the needs of northern peoples. The report's title reflects that urgency, as it does the deep connection of northerners to the land and environment, its references to the aurora borealis and its link to the northern people's ancestors.

It is clear to the committee that the North is the future of Canada.

Colleagues, some of us, along with hundreds of others, attended the stunning and truly inspiring Arctic Inspiration Prize last evening, celebrating youth. We saw into that future of the North, and through them to the future of Canada. Their accomplishments and vision is great, but they cannot realize it alone. We must act through understanding. I cannot say often enough that the need is urgent.

I'm not going to repeat the recommendations. You have them, and they have been getting great currency across the country, in the South as well as the North. I met with Minister Vandal a few short weeks after his taking office. He had read our report and was versed in the issues and by now has gone north and seen the urgency of the situations first-hand.

Food, the economy, housing, security, education, culture, language, communications, climate change, shipping and conservation, mineral extraction and more all affect the daily lives of northerners and Canada's national security and international relations. All are critical.

Our committee concluded that government policies must align with the priorities of northerners, Indigenous and non-Indigenous, and empower northerners to create their own programs and initiatives through eventual devolution of decision-making powers about northern issues to northern institutions. It was very clear that the decisions for the North should be made in the North and by the North.

[Translation]

Decisions about the North should be made in the North, for the North and by the North. These are urgent issues. Our 30 recommendations require immediate action.

I also want to point out that I agree with the title of the article published in the June 7, 2019, edition of the *National Post* called "Inuit plan says climate change can't be separated from social issues".

I believe our recommendations are a platform and represent a path for the people of the North, Indigenous and non-Indigenous alike, as well as for all Canadians, to follow, while also

identifying the challenges related to Canada's security and sovereignty, and determining our place in the world, in the Arctic and beyond. That is why I believe it is important for the Senate to create a committee to continue this work. The North makes up 40 per cent of the surface area of our country and is key to Canada's future.

[English]

In conclusion, I had a chat with two very bright young women, the first to graduate from Grade 12 in their community, and they both earned an A-plus in English and math. They came South for post-secondary programs, proud as they should be. But within two weeks they were lost academically. They asked to be tested and found that their Grade 12 A-plus in English was equivalent to Grade 7 in the South, and their A-plus in math equated to Grade 5. I don't need to tell you their resulting feelings. They went home. If we are to move forward as a nation, we need to ensure all our young people, North, South, East and West, have access to equal educational opportunities at every level.

May we as senators not close this pressing Arctic file, but keep it open, and not have its work situated within one of our existing standing committees alone. The issues don't fit within any one of them. Northern peoples are diverse, Aboriginal, Metis, Inuit and non-Aboriginals, lifelong Canadians of all backgrounds, immigrants and refugees. The interrelationships are complex. May we continue to address those interrelationships and develop meaningful and relevant strategies as we support the Arctic, and in so doing the rest of the country. A one-year study is clearly not enough. I look forward to your thoughts and to your support in establishing an ongoing committee. As I said, from my perspective, while a permanent committee would be my preference, I am equally happy at the moment with another special committee on the Arctic or a joint committee. I only hope we can move on this very quickly and build on the findings of our prior work.

(On motion of Senator Duncan, for Senator Anderson, debate adjourned.)

(At 5:49 p.m., the Senate was continued until Tuesday, February 18, 2020, at 2 p.m.)

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