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Thursday, May 6, 2021

The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Thursday, May 6, 2021

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

Prayers.

SENATORS' STATEMENTS

THE HONOURABLE WANDA ELAINE THOMAS BERNARD

CONGRATULATIONS ON FRANK MCKENNA AWARD

Hon. Jane Cordy: Honourable senators, I am pleased to be speaking to you from the unceded land of the Mi'kmaq people today.

Honourable senators, it is often easy to sit on the sidelines and watch the game. It is easy to comment from the outside and bemoan what ought to be done and how best to do it. Great ideas, like a great play strategy, are no good unless they can be propelled into action. I greatly admire the doers: those who are able to take germinations of ideas and turn them into actions. We tend to think that we can only effect change at the highest levels, but very often those we consider to have achieved that status started at the grassroots, working diligently to make changes within their own communities. I am lucky enough to be surrounded by many such people, and have been at every level throughout my career. Today, however, I am speaking particularly of our colleague Senator Wanda Thomas Bernard.

Senator Thomas Bernard is the 2020 recipient of the Frank McKenna Award for outstanding leadership and contributions to public policy in Atlantic Canada. I can say without hesitation that Atlantic Canadians have been very fortunate to benefit from the energy and enthusiasm she brought to her previous career in social work, and now through her work as a senator. She has spent a lifetime championing issues impacting African Canadians, employment equity, mental health, human rights and people living with disabilities. Her work as a senator is so valuable to Canadians because she has always contributed and cultivated the knowledge and skills to effect change within Nova Scotia and Atlantic Canada. Please join me in congratulating Senator Wanda Thomas Bernard for this honour.

I also congratulate Senator Thomas Bernard and Senator Kutcher for their excellent series on the Pandemic of Racism. Honourable senators, if you have not yet seen these discussions, I would encourage you to watch them on YouTube. They are extremely insightful and pertinent in our current climate. I want to thank you both for these frank and honest discussions. They are the kind of discussions that we all need to make informed decisions.

Honourable senators, while I am acknowledging the honour that Senator Thomas Bernard has received, I am sure we could all recognize many people from our communities who are doing exceptional work. We see great things when we come together and work together to make them so. I encourage Canadians to get involved in their communities and to get others involved as well, because together we can make change happen. Thank you.

ASIAN HERITAGE MONTH

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, as a proud Canadian of Korean descent, eldest daughter to pioneering immigrants, the late Lee Sung Kim and the late Kye Soon Kim, née Kwon, I'm honoured to speak about other Asian Canadians and their contributions to the beautiful mosaic and colourful fabric of Canadian society during this important Asian Heritage Month.

There are heartwarming and successful immigrant stories like that of pioneer Mr. Kyu Tae Kim, the original *appa*, or dad, of the award-winning play written by Ins Choi that became the hit sitcom "Kim's Convenience." The real Mr. Kim owned the convenience store long before it became the main set of the show beloved by fans across Canada and around the world.

Born in Sangju, South Korea, Mr. Kim was only an infant when the Korean War broke out and his family fled to safety by foot. He was told that his grandmother had him bundled and bound to her back, as many other mothers and grandmothers would have done with their babies and grandbabies, and was lucky to have survived.

Kyu Kim and his family immigrated to Canada, landing in Toronto, Ontario, in 1974 with only $400 in his pocket. Mr. Kim did a number of odd jobs before his family was able to purchase what is now known as the set of "Kim's Convenience."

Just like in the show, living upstairs with a newborn and toddler, the Kims worked tirelessly, barely ceasing in their efforts. They were driven by determination and passion to build a better life for their children and would-be grandchildren, Marcus and Dominic Chow, Grandpa Kim's present-day pride and joy.

Mr. Kim eventually sold Kim's Convenience and continued to pursue more opportunities that took him and his family to the West Coast. Again, many odd jobs, countless hours of toil through blood, sweat and tears, he became a successful restaurateur and property manager and developer. His first commercial investment project sparked his current journey in 2001, when he led a small group of investors in purchasing what is now known as Hanin Village Mall on North Road in Burnaby and Coquitlam, B.C. This strip mall was over 70% vacant at the time of purchase, but under Mr. Kim's great management within two years the entire Hanin Village Mall was fully leased and became the impetus for what is now known as the heart of Koreatown in B.C.'s Lower Mainland. Since this first project, Kyu Kim and his group are working toward delivering much-needed retail office and community space in the heart of Koreatown.

Honourable senators, the original *appa*, Kye Tae Kim's immigrant story of success and perseverance is still being written, and it's an important story during Asian Heritage Month and for the annals of Canadian history to be added to the many stories of Asian Canadians throughout our nation's history.

VACCINE HESITANCY

Hon. Rosemary Moodie: Honourable colleagues, in one of my first speeches before this chamber I spoke about vaccine hesitancy being one of the top ten global health threats we face today. Over a year later, and now that we are fighting a global pandemic, that threat is much greater.

Statistics Canada reports that 77% of Canadians are willing to get the COVID vaccine, but concerns about the safety of vaccines and potential side effects continue to drive hesitancy. They also indicate that fewer Black Canadians, some 56%, are willing to take the COVID-19 vaccine, highlighting an even greater issue for this community.

Although misinformation continues to be an important driver of hesitancy, emerging data suggests that the increasing threat is linked more closely to public health communications. Canadians are experiencing a lot of mixed messaging, whether originating from the National Advisory Committee on Immunization, the Ministry of Health, Health Canada or the Public Health Agency of Canada. Many do not differentiate between the roles these various bodies play, but see these messages as coming from their leaders. It doesn't help that decisions being made at various levels of government are often discordant and confusing.

• (1410)

This mixed messaging is having a clear impact. A recent Abacus Data poll found that Canadians have become more confident over time in particular vaccines while becoming less confident in others, citing concerns about side effects as the reason. To be clear, the science is sound. If a vaccine has been approved for use in Canada, it is safe and effective. Canadians deserve to hear clear messaging about vaccines. There needs to be greater alignment, contextualization and clarification of information and, when new information emerges, we need consistency in timing, content and careful planning when changing the message.

We, as senators, can be part of the solution, acting as a credible source of information for our communities about vaccines and seeking and targeting pockets of hesitancy within our communities. We must take seriously the fact that we can have an impact on the decisions people make about their lives. Honourable senators, widespread vaccination is necessary to defeat this pandemic, but to do so we must defeat this crisis of confidence.

I will also take a minute to urge you to participate in the work of the Advisory Working Group on Diversity and Inclusion. Our Senate has long embraced its role and duty to protect and advance the voices of minority Canadians. It is crucial that our internal policies support us in this role. It is crucial that we hear as many voices as possible, so I urge everyone to participate.

Thank you.

FREEDOM OF EXPRESSION

Hon. Pamela Wallin: Honourable senators, the internet is not only the most powerful space for conducting commerce and for sharing news and information, it is also the most powerful forum for personal communication. Most governments have taken a hands-off approach to regulating or censoring these exchanges. Freedom of speech, dissent, disagreement, criticism and debate are all basic tenets of democracy. As J.F.K. once eloquently declared:

> . . . a nation that is afraid to let its people judge the truth and falsehood in an open market is a nation that is afraid of its people.

I know that was then and this is now, but in the age of the internet the basic principles must still apply. In fact, it is even more important that they do, given the relentless flow of information.

Let ideas compete; their merits should win the day. Do battle with bad ideas by offering better ones and use your own judgment. If you don't like what someone has to say, change the channel, cancel your subscription or take a tech break. You can hit mute if you don't like my message. As Noam Chomsky argued, if we don't believe in freedom of expression for people we despise, we don't believe in it at all.

What began as a plan to force big tech to financially support Canadian cultural and journalistic sectors has somehow morphed into the possibility of censoring online content, even that created by you and me on Facebook, Twitter or YouTube. The legislation originally exempted personal communications, but that protection was excised from the bill. Even musing about any such censorship is anti-democratic. Many Canadians have clearly called for the government to engage in widespread and genuine public consultation on this issue, and I add my voice to that call. As John Stuart Mill wrote in Of the Liberty of Thought and Discussion back in 1859 — and it applies today:

> . . . we can never be sure that the opinion we are endeavoring to stifle is a false opinion . . . if we were sure, stifling it would be an evil still.

Thank you.

[*Translation*]

THE LATE CLAUDE B. GINGRAS

Hon. Lucie Moncion: Honourable senators, Claude Gingras was a businessman, philanthropist and ardent promoter of French language rights, but he was much better known as one of the founders of Ginsberg, Gingras & Associates, Inc. Licensed Insolvency Trustees. Mr. Gingras was born on April 12, 1944, and died of cancer on April 26, 2021.

Claude B. Gingras began his career with the federal government in the area of bankruptcy and insolvency in 1973. Then, in 1980, he and his associate, Joseph Ginsberg, founded their insolvency trustee firm, Ginsberg Gingras. Claude was the president and CEO until he retired on January 1, 2013. Throughout his career, he and his colleagues tried to bring more humanity to the profession of bankruptcy management and proposals to creditors.

In 40 years, this small office transformed into a professional insolvency firm with a large number of offices throughout Quebec and eastern Ontario.

Well known by the people of Ottawa, Claude worked with numerous non-profit organizations to support youth, the francophone community, local businesses, mental health and end-of-life care.

For 20 years, he served as the president of the Fondation franco-ontarienne and as a member of the board of directors for La Cité Collégiale, the Ottawa General Hospital, Maison Mathieu-Froment-Savoie and the Franco-Ontarian festival. He was also involved in Centraide Outaouais and acted as the honorary president for many fundraising activities.

Hard-working and generous, Claude was awarded the Sovereign's Medal for Volunteers as part of the International Year of Volunteers in 2001, the Queen Elizabeth II Golden Jubilee Medal in 2002, and the rank of Knight of the Ordre de la Pléiade in 2003. He was named personality of the year by the Gatineau Chamber of Commerce in 2010, and received the Bernard Grandmaître Award in 2013, as well as the Order of Ottawa and the Order of Ontario in 2014.

He appreciated the good things in life, loved red wine, and was an avid traveller and discriminating gourmet. He was also generous with his time and enjoyed the company of others, having fun and talking politics. His circle of friends included countless business people, politicians and close associates. He used his considerable influence wisely and had a very positive impact on the lives of all those who had the privilege of meeting him. He joins his friends Pierre de Blois and Mauril Bélanger, who will no doubt help him improve heaven for francophones.

Claude passed away but left behind a legacy of service and generosity.

Rest peacefully, dear friend. You have certainly earned it. Above all, thank you.

Hon. senators: Hear, hear!

THE LATE FRANCE GEOFFROY

Hon. Chantal Petitclerc: Honourable senators, on April 30, we lost France Geoffroy. The vast majority of you have probably never heard of her. She was a fighter, a pioneer, a great artist and an outstanding Canadian.

At 17, France Geoffroy was planning to train as a dancer when a diving accident left her a quadriplegic. Wheelchair-bound, she decided to challenge the limits of dance. She is largely responsible for the development of integrated dance in Canada, an art form that brings artists with disabilities and those without together on stage. Her choreography, which featured dancers executing unusual movements, transformed audiences' perception of people's bodies. Her work was a celebration of inclusion and diversity. For dancers with and without disabilities, as well as audiences, the experience was transformative.

She leaves behind an enduring legacy as an artist and as an advocate who fought to gain recognition for integrated dance in the dance community itself. In 2000, France Geoffroy founded Corpuscule Danse, and she spent the next 20 years as the company's executive and artistic director and as a dancer. Thanks to her perseverance, the Canada Council for the Arts now recognizes integrated dance as a legitimate art form.

In recent years, she focused on teaching, including at summer camps for children with disabilities.

Our paths crossed often through my husband, who also works in the arts. He was moved by the clarity of her artistic vision and her bold choreographies. We were not close, but since we live in the same neighbourhood, we would meet two or three times a year at La Fontaine Park, and each time the conversation was warm, easy and natural. France was very funny and always genuine.

France wrote to me several times over the past year. She was suffering terribly. She had tried everything and, above all, wanted to die with dignity. In her final letter to me, dated February 8, she wrote, and I quote:

> I can only hope to have the opportunity to leave my body and depart this world with as much dignity and grace . . . as I had on stage.

• (1420)

France, we promised to have a coffee this summer at La Fontaine Park. I am going to have a coffee for the two of us, my wonderful France, as I think of you and thank you for everything you have done. Thank you.

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

REDUCTION OF RECIDIVISM FRAMEWORK BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-228, An Act to establish a federal framework to reduce recidivism.

(Bill read first time.)

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

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

[*English*]

QUESTION PERIOD

THE LATE DONALD POIRIER

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, before I ask my question of the government leader, I would like to let this chamber and all colleagues know that last evening the husband of our colleague, our caucus chair and friend, passed away suddenly of a massive heart attack. Our thoughts and prayers are with Senator Poirier at this time.

Having said that, unfortunately, we have to get right to business.

HEALTH

COVID-19 VACCINE ROLLOUT

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, my question for the government leader concerns the four-month delay between doses of the two-dose COVID-19 vaccines. This delay is the direct result of the Trudeau government's inadequate vaccine procurement.

Leader, last week a coalition of 17 advocacy groups representing many different types of cancer patients issued an open letter to the Prime Minister. They are asking that the National Advisory Committee on Immunization recommendation be revised for cancer patients to receive their second dose within 21 to 28 days of the first shot. This is up to a four-week delay and not four months, leader.

Leader, this coalition believes the four-month delay is putting the lives of cancer patients in jeopardy. What is the Trudeau government's response to this open letter? What do you say to Canada's cancer patients and their families about this request?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. The advisory committee, made up of volunteers and experts, has the responsibility of advising the government, as they have done.

Our democracy depends on the active engagement of advocacy groups, so I applaud their initiative. The government, however, continues to take and consider advice from the experts on NACI and continues to believe that, on balance, the decision to ensure that a greater number of Canadians receive their first dose remains in the best interests of Canadians.

Senator Plett: Leader, a study out of the U.K. last week involving the Pfizer vaccine found that one dose provides insufficient protection against COVID-19 variants. The researchers behind the study warned that public health officials must be vigilant about ensuring people receive their second shot and that there is a window of vulnerability between the first and second doses.

Leader, I have previously raised concerns with you about delaying the second dose for cancer patients and the elderly. Front-line health care workers are asking for full protection against COVID-19. A group of Canadian scientists said a four-month delay between doses could make us vulnerable to vaccine-resistant variants. Why does the Trudeau government continue to ignore these concerns?

Senator Gold: Thank you, senator. The government is not ignoring the concerns. It's taking into account all the advice it's given and, as I said before, has reached the conclusion that this is the safest and most prudent way to protect the greatest number of Canadians.

PANDEMIC SUPPLIES

Hon. Linda Frum: Honourable senators, my question is for the government leader in the Senate. Senator Gold, after a year of stonewalling, Canadians now know that your government threw away almost 9 million items of PPE, including more than 5 million N95 masks and 2.5 million surgical masks, in the two years prior to the COVID pandemic. We also know that not one but three warehouses stocked with vital pandemic-related supplies were shut down in order to save $900,000 out of a $645-million budget of Canada's Public Health Agency. This was done in the name of efficiency, but the results have been deadly for 24,000 Canadians.

Senator Gold, can you tell us if the health minister, Minister Hajdu, signed off on the decision to throw away Canada's pandemic supplies and did the minister — or the managers at the agency who report to her — consult with any infectious disease specialists before they made this calamitous decision?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question. I don't have the answer and will inquire and report back.

I feel compelled to note that the tragic death of so many Canadians was the result of many factors, not the least of which was the failure — our collective failure — to take seriously the warnings and advice given to us with regard to physical distancing and the like. It's a tragedy. Every life lost is a tragedy. In answer to your question, I will certainly make inquiries and report back.

[*Translation*]

FOREIGN AFFAIRS

COVID-19 PANDEMIC—INTERNATIONAL AID

Hon. Julie Miville-Dechêne: My question is for the Government Representative in the Senate.

Senator Gold, I am disappointed by Canada's lack of generosity in sharing vaccines with less developed countries. Our vaccine procurement strategy ignores our international responsibilities under health law, even though we are one of the countries that have vaccinated the most adults. Indeed, Canada was the only G7 country to take vaccines from COVAX when we were short. Moreover, we are among the richest nations to have secured the most agreements directly with manufacturers, thus reducing vaccine availability for other countries.

• (1430)

India is being ravaged by a terrible contagion. Sweden and France have already promised between half a million and one million vaccines to poor countries where less than 2% of the population has been vaccinated.

Senator Gold, will we be taking similar measures?

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

As I have mentioned on many occasions, Canada is one of the biggest investors in the COVAX program and, in this regard, we continue to work with our allies to make sure that the world's entire population has access to the vaccines they need.

Furthermore, as Minister Gould mentioned, we are in discussions with our stakeholder allies to explore ways of increasing production capacity so that everyone can have access to vaccines.

INNOVATION, SCIENCE AND ECONOMIC DEVELOPMENT

COVID-19 VACCINE PATENTS

Hon. Julie Miville-Dechêne: I would like some clarification on this matter.

As you know, overcoming this virus will take a massive, worldwide vaccination effort, and not only in rich countries. Yesterday, the Biden administration announced that the United States was now supportive of temporarily suspending COVID-19 vaccine patents to allow new suppliers to manufacture more doses and address the serious shortage of vaccines. Strangely enough, Canada did not support this proposal. Why is that?

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

Regarding the issue you described, we have been in discussions with our allies and the companies that make the vaccines for some time now. In that regard, President Biden's announcement was somewhat unexpected. In other words, we heard the news at the same time as everyone else. That being said, as Minister Gould said, and I will quote her in English, with your permission:

[*English*]

> I welcome this move from the United States. It's a really important step . . . . We have been open to it. We have been constructive in trying to find solutions . . . .

[*Translation*]

Honourable colleagues, that conversation is under way and it will continue.

[*English*]

PUBLIC SAFETY

ANTI-ASIAN RACISM

Hon. Mobina S. B. Jaffer: Honourable senators, my question is for the Government Representative in the Senate.

Leader, an unprecedented report entitled *A Year of Racist Attacks: Anti-Asian Racism Across Canada One Year Into the COVID-19 Pandemic* was released by several advocacy groups, including the Chinese Canadian National Council Toronto Chapter. The report spotlighted the realities of racism endured by Asian people in Canada over the past year of the pandemic. In total, the report looked at more than 1,150 incidents of racism. The findings were heartbreaking.

My question to the leader is the following: What is the government doing? What exact message are they sending out to the communities to indicate that they are standing with the communities and that they will not accept this racism? Leader, I come from Vancouver, and I have not heard any of these messages from our government.

Hon. Marc Gold (Government Representative in the Senate): Dear colleague, thank you for your question. The acts of racism against Asian Canadians — indeed, against any Canadians — are unacceptable. This government has been clear in its condemnation of all forms of racism, harassment and violence toward communities, and it continues to do so.

The tools the federal government has at its disposal, including its codes and the Charter, are present for all victims. This government also works in collaboration with provinces and territories, which work in turn with their municipalities, to ensure that these acts are investigated and prosecuted where appropriate.

Senator Jaffer: I have a supplementary question.

Leader, I'm glad you talked about prosecution. Is it possible to get from the Minister of Justice an understanding of exactly how many of those charges have been dealt with under the hate crime legislation?

Senator Gold: Senator, I will certainly make inquiries to determine what kind of information the minister has at his disposal. As you well know, prosecutions are typically handled by the attorneys general of the provinces, but I will make inquiries as to the degree to which that information is aggregated. I will certainly be happy to report back to the chamber.

[*Translation*]

NATIONAL DEFENCE

MS. ARBOUR'S MANDATE

Hon. Pierre-Hugues Boisvenu: My question is for Senator Gold.

Over the past week, several members of the Canadian Armed Forces have asked me about Justice Arbour's actual mandate. As a member of the government, perhaps you can enlighten me.

I have read two descriptions of her mandate in the media: to establish an independent mechanism for receiving and dealing with complaints of sexual misconduct or to establish an independent centre of accountability for sexual assault and harassment. Can you tell me which of those two descriptions represents Ms. Arbour's actual mandate?

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

I don't think I can answer your question as you have asked it. It's a legitimate question, but I don't want to be misunderstood. However, I would like to reiterate that Ms. Arbour has a mandate to provide her input on implementing the appropriate recommendations, for one thing, as well as to work within the Canadian Armed Forces to ensure the culture changes.

Senator Boisvenu: As you can see, these two phrases mean practically the same thing. Ultimately, it is Justice Arbour's mandate, but it is also the mandate that former Justice Deschamps was given in 2015. It is the same thing.

However, Senator Gold, the Declaration of Victims Rights for the military, passed in 2019 — as I told you a month and a half ago — is not yet in effect. This law was passed by Parliament, by us. I am trying to understand. Perhaps you will explain it to me. Do you have the answer, a month and a half later? Why did the Minister of National Defence, who is responsible for implementing this law, not do so?

Senator Gold: Thank you for the question and for your commitment to this cause.

We made inquiries but have not yet received a response.

ALLEGATIONS AGAINST GENERAL VANCE

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

When the Minister of Defence for Canada, Harjit Sajjan, was appointed, he already had on his desk the report by former Justice Deschamps, who proposed a series of measures to put an end to harassment in the Canadian Armed Forces. The minister has been in office for six years now, and clearly he has done absolutely nothing. Worse, he is currently participating, along with other members of Prime Minister Trudeau's entourage, in some sort of conspiracy to hide information on General Vance's behaviour. Minister Sajjan no longer deserves the confidence of members of the Armed Forces. He no longer deserves the confidence of Canadians, and he certainly does not deserve my confidence. However, he continues to enjoy the Prime Minister's protection for reasons that seem rather mysterious to many observers.

• (1440)

Leader, could you tell us whether your Prime Minister has any intention of ending the work of the House of Commons anytime soon — as he did in the case of WE last summer — to prevent Canadians from learning the truth about what he knew about General Vance? I will even pick up on what former U.S. President Donald Trump once said and ask whether hypocrisy is becoming his trademark.

Hon. Marc Gold (Government Representative in the Senate): I have no idea what the government's intentions are. To answer your question, the sitting weeks for this place and the other place are scheduled on the calendar. Beyond that I can't say more.

Honourable colleagues, in fact, it is false to say that nothing has been done since Minister Sajjan arrived. Several things have been implemented, including the Sexual Misconduct Response Centre to provide help, support and counselling to victims of sexual misconduct.

It is true, and everyone finds it regrettable, that there is still a lot of work to be done. That is why the government is prepared to take the necessary measures to continue the work and ultimately create an environment where the women and men of our Armed Forces can work safely.

PRIVY COUNCIL

THE POSITION OF GOVERNOR GENERAL

Hon. Jean-Guy Dagenais: Since you can't answer my first question, I'll give you a chance to answer the second. Leader, in a few days, Canada will have gone four months without a Governor General. It is particularly worrisome that, once again, the Prime Minister has not been able to find a Canadian capable of serving in this position to replace the one he appointed without doing the necessary background checks.

Leader, I may be wrong, but do I have reason to believe that the Prime Minister plans to wait until the summer recess to fill the position, in an attempt to avoid having to answer questions in the other place regarding his choice and the background checks he relied on to make the decision? This avoidance is becoming a habit for him.

Hon. Marc Gold (Government Representative in the Senate): Esteemed colleague, this time, I'm not going to say that I disagree with the premise of your question, as I so often do. I'm not in a position to speak to the expected timeline for a new person to be appointed.

[*English*]

HEALTH

FEDERAL VACCINE SUPPORT PROGRAM

Hon. Judith G. Seidman: Honourable senators, my question is for the government leader in the Senate.

Canadian health experts have been calling for a national vaccine injury compensation program since the mid-1980s. In December, just a few days before Canada's COVID-19 vaccination rollout began, I was pleased to learn that the federal government announced a Pan-Canadian Vaccine Injury Support Program. Canadians were told it would provide financial support to those who experience rare but serious permanent injury after receiving a vaccine.

A call for applications to administer this program closed on February 24, 2021, but we have heard very little since. As you may know, my home province of Quebec — and yours — implemented its own such program in 1985 and yet Canada remains the only G7 country without a national no-fault vaccine fund.

Senator Gold, this Pan-Canadian Vaccine Injury Support Program is long overdue. Can you tell us when the federal government plans to implement and provide Canadians with the information they will need to access the program should they require to do so? Thank you.

Hon. Marc Gold (Government Representative in the Senate): Thank you, colleague, for raising this question. I've been advised that while vaccines are safe and effective, the government wants to make sure that Canadians have access to support in the very unlikely event they do suffer adverse reactions. The government is still working to create a federal support program around vaccine safety for all Canadians and for all vaccines, including those treating or preventing COVID-19. I've been advised that this program will be rolled out soon.

Senator Seidman: It is my understanding that these programs will offer funding in the rare event — as you say, rare event — that someone experiences a serious side effect to a vaccine, while at the same time helping pharmaceutical companies to produce vaccines without fear of liability in these circumstances. According to an article in *The New England Journal of Medicine* published in December 2020, manufacturers won't agree to procurement contracts or to ship vaccine without liability protection.

Senator Gold, can you tell us if the creation of the federal vaccine support program was a requirement under the procurement contract agreements our federal government has with various vaccine manufacturers?

Senator Gold: Thank you for your question. First, I should tell you, senator — and I should have mentioned this in my answer to the first part of your question — that the program Canada is designing for Canadians is, in fact, based upon the Quebec program to which you referred.

On the subject of vaccine contracts — and I've made this point on a couple of occasions in this chamber — the government is committed to providing as much information as possible on its procurement efforts throughout the pandemic without putting our critical access to those vaccines at risk. We do a number of things in that regard, such as releasing delivery schedules and the like. I don't know whether these were part of the contracts and I'm not sure that I could disclose them. I'll certainly make inquiries; and if, of course, they are part of the contracts and can be disclosed, I'll report back.

INDIGENOUS SERVICES

ACCESS TO SAFE DRINKING WATER

Hon. Jane Cordy: Honourable senators, my question is also for Senator Gold.

Senator Gold, my questions are a follow-up to questions I've asked you previously on water advisories.

Since 2015, progress has been made on long-term drinking water advisories, with 106 advisories having been lifted. I do congratulate Minister Miller on his work on removing drinking water advisories. However, as of April 9, 2021, there are 52 long-term drinking water advisories still in effect in 33 First Nations communities.

The government's self-imposed March 21 deadline to lift all of these advisories has come and gone, and no new timelines have been set or announced. While the new online tool that allows the public to track the government's progress offers greater transparency, which is positive, it does fail to give any sort of certainty to the public on when or if, indeed, the project will be completed.

Senator Gold, can you tell us why the March deadline was missed? Also, when can First Nations communities expect to see all of these advisories lifted?

Hon. Marc Gold (Government Representative in the Senate): Thank you very much for your question and for reminding this chamber of the important and unfinished business we need to do to ensure that all Canadians, and First Nations in particular, have access to clean water.

It is true that there remain 52 long-term advisories. I want to take a second for the benefit of those who may be watching and to remind senators and viewers what is involved in these advisories. There's a feasibility study stage, a design stage, a construction stage, and the training and monitoring that follows it.

• (1450)

With regard to the 52 long-term advisories, 3.8% are in the feasibility study phase, 11.5% are in the design phase, 55.8% are under construction, and 29% are projects where the advisories will be lifted soon.

My last point, and I think this was made clear by Minister Miller, is that the five-year period refers to one advisory, I'm told, where one First Nation is scheduled to lift its long-term drinking water advisory in the next couple of months, but the government has made a commitment to infrastructure projects that will take some further years to complete.

Thank you for your question.

Senator Cordy: Thank you, Senator Gold. You're absolutely right; everybody should have access to clean drinking water. Thank you for outlining all the steps that are involved in this process. I didn't realize it was that technical, so I appreciate you outlining it for us.

However, what concrete steps — and I know that the government has provided extra funding — is the government taking to ensure that the remaining advisories are lifted as quickly as possible because, as you stated, everybody should have access to clean drinking water in Canada?

I know the extra funding will be beneficial and so is building the infrastructure, which is important as you've already said. How can we ensure the advisories are lifted as quickly as possible?

Senator Gold: Thank you for the question. The short answer is that it's very difficult to know with any precision when they will all be lifted, that's for sure.

The fact is the federal government works in collaboration with the communities to create the plans and put the infrastructure and human resources in place to manage the water situation properly. In that regard, there have been significant investments — hundreds and hundreds of millions of dollars — in infrastructure and in additional training. Some First Nations communities continue to have problems retaining the personnel who have been trained to manage the infrastructure.

All of this is to say that the federal government is working diligently with First Nations communities to solve the particular problems that beset them. Although this government is proud and pleased that it has made considerable progress since it took office, much more needs to be done and will remain needed to be done in the years to come.

INTERNATIONAL TRADE

COMPENSATION FOR DAIRY FARMERS

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, my question is, again, for the government leader. Leader, Canada's dairy industry is responsible for nearly 200,000 jobs in Canada, contributes nearly $16 billion annually to our economy and generates $3 billion annually in tax revenue.

Yet, with each new trade agreement, CETA, CPTPP, and now CUSMA, it has seen its share of dairy markets steadily decline in our country. By 2024, 18% of our domestic dairy production will be outsourced to foreign producers. While dairy farmers have slowly begun to receive compensation for what they lost under CETA and CPTPP, fair compensation for CUSMA remains outstanding.

Senator Gold, in my recent meeting with Manitoba dairy farmers, they told me that while there have been discussions, nothing concrete has been established regarding full and fair compensation under CUSMA. When can farmers expect to hear about a time frame for compensation?

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

I have to make inquiries in terms of the specific time frame. As we've mentioned many times in this chamber, there's no denying the fact that the free trade agreements Canada has entered into — which, overall, have benefits for Canadians in many different ways — also impose challenges for certain sectors, notably the dairy sector.

Recently, I met with the Quebec representatives of the Canadian Cattlemen's Association, who raised a number of issues with me, one of which was the fact that they remain keen to see our export markets expand for their products because their products and the quality of their products, whether beef or dairy, are increasingly solicited and appreciated around the world.

It's a complex issue to balance the competing needs and interests of our agricultural sector. The Canadian government, I'm happy to repeat, is committed to provide fair compensation. When I know more about the timeline, I'll be happy to report to the chamber.

Senator Plett: Leader, one of the biggest concerns about Canada's dairy farmers regarding CUSMA is the distribution of tariff rate quotas, or TRQs. Dairy farmers argue that the allocation of TRQs should be maximized for Canadian dairy processors.

Last year, your government agreed to this regarding interim tariff rate quotas for CUSMA. Dairy farmers and their various associations have made it clear to Global Affairs Canada that this is what they are seeking for permanent TRQs. However, the signs are not encouraging south of the border with the appointment of Thomas J. Vilsack as Secretary of Agriculture. He openly disdains supply management and has criticized the allocation of

CUSMA TRQs. Secretary Vilsack is a former lobbyist for the U.S. dairy industry and has pledged to grow their exports from 15% to 20%.

Leader, what is your government doing to ensure that the interim allocation arrangement for TRQs under CUSMA becomes permanent and to maximize its allocation to Canadian dairy processors?

Senator Gold: Thank you. The government has worked successfully to defend supply management to Canada for the benefit of our dairy producers. We'll continue to work diligently to protect their interests and our interests in all negotiations with the United States.

DELAYED ANSWERS TO ORAL QUESTIONS

(*For text of Delayed Answers see Appendix*.)

ORDERS OF THE DAY

POINT OF ORDER

SPEAKER'S RULING RESERVED

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, I am rising today on a point of order. I am doing this reluctantly. I spent a great deal of time contemplating, even as late as the lunch hour, whether to go ahead with this, because I did not want my point of order to be deemed something I am doing out of personal gain or trying to get any personal satisfaction. However, I believe, as leader of the Conservative caucus, Leader of the Opposition and indeed one of the leaders of this august chamber, we need to have rules, they need to be adhered to and we need to have discipline.

Your Honour and honourable colleagues, on April 26, Senator Dalphond sent the Interim Clerk of the Senate a letter raising what he referred to as a question of privilege. The following day, the clerk sent an email to all senators and their staff, plus several members of the Senate Administration, giving notice of said question of privilege. Senator Dalphond's letter, in both official languages, was attached to the notice.

On April 27, 2021, CBC published an article from *The Canadian Press* entitled — and this is one of the reasons why I feel strongly that I need to defend my own caucus — "Tory senators hold up start of parliamentary review of assisted dying."

Let me begin, Your Honour and colleagues, by highlighting the accusations Senator Dalphond made against me personally.

In his letter of April 26, Senator Dalphond says:

> Specifically, Senator Plett refuses to identify a member from the Conservative Caucus to join the special joint committee and to sign a notice identifying all Senate members on the special joint committee . . . .

He continues:

> By withholding his signature on the notice to the Clerk of the Senate, Senator Plett is showing utmost disrespect for the Senate and its motion; for the House of Commons and its message; and for the content of section 5 of the Act, requiring the MAiD review by a joint committee. These actions are impeding the Senate's basic functions, here a critical review mandated by law, to be conducted by special joint committee. . . .

• (1500)

In the Canadian Press article, Senator Dalphond is quoted several times, where he stated, "He wants a blank cheque, which I'm not ready to give." He was speaking, of course, about me. He added:

> The ego of one man is preventing the system to work, which I find is close to showing contempt for Parliament.

He then continued:

> [Plett] is showing complete disregard and disrespect for the Senate, for the House of Commons and for the bill that provides for a committee to be set up as soon as possible.

Senator Dalphond concluded with, "It's really taking the Senate hostage, the House of Commons hostage."

To summarize, Senator Dalphond publicly accused me of refusing to identify a Conservative senator to serve on a joint committee and refusing to sign the notice mentioned in the motion adopted by the Senate on the joint committee. I was thereby solely preventing the system from working, impeding the basic functioning of the Senate. I was showing utmost disrespect, not only to the Senate but also to the House of Commons. I was contravening a law of Canada: I was taking Parliament hostage.

People reading Senator Dalphond's letter and his comments in the press would think that Don Plett had all the MPs and senators locked up somewhere and was asking for ransom or some other demand. I don't think a parliamentarian can accuse a colleague of a more serious charge, with the exception perhaps of criminal charges or treason. Clearly, for such accusations to be laid against a fellow parliamentarian, something terrible must have been done.

So let's look at the facts, Your Honour.

On April 20, 2021, the Senate adopted a motion to strike a special joint committee on medical assistance in dying. The motion contained the following section:

> That the five senators to be members of the committee be named after consultations and agreement between the Leader of the Government in the Senate, the Leader of the Opposition in the Senate and the leader or facilitator of any other recognized party or recognized parliamentary group in the Senate, by means of a notice signed by the Leader of the Government in the Senate, the Leader of the Opposition in the Senate and the leader or facilitator of any other recognized party or recognized parliamentary group in the Senate, and filed with the Clerk of the Senate no later than the end of the day on April 23, 2021, with the names of the senators named as members being recorded in the *Journals of the Senate* . . . .

You will note, Your Honour, that the motion did not specify how the members of the committee would be chosen other than by consultation and agreement between the leaders and facilitators.

The motion did not indicate how many members of each group in the Senate were to be appointed, contrary to the motion passed by the House of Commons. The motion did not specify from which group the co-chair or the vice-chair would come, also unlike what the House did. It was clear to everyone who bothered to read the motion that these matters had to be negotiated and agreed upon by all groups.

You will also notice, Your Honour, that the motion did not contain any mechanism in case the notice was not filed on April 23. Clearly the government, when tabling the motion, did not think that April 23 was such a crucial date. No one was to lose anything. The negotiations would continue.

The Leader of the Government convened all leaders for a call to discuss these matters. We quickly arrived at an agreement. There would be two members from the Independent Senators Group and one from each of the opposition, the Canadian Senators Group and the Progressive Senate Group. There was another agreement: The Conservative member would be co-chair.

Everyone on the call agreed. This was unanimous. We were following historical precedent and convention that since the House co-chair was from the government, the Senate co-chair would be from the opposition.

As for the position of vice-chair, both the ISG and the PSG claimed that they should get it. All leaders agreed that the leadership of the ISG and the PSG would consult and come to an agreement between themselves and the others would follow suit.

Then, on Friday, April 23, before the deadline set in the motion, Senators Woo and Cordy sent a letter stating that since they had failed to reach an agreement on the vice-chair position, they had decided to go back on the agreement and that the opposition was no longer guaranteed the position of co-chair. This, Your Honour, meant that the entire agreement was negated, because that's what was discussed. It was one agreement: two members of the ISG, one member of the Conservatives, one member of the PSG, one member of the CSG — and the Conservatives would get the co-chair. That was one agreement.

Our negotiations were back to the starting point. The number of seats each caucus or group had was up in the air. So were the positions of co-chair and vice-chair. Senator Gold then decided that the notice that had to be signed by all the leaders would not be circulated. I did not refuse to sign a notice on Friday, April 23. Simply, I was not asked to sign an agreement on April 23. I was not asked to sign it because it was clear for all involved that the deal we had reached amongst leaders was unravelling.

Senator Dalphond was well aware of all of those facts when he wrote his letter the following Monday and gave his interview to the Canadian Press. In fact, colleagues, he was on the call when the agreement was made — when the leaders reached this agreement in the first place.

Now that I have outlined the facts, let me highlight why I believe Senator Dalphond's letter and interview are in contravention of Senate Rules.

Your Honour, I believe Senator Dalphond contravened the *Rules of the Senate* in four different ways.

First, he used unparliamentary language. Rule 6-13(1) of the *Rules of the Senate* state, "All personal, sharp or taxing speeches are unparliamentary and are out of order."

There is no doubt that the language used by Senator Dalphond is personal, sharp and taxing. Accusing a fellow senator of showing contempt to both houses of Parliament is a very grave accusation, colleagues. Senator Dalphond's letter, which he knew would be largely distributed, was part of the Senate proceedings as a question of privilege. Its content, therefore, is subject to rule 6-13(1).

Also, Senator Dalphond decided to double down on his unparliamentary language in his interview with the Canadian Press. He cannot plead the fact that his words were uttered in the heat of debate after he put them in writing in the two official languages to be distributed around the Senate.

He then turned around and shared his profound insults about me with a journalist. Clearly Senator Dalphond willfully used unparliamentary language in his letter of April 26, which violates the *Rules of the Senate*.

• (1510)

Second, Senator Dalphond impugned motives to me. Your Honour, allow me to quote you from a decision on a point of order by Senator Bellemare on unparliamentary language rendered on November 15, 2016. You stated:

> I would therefore ask senators to avoid unnecessarily impugning motives to senators who enter debate. That has no place in debate; we are debating the substance of motions and bills, not what goes behind any particular senator's personal reason for doing it.

This is precisely what Senator Dalphond did. He not only signalled the fact that I did not sign the notice on membership — something that we saw was false — he impugned motives to me. He accused me of, in his words, "preventing the system to work." And what is even more intolerable in this instance is that he did all this in such a manner that prevented me from having the opportunity to defend myself. I could not explain my position.

Senator Dalphond knew very well that by sending the question of privilege, then withdrawing it without any apology, his accusations would stand without affording me the chance to set the record straight or to defend myself. He impugned motives to me, contrary to the *Rules of the Senate*, and did this knowing perfectly well that I would not be able to provide an explanation.

Third, Senator Dalphond deliberately misled the Senate in his letter of April 26. I already laid out the facts. I did not refuse to sign a notice. This notice was not circulated. Senator Dalphond knew that when he wrote his letter, and he knew the reason the letter was not circulated was that two groups, including his own, reneged on a deal that they had made two days earlier. I repeat: Senator Dalphond was part of the telephone conversation when all the groups agreed on how the committee was structured. He knew the deal, and he knew that some leaders did not honour their word. He knew Senator Gold decided not to circulate the notice. He knew that I did not refuse to give the name of the Conservative member on the joint committee, but Senator Dalphond willfully decided to present to the Senate, via his question of privilege, a series of alternate facts that did not reflect the reality. He willfully misled the Senate, thereby breaching our rules.

Finally, Senator Dalphond used confidential information obtained in confidence, and this contrary to the duty of a senator to act in good faith.

As I stated on April 20, the motion of April 20 was essentially an invitation to the leaders to negotiate the compensation of the joint committee. Since 1867, our institution, like all democratic parliamentary chambers in the world, has relied on processes of negotiation to move legislation, set the agenda, populate committees, and the list goes on.

I have been negotiating matters in the Senate on behalf of the Conservative caucus for quite some time now. And I take my role very seriously. I try always to stick to my word. After the motion on the joint committee was adopted, I, like my other colleagues, negotiated in good faith. We reached a compromise. As I said, some leaders decided to go back on that deal. I was blindsided, just as was the Leader of the Government. Then out of the blue, I get accused of undermining a Senate process when essentially the rug was pulled out from under me and other leaders.

The Senate business, colleagues, depends on behind-the-scenes negotiations that can be, at times, amicable and, at other times, quite heated, but the beauty of the process, Your Honour and colleagues, is that things can eventually be worked out in the end.

Senator Dalphond's question of privilege sets a dangerous precedent. First, it uses private conversations among the leaders as fuel for personal attacks. Second, he wrongly accuses a senator of dirty, underhanded tactics that are unquestionably based on inaccurate information. There was an agreement. Some of the leaders reneged on that agreement. I, like Senator Gold and Senator Tannas, insisted that the leaders honour their word. There was no abuse of process by me. One could suggest that there was an abuse of process when the leaders reneged on their agreement. However, as I said, we all worked it out in the end, as we always do.

I wish to thank Senator Gold for the role that he played in getting us all back to the negotiating table. Chairing such a meeting requires much finesse.

The fact that Senator Dalphond has started a precedent of using these private conversations to attack a leader could severely undermine the business of the Senate. Each leader has to remain confident that their conversations will remain private unless agreed to otherwise.

Your Honour, I would ask you to reflect on your decision given on May 2, 2019, on a question of privilege pertaining to an agreement that was leaked to the media. To quote that decision:

> Honourable senators know that private discussions about matters of concern to the Senate are invaluable to the proper functioning of this place. These exchanges may involve the Government, representatives of the various caucuses, or individual senators. Ours is a very human institution, and these informal consultations help create shared understandings as to the expected course of Senate business. They also provide clarity that may otherwise be lacking.

I would submit, Your Honour, that the same words apply to the matter at hand. As a Senate with five different groups, negotiations can be long and difficult. We need to know, as leaders, that what is discussed during these negotiations will remain confidential and that our positions can be outlined and opinions expressed freely without prejudice.

Senator Dalphond's question of privilege and interviews with the media on this matter are not helpful and, indeed, are harmful to the Senate. By using confidential conversations that were part of a process set up by the Leader of the Government, Senator Dalphond is endangering an already fragile equilibrium that we have in the Senate. We cannot expect this place to function if there is not a minimum level of trust and respect between all leaders.

So, Your Honour, to summarize, Senator Dalphond breached the rules in four different manners. One, he used personal, sharp and taxing speech; two, he impugned motives to me; three, he willfully misled the Senate; and four, he used confidential negotiations to attack me in public thereby jeopardizing the Senate functioning.

In conclusion, Your Honour, again, I wish I did not have to raise this point of order. I take no pleasure in this. I was hoping that Senator Dalphond would realize what he was accusing me of and would retract it himself when he withdrew his question of privilege.

I was hoping Senator Dalphond would himself stand up on a point of order this week to retract his statements, to apologize, not to me, colleagues — not to me; I don't need an apology — but to the Senate. But Senator Dalphond chose not to do this. He willfully let his attacks against me stand when he sent his letter to withdraw his question of privilege. Let me quote that letter:

> Dear Mr. Lafrenière, I write further to my written notice of a question of privilege as submitted on April 26, 2021. I understand that the process provided for in Senator Gold's motion on April 20 has been complied with. As a consequence, the alleged breach has ended and the remedy sought has become moot. I, therefore, withdraw my notice. Respectfully, Pierre J. Dalphond.

He is implying that, because of what he did, we managed to do what was right and what we should have done all along when we had never done anything wrong. We had reached an agreement, and the withdrawal here does not indicate that.

This is why I have to do what I am doing today. I would therefore ask you, Your Honour, to rule that Senator Dalphond did indeed breach the *Rules of the Senate* with his letter on April 26. His refusal to apologize or retract said letter when he simply withdrew the question of privilege. I would suggest that as an aggravating factor. Rule 6-13(3) of the *Rules of the Senate* states that:

• (1520)

> A Senator who has used unparliamentary words and who does not explain or retract them or offer an apology acceptable to the Senate shall be disciplined as the Senate may determine.

Should you rule, Your Honour, that Senator Dalphond breached the rules, I reserve my right to ask that the words of Senator Dalphond be taken down in writing by the clerk as provided for in rule 6-13(2) and to table a motion asking the Senate to discipline him in accordance with rule 6-13(3). Thank you.

The Hon. the Speaker: Do any senators wish to join the debate on the point of order?

Hon. Pierre J. Dalphond: Honourable senators, I rise today as someone who was quoted in the same article as a nobody, a nothing. I'm sure these are not taxing words and acceptable words in parliamentary language. Your Honour, more seriously, I wonder if it's a point of order that we are here for today, or if it's the way to raise a question of privilege himself. I'm unclear what he is trying to say or do.

Quite frankly, if it's a question of privilege, he could have sent a notice and we could have prepared ourselves today. Your Honour, I will ask that you suspend debate on this issue so that I could speak and reply to the allegations that were made here against me when we resume debate on May 28.

The Hon. the Speaker: Senator Dalphond, this is a very important matter, but I think it's very clear that Senator Plett has raised a point of order and not a question of privilege. I don't know if that affects your desire to speak today or if you still wish to reserve on it.

Senator Dalphond: Your Honour, I would like to reserve. There were a lot of facts that were alleged, many of which I'm not aware. As a matter of fact, Senator Plett has referred to confidential conversations between the leaders all the way through his speech, which I never did before. So I would like to read the transcript to be fully aware of the things I was not aware of before I'm asked to respond.

The Hon. the Speaker: Do any other senators wish to join debate at this time?

Senator Plett: Your Honour, if I could, I don't want to debate; I already debated. But for Senator Dalphond to ask that this be reserved so he can read the transcript — we don't have a transcript at leaders' meetings and clearly to simply stall this until we come back and he quoted May 28. I'm not sure why May 28 and not May 25, because that is, of course, when we are coming back. I take issue with Senator Dalphond if he has a defence to make. He had all the information when he filed his question of privilege. I didn't give any new information today.

I strongly oppose us suspending this. I think that if Senator Dalphond has a defence to make, he can get up and make it in this chamber. If not, you will obviously take it under advisement. You're not going to give a ruling today, and I don't expect you to. I think if people don't want to debate this issue today, you need to take it under advisement and come back with a ruling.

The Hon. the Speaker: Senator Dalphond, did you have anything you wish to add?

Senator Dalphond: Yes, Your Honour. I would like to remind this house about taxing language and a point of order that I raised, as well as Senator Lankin, in February of this year, following some comments made by Senator Housakos, which you took under advisement. When we resumed sittings of this place the following week, Senator Plett himself asked your permission to reopen the debate and to present his arguments, which was followed by Senator Housakos making additional arguments to the point he made before on the point of order that Senator Lankin and myself raised.

I'm asking that justice and fairness be applied here and that I be given the same opportunity to raise the issue when we resume. Thank you very much, Your Honour.

The Hon. the Speaker: Does any other senator wish to join debate? I don't see any senator raising a hand virtually.

Honourable senators, this is a very important issue. It has been brought to the floor by Senator Plett in what I would consider a very serious and lengthy way, and I have in the past been inclined to allow senators additional time when there is a serious matter before the chamber and one that cannot be resolved with immediate interpretation of a rule. I'm prepared to take it under advisement and to allow Senator Dalphond time to reply to Senator Plett.

However, I would say that that time will be either May 25 or when we return. Should we return for government business before that, then I would expect to have the debate concluded by then. So for now I will take it under advisement. Thank you, Senator Plett, for raising that. Thank you for your comments, Senator Dalphond.

[*Translation*]

JUDGES ACT
CRIMINAL CODE

THIRD READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Dalphond, seconded by the Honourable Senator Gagné, for the third reading of Bill C-3, An Act to amend the Judges Act and the Criminal Code.

Hon. Pierre-Hugues Boisvenu: Honourable senators, I rise today as critic for Bill C-3 to propose an amendment at third reading of the bill that I hope will have the support of this chamber.

I speak today in memory of the 1,400 women and children murdered in Quebec since 1989 and in solidarity with their families, who are wondering about certain judicial decisions that, in their view, led to a tragic end for many of the victims.

Ten women have been murdered in Quebec just since the beginning of the year. Ten women died at the hands of a violent spouse or former spouse. Ten women have left behind more than 20 orphaned children, who will spend the rest of their lives without their mother. These tragedies represent life sentences for these children, but our justice system could have prevented them. The murders of these mothers could have been prevented if only our justice system had better protected them. Furthermore, if the justice system had been more vigilant, it would also have prevented suicides and the killing of children. In nearly all of these murders, the justice system and law enforcement knew that these women were in danger, but unfortunately that did not stop their abusers from killing them in cold blood.

Honourable senators, do you know what hurts me the most? It's the fact that these women are dead because, one day, they had the courage to dig down deep inside themselves to find the strength they needed to report their aggressor, with a determination that we know nothing about, and that is what led to their death. That is what these women want judges to understand. They risked their lives to be heard and, more importantly, to be understood.

In that regard, I would like to talk about Elisapee Angma, the first woman to be murdered in Quebec this year. Ten days before she was killed, her murderer was released after violating the conditions imposed on him by the courts for the third time. He did not have the right to approach his victim. That court order was made after he was charged with assault with a weapon against his wife.

However, that is not the only thing that worries me. This offender had already been convicted of other very serious assaults. In 20 years, he appeared before the courts for some 50 incidents of domestic violence. He violated the conditions imposed on him about 30 times. Rather than placing this violent, dangerous man in prison for violating his conditions a third time, the judge chose to believe in his good faith, despite the fact that he blamed his wife for his situation and failed to express any remorse for any of the offences he had committed. He ended up being released, and the first thing he did was kill his wife.

Why did the judge not want to believe the story told by the complainant, who feared for her safety and her life? Why did the judge prefer to believe the defence's version, despite all of the disturbing things in the offender's case file?

• (1530)

I would also like to point out that in another case in October 2020, this same trial judge imposed a sentence of two years less a day on a repeat offender who had beaten his wife to the point where she lost a litre of blood, if you can believe it. The judge recommended a sentence that was less than what the defence was asking for, which was 44 months in prison. After the Court of Appeal heard the case, it decided to double the sentence that had been handed down by this trial judge. Decisions like these are the reason why abused women have lost confidence in our justice system. We can no longer remain silent in the face of these tragedies. We cannot turn a blind eye on a bill that ignores these tragedies. Some might say that the social context of the bill takes into account the context of domestic violence, as I was told in committee when I tabled my amendment.

Are the murders of too many of these women and mothers only part of a social context? What is our responsibility, your responsibility? Taking concrete action and making the necessary decisions is the only way to fight against this pandemic, the murders of these Canadian women. Every day criminal courts examine countless murders related to family violence and the statistics are shocking and worrisome. In 2020, intimate partner violence accounted for 60% of criminal cases before the courts; 60%, think about that. Is this statistic not alarming? Should that not resonate with each of us as a call for help from those who report their abuser? In case it is not clear to the justice system, these women are risking their lives. "Enough, is enough," these women are saying, "not again."

That is what 52% of Canadian women will tell you today. I would remind you of the moving testimony of Diane Tremblay before the Standing Senate Committee on Legal and Constitutional Affairs, who, unfortunately, clearly demonstrated the inadequate knowledge of certain judges in this area. For four years, Ms. Tremblay was savagely beaten, and despite the fact that she reported her abuser, the judges' decisions never put an end to this violence, until one day she almost lost her life. Worse,

the clemency from the court, in the victim's eyes, gave the abuser permission to reoffend. I would like to read a passage from her testimony before our committee:

> As a result of the court proceedings, my abuser was declared a "dangerous offender" by a judge. Unfortunately, following another court appearance, a second judge felt that the "dangerous offender" status was no longer appropriate for the situation and decided to remove the status.
>
> This decision affected both me and other people. My abuser reoffended with other victims by using the same *modus operandi*. I still don't understand why the judge decided to remove the "dangerous offender" status. This decision put us in even more danger.

There you have it, senators, the definition of permission to reoffend.

My amendment would simply honour the memory of the murdered women and put an end to judicial decisions made without an adequate understanding of what these women go through. I will continue.

> I am telling you my personal story to prove to you the extent to which my children and I suffered violence, even when the judges and the legal system were already aware of our complaints. I did not feel that I was heard by the judges because I had the feeling that they did not understand my situation. Above all, they did not understand that my former spouse was dangerous, violent and manipulative.

After spending two years listening to testimony about the suffering of nearly a hundred women who were abused by their partners, I can safely say that Ms. Tremblay's testimony represents, in 2021, the reality of hundreds of women who have gone through our justice system. Statistics on sentencing indicate that 49% of the time, these abusers are sentenced to probation. A total of 31% of cases result in a sentence of custody, but in 85% of those cases, the offenders were sentenced to six months or less in prison. These offenders are eligible for parole after serving one sixth or one third of their sentence and, in general, they get out of prison after one month, even angrier than they were before they were incarcerated and posing an even greater threat to the safety of these victims.

I recognize that the current bill is a step forward for victims of sexual assault, but we have to make it more effective. It needs to be amended to provide for specific training on domestic violence, which would help judges be more sensitive to intimate partner violence, child abuse and elder abuse.

The home is a secret place where all kinds of terrible tragedies can unfold and where the majority of crimes against persons are committed. It would be a mistake to say that social context would adequately cover domestic violence. In fact, it would only trivialize this issue again and again.

When this bill was being studied in committee, I spoke with the Honourable C. Adèle Kent, the chief judicial officer at the National Judicial Institute, about the training judges currently receive. In seven years the judiciary has offered just seven training sessions on domestic violence, which is one a year.

That shows how much we value women who have been victims of domestic violence. Ms. Kent said that it was very important that all judges in Canada have access to excellent training on domestic violence, which is not currently the case.

My amendment would expand the bill to add specific, mandatory training for domestic violence in addition to training on sexual assault and social context. This amendment would also require that the Canadian Judicial Council ensure that this training be developed with survivors of domestic violence, as well as the people, groups and organizations that support, in particular, Indigenous leaders and representatives from Indigenous communities.

I would like to quote one of the recommendations made by Ms. FitzGerald, the executive director of the BC Society of Transition Houses:

> We would ask that the bill be amended to consider the prevalence of domestic violence and the continuum of violence that occurs in intimate partner violence. We recommend adding domestic violence to the sexual assault training requirement language and to require this training to be developed through reliance on domestic violence survivors and groups that support those survivors.

Ms. FitzGerald, who is also on the board of Women's Shelters Canada, said that 12,000 women and children seek refuge in shelters every year in British Columbia alone. When we discussed this issue in committee, eight of the 14 witnesses expressed support for my amendment. Those eight witnesses represented indigenous associations, anti-racism groups and associations fighting intimate partner violence.

Representatives of indigenous groups all supported my amendment, noting that, when intimate partner violence happens in an indigenous community, the context is different because everyone knows everyone. Ms. Michel, who represented Quebec Native Women Inc., said that her association produced segments on family violence and that the Judicial Council can use its expertise if the bill is amended.

Honourable senators, we are legislators in our own right, whose principal role is to improve the bills that are brought before us so as to improve the lives of Canadians. At the beginning of our committee study of the bill, the Government Representative in the Senate and the critic for the bill warned witnesses that any amendment to the bill that would increase its scope would put the bill at risk and prevent it from being passed by the government. First, such statements to witnesses are inappropriate. Second, they essentially challenge the role of the Senate and its committees, which is, first and foremost, to improve government bills.

Also, if such amendments are not acceptable to the government, why convene a committee for four sittings, using Senate resources, taking up all our time, calling several witnesses — who have to adjust to our agenda and prepare — if in the end we wouldn't be able to improve this bill on the pretext that we were short on time, that the bill risked dying on the Order Paper and that we are in a minority government? When that happens, does it make you wonder why you're a member of this honourable chamber?

• (1540)

In closing, esteemed colleagues, I think that certain judges' errors in judgment deserve our full attention and that doing nothing will only put women and children who are victims of family violence at greater risk of becoming homicide victims someday.

As the critic for this bill, I am asking all senators to pass it at third reading and to vote in favour of my amendment. We must take urgent action so we can save as many lives as possible and ensure that women who report the violence they endure get the understanding they deserve.

MOTION IN AMENDMENT NEGATIVED

Hon. Pierre-Hugues Boisvenu: Therefore, honourable senators, in amendment, I move:

That Bill C-3 be not now read a third time, but that it be amended

(a) in the preamble, on page 1, by replacing line 20 with the following:

"sault law, family violence and social context;";

(b) in clause 1, on page 2, by replacing line 21 with the following:

"on matters related to sexual assault law, family violence and social";

(c) in clause 2,

(i) on page 2, by replacing line 29 with the following:

"al assault law, family violence and social context, which includes sys-",

(ii) on page 3, by adding the following after line 11:

"**(4)** The Council should ensure that seminars on matters related to family violence established under paragraph (2)(b) are developed after consultation with persons, groups or organizations the Council considers appropriate, such as family violence survivors and persons, groups and organizations that support them, including Indigenous leaders and representatives of Indigenous communities.";

(d) in clause 3, on page 3, by replacing line 17 with the following:

"matters related to sexual assault law, family violence and social context,".

Hon. Senators: Hear, hear!

[Senator Boisvenu]

[*English*]

The Hon. the Speaker pro tempore: On debate on the amendment.

[*Translation*]

Hon. Pierre J. Dalphond: Honourable senators, I want to congratulate Senator Boisvenu on his Bill S-231, for which he gave the first speech at second reading yesterday, and on his dedication to helping women who are victims of violence, including intimate partner violence. This issue matters very much to me and to the many other Quebecers with whom I marched on Friday, April 2, in Montreal.

According to an increasing number of studies, intimate partner violence is often associated with the abuser's desire to control the victim. Moreover, if the couple separates, the abuser is more likely than any other member of society to murder their spouse.

The latest femicide numbers for Quebec show that this phenomenon calls for a joint federal-provincial strategy supported by experts in the field, including those responsible for resources that help violent individuals and those involved in supporting victims, such as shelters for women who are victims of abuse and violence.

I want to highlight two Quebec reports that were released last December. First there was the report of the Domestic Violence Death Review Committee headed up by the Quebec coroner's office, which includes 28 recommendations, and then we had the report of the Expert committee on support for victims of sexual assault and domestic violence, entitled *Rebuilding Trust*, which contains 190 recommendations, including providing training for all social and judicial actors. Both reports and their recommendations target actors involved in the judicial process as well as governments and lay out the complexity of the problem.

Earlier today, the Government of Quebec announced a budget of $71 million to promote better care for victims of domestic violence and ensure enhanced monitoring of offenders.

For now, the fact remains that the sad reality of domestic violence is part of the social context that every actor, including those involved in the judicial process, must consider.

Senator Boisvenu's proposed amendment seeks to indicate to the Canadian Judicial Council that Parliament wishes to include domestic violence in the development of mandatory training for new judges and in the training for those already in place.

In light of the proposed amendment, we must ask ourselves two things: First, what is to be gained from adding these words and, second, what would be the consequences to the coming into force of a bill that has been moving through the parliamentary process for more than four years?

[*English*]

As I mentioned earlier, domestic violence is an unfortunate part of the social context in Canada and part of the reality of too many women. It cannot be ignored by anybody, including all the actors involved in the judicial process, such as police officers, lawyers and judges.

In *Michel v. Graydon*, rendered on September 18, 2020 — a case involving family law issues — the Supreme Court made some comments relevant to our discussions today, and I quote:

> Women in relationships are more likely to suffer intimate partner violence than their male counterpart . . . As a result, they are more like to leave their home and belongings — and their financial security — behind and to seek shelter or become homeless.
>
> The impact of a history of violence on a person's emotional health and their consequent potential fear, unwillingness to engage with their past abuser, or inability to do so are just as apparent. In addition to this, "some abusive fathers may use the child support process as a way to continue to exercise dominance and control over their ex-wives."
>
> Given the gender dynamics in child support law, legal rules cannot ignore the realities that shape women's lives and opens them up to experiences and risks less likely to be experienced by men: like intimate partner violence, a higher proportion of unpaid domestic work accompanied by less work experience and lower wages, and the burden of most childcare obligations.

In other words, domestic violence is part of the social context that judges — all judges — must take into consideration when dealing with cases before them, be it in family law, in civil law or in criminal law.

For this reason, in addition to the $6 million allocated to judicial training generally every year, on April 26, 2017, the then-Minister of Justice and Attorney General of Canada, the Honourable Jody Wilson-Raybould, announced almost $100,000 in additional funding per year to the National Judicial Institute to, and I quote:

> . . . develop training for both federally and provincially appointed judges that will focus on gender-based violence, including sexual assault and domestic violence.

When Justice Adèle Kent from the National Judicial Institute appeared before the Senate committee earlier this year, she referred to the fact that they have delivered 21 training sessions on sexual assault cases, domestic violence, human trafficking, victim rights and trauma-informed treatment. She went on to say that, recently, the National Judicial Institute has issued material dedicated entirely to the psychology and law of domestic and intimate partner violence.

• (1550)

In other words, domestic violence is part of the training and material now offered to judges. Maybe it's coming late, but it has come, and more has to be done, I'm sure.

Judicial training on domestic violence is now imperative since it is a key focus of the new Divorce Act that came into force on March 1 of this year.

Unsurprisingly, judges are increasingly more familiar with domestic violence and the need to stop and prevent it. For example, a few weeks ago, the Court of Appeal of Quebec, in a case called *R. v. Davidson*, allowed an appeal by the Crown to double the sentence imposed on a man who, while drunk, violently assaulted his intimate partner to force her to repay some money that he had lent to her child. In this case, the Court of Appeal of Quebec reversed the judgment rendered by a provincially appointed judge, who will not be subject to this law, unfortunately. Allow me to quote some excerpts from this judgment:

> . . . the Court has emphasized on several occasions the added weight that must be given to the objectives of denunciation and deterrence in the context of domestic violence. Indeed, sentencing in these matters pursues two main imperatives: to denounce the unacceptable and criminal character of domestic violence and to enhance the confidence of the victims and the public in the administration of justice.
>
> . . . even when an accused shows encouraging signs of rehabilitation, the objective of rehabilitation should not take precedence over the objectives of deterrence and denunciation in matters of domestic violence.

[*Translation*]

Let me add that trial judges have not been spared.

An August 2020 article in Droit-Inc. quotes Justice Buffoni of the Quebec Superior Court, who said the following:

> The time when women were the property of men is over, but unfortunately, that belief continues to prevail.

In another ruling quoted in the same article, his colleague, Justice Hélène di Salvo of the Quebec Superior Court said the following:

> Too many women are murdered by a jealous partner who is unable to accept the breakup.

As we know, in Quebec, 98% of criminal cases are tried before judges of the Court of Quebec, who are appointed by the provincial, not the federal, government. When faced with criminal law cases, Quebec Court judges have also focused on the importance of addressing family violence.

Similarly, I would like to quote some very recent rulings of the Court of Quebec, which also focused on the importance of addressing family violence.

In *R. v. Michel*, which was rendered in March 2021, Justice Julie Riendeau wrote, and I quote:

> . . . in this case, a sentence other than incarceration would obscure . . . the need to express that domestic violence is not tolerated . . . .

On March 26, 2021, a newspaper reported that her colleague, Justice David Bouchard, said the following to an abuser in another case:

> You and you alone are responsible for your actions . . . .
>
> Society is increasingly condemning this kind of behaviour. It is important to condemn [this] behaviour and to dissuade you from reoffending . . . .

The next day, March 27, the daily *La Presse* quoted Justice Érick Vanchestein in *R. v. Cormier*, as follows:

> . . . the increase in the number of domestic violence cases over the past year and a series of femicides since the beginning of 2021 illustrate the importance of this social issue.
>
> Accordingly, while not overlooking the objectives of rehabilitation and social reintegration, this case demands that the court give primary consideration to the objectives of denunciation and deterrence.

In other words, the judiciary is demonstrating that it is now very aware of the social context of domestic violence.

Commenting on these decisions, Manon Monastesse, the executive director of the Fédération des maisons d'hébergement pour femmes du Québec, called it a sign of the times and said it was encouraging.

All of this must factor into our assessment of whether the proposed amendment is absolutely necessary or not.

It should also be noted that today is May 6, and there are only a few weeks left on the parliamentary calendar before the adjournment, currently scheduled for June 23. Many bills, including budget measures, will need to be passed in this short period of time.

If we amend Bill C-3, a message will have to be sent to the House of Commons, and the Minister of Justice will have to come up with a response after cabinet makes a decision. He will then have to ask the House of Commons to endorse that response, but, as everyone knows, the government does not have a majority and seems to be having a hard time controlling the agenda.

During her Senate committee appearance on March 31, the Honourable Rona Ambrose, who is well aware of all that, urged us not to amend the bill further but to hasten passage at third reading.

Now I, too, would urge you to pass this bill, which has been going through the process for more than four years. Thank you for your attention. *Meegwetch*.

Senator Boisvenu: I would like to ask a question.

The Hon. the Speaker pro tempore: Senator Dalphond, will you take a question?

Senator Dalphond: Do I have time, Madam Speaker?

The Hon. the Speaker pro tempore: You have one minute and 45 seconds.

Senator Dalphond: Thank you.

Senator Boisvenu: As you know, for some two years now, the Supreme Court has issued some interesting directions with respect to crimes committed against children in the context of sexual assault and domestic violence, and has asked judges to hand out much tougher sentences in these cases.

When you say that domestic violence is part of the social context, I would say to you that sexual assault, in many cases, is also part of the social context. I find your argument to disregard domestic violence all too convenient.

Are you taking into account that at least 30% of crimes of a sexual nature are linked to cases of domestic violence? Isn't that an important factor confirming that this bill should take into account both domestic violence and sexual assault, because they are interrelated and are part of the social context? If not, let's amend the bill so that social context alone is taken into consideration.

Senator Dalphond: I'll answer briefly. The bill originally addressed sexual assault alone, and the House of Commons amended it by adding social context, to expand the mandatory training for judges. In doing so, the House included other dimensions of interpersonal violence in the bill, including domestic violence.

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I rise today at third reading stage of Bill C-3, more specifically to address the amendment moved by our colleague, Senator Boisvenu, who is proposing that there be mandatory training on family violence for judges.

First, I'd like to thank Senator Boisvenu for the intent behind this amendment. My esteemed colleague, your personal experiences have fuelled your passion for correcting the inequities in the work of the police and the justice system.

Personally, having supported a loved one in their efforts to leave an abusive relationship, I can say that I understand your objective. I applaud your commitment to the women who live in abusive situations or who are at risk, and your tireless efforts on their behalf. However, I fear that your proposal, although well-intentioned, will prevent Bill C-3 from being passed, which would bring us back to square one, something that no one here wishes to do. I'd also remind senators, as did the Minister of Justice, that the concept of family violence is already part of Bill C-3. That's why I'm respectfully asking my colleagues to vote against the amendment.

The amendment is well-intentioned, and the government shares these intentions, as Senator Gold expressed in committee. Domestic violence should be at the centre of judicial training.

However, the amendment wouldn't change the scope of the bill, in substance or in practice, since the bill already deals with domestic violence.

• (1600)

Bill C-3 recommends specific training on "matters related to sexual assault law and social context," and the application of "social context" in the bill includes intimate partner violence and family violence. To suggest otherwise would be to imply that there's no connection between family violence and "matters related to sexual assault law and social context."

As legislators, we know there's no need to include an exhaustive list of every problem in the text of a bill when they are clearly covered by broader concepts. Honourable colleagues, social context education is a broad concept and, without question, it includes family violence.

When he appeared before the Standing Senate Committee on Legal and Constitutional Affairs, the Minister of Justice indicated that the definition of "social context" used by the Canadian Judicial Council specifically includes "family violence."

In his testimony, the minister stated, and I quote:

> I would also like to point out that, during my introductory remarks, you heard me define social context. In that definition, family violence was included as a part of the social context. I would say that it is already part of the work we are doing with the concept of social context.

What's more, when Justice Kent from the National Judicial Institute appeared before the committee, she said in her testimony that domestic violence falls within the context of sexual assault. She explained that, beyond training sessions on sexual assault provided by the institute, and I quote:

> . . . we delivered 21 sessions on issues that touched sexual assault cases like domestic violence, human trafficking, victims' rights and trauma-informed treatment.

She also said:

> Beginning in the 1990s, the Canadian Judicial Council mandated that all training should integrate principles of social context, particularly for newer judges so that they are aware of the challenges faced by the most vulnerable in our society.

I'm no legal expert, but as a legislator I understand that Canadian law provides for the need to give a sense of and effect to inclusion in legislation, of a general expression such as the concept of social context when it comes to sexual assault. This is the principle of the presumption of effectiveness, which comes from the old adage that the lawmaker doesn't speak for the sake of speaking.

[*English*]

As the federal Interpretation Act provides:

> The law shall be considered as always speaking . . . so that effect may be given to the enactment according to its true spirit, intent and meaning.

[*Translation*]

In this instance, I wish to be clear on behalf of the government by including social context in Bill C-3. The government's intention is to include family violence and spousal abuse.

Colleagues, our chamber has the power to amend the government's legislative proposals, but our amendments must provide added value. The proposed amendment brings little added value to Bill C-3 because Senator Boisvenu's concerns are already taken into account.

Furthermore, such an amendment can't actually be applied. Out of respect for the fundamental principle of the independence of the judiciary, the Judges Act gives the Canadian Judicial Council the power to establish continuing education sessions but doesn't require that it do so. Consequently, even if the bill were amended to specifically deal with spousal or family violence — which, I repeat, is already in Bill C-3 — the independent judiciary retains the power to choose the training it will provide.

Senator Boisvenu's amendment, as well-intentioned as it is, would have a very limited practical outcome. Training is already provided and spousal and family violence is included in more general terms in the law. I believe that Bill C-3 already adequately addresses the issue, and I sincerely believe that an amendment isn't necessary.

The National Judicial Institute stated that "the psychology and law of domestic . . . violence" are already part of the training program for judges. I've no reason to doubt the institute.

[*English*]

My most serious concern, however, is that an unnecessary amendment to Bill C-3 could put the proposed legislation at risk. As was mentioned during committee hearings, and as I will point out today, when the original author of Bill C-337, the Honourable Rona Ambrose, herself a former leader of the official opposition, states that Bill C-3 should pass unamended, urges us to get this done, and I suggest we heed her advice.

Other witnesses expressed concern about the legislation being jeopardized in case of a late amendment. One such witness was Dr. Amy Fitzgerald, professor of criminology at the University of Windsor and founder of the Animal and Interpersonal Abuse Research Group. Dr. Fitzgerald was supportive of including family violence training for judges within Bill C-3. However,

when asked specifically whether Bill C-3 should be amended by the Senate at this point in the parliamentary process, the answer was clear and very frank:

> I'll be honest. We don't want to be the reason that the bill dies, so if that is a concern, then we would be happy with an observation related to what we have said here.

For the benefit of the chamber and Canadians who may be watching these deliberations, I wish to read two of the observations made by the committee that are responsive to the issue, and I quote from the report under gender-based violence:

> The committee urges the Government of Canada to ensure adequate funding is available for Canadian judicial training on gender-based violence for all judges.

And under family violence:

> The committee notes that the National Judicial Institute, during its appearance before this committee, stated that the "psychology and law of domestic and intimate partner violence" are part of the judicial training curriculum they provide. The recently updated Divorce Act includes provisions that focus, for the first time, on family violence and its definition, which includes "a pattern of coercive and controlling behaviour". For these changes to have their intended effect, proper education in this area must be provided to all family law judges across Canada. The committee asks the Government of Canada to ensure adequate funding is available to achieve this objective.

There is also an observation noting the importance of judicial training on the violence link; that is the evidence-based link between violence toward people, interpersonal violence and violence toward animals or animal cruelty. The observation states:

> . . . judicial training on the violence link can help dispel myths and stereotypes about the behaviour of victims. For example, the committee heard how companion animals can be used to silence victims; that animal abuse is associated with an increased risk of severe intimate partner abuse (including sexual abuse); and that many victims delay leaving their partner due to concerns for their pet's safety. These factors can help with understanding the victim's behaviour and protecting them from further victimization. For these reasons, the committee suggests that training on the violence link be included in the design of judicial education seminars on social context.

• (1610)

I would request, honourable senators, that the committee listen carefully to all the witnesses by making a responsible and deliberate decision to prioritize the overdue passage of Bill C-3, while making the following clear in its observations to provide comfort to Canadians and clarity for those who might be called upon to interpret Bill C-3 in the future: that family violence forms a part of Bill C-3.

I can also give assurances to colleagues that the government will be reviewing the observations of the committee with great interest, and will heed its wisdom and perspective on these matters.

[*Translation*]

Bill C-3 came to us after receiving unanimous support in the other place. Our Senate committee heard from witnesses who confirmed that this bill covers the issue of domestic violence and the training judges need. Senator Boisvenu, your efforts and your commitment to protecting victims of violence are laudable and deserve our gratitude. I have to believe that the adoption of Bill C-3 would be considered a victory for the women you're fighting for. I completely understand the reasoning behind your proposal, but I will vote against this amendment for all of the reasons I've shared. I urge my colleagues to do the same and to get this bill passed as quickly as possible.

Thank you, *meegwetch*.

[*English*]

The Hon. the Speaker pro tempore: Senator Gagné, you have a minute and a half left.

Hon. Donald Neil Plett (Leader of the Opposition): Senator Gagné, will you take a question?

Senator Gagné: Yes.

Senator Plett: Senator Gagné, you have indicated that you think there is some danger of this bill not passing if we put reasonable — in fact, not just reasonable but very good — amendments in; you feel this bill will, for some reason, fail. I would like an explanation of what the Justice Minister's argument is. He must have told you why you should vote against this.

A few weeks ago, we passed a very controversial amendment here on assisted suicide with the mental illness portion of it. That was a bill that was probably the most controversial bill we have dealt with in this chamber in my time and yours. We had severe deadlines, and yet you and your government supported controversial amendments on a controversial bill that had anything but unanimous agreement in the other place or in this place. Even given that, your government supported an amendment that had every danger of delaying it further.

Yet when the courts in Quebec had already given deadline after deadline after deadline —

The Hon. the Speaker pro tempore: Senator Plett, I'm sorry. Senator Gagné's time has expired, and we now are moving forward, on debate.

Hon. Denise Batters: Honourable senators, I rise today in support of Senator Boisvenu's amendment on Bill C-3.

Senator Boisvenu and I have supported this bill from the very beginning, when it was first proposed by Conservative Party leader Rona Ambrose. Training judges to have a better understanding of sexual assault and the experiences of the victims of sexual assault is not only necessary but long overdue.

Senator Boisvenu's proposal to include domestic violence in that judicial training is also long overdue. Several female witnesses at our Senate Legal Committee testified about the need for this education. Some of them were survivors of abuse, others represented organizations that helped victims of domestic violence and some were Indigenous peoples. They have either witnessed or experienced personally what happens to survivors of domestic violence every week in courts. Jean Teillet of the Indigenous Bar Association told us that ". . . domestic violence, or family violence, is extremely important. . . ." and ". . . that it should and could be added to this bill as an important issue."

This is why I found it so unbelievable that two male senators at the Senate Legal Committee, one of them the very government leader in the Senate, brushed off this very sensible amendment to include domestic violence in judicial training. They said it was "not necessary." Not necessary? Tell that to Diane Tremblay and countless other victims of domestic abuse who have experienced their abusive partners receiving merely a slap on the wrist from the courts from judges who, in Diane's words, ". . . did not understand my situation." Tell that to Indigenous women, who are victims of spousal assault at a rate three times higher than that of non-Indigenous women.

Some senators have floated the idea that we don't need to amend Bill C-3 because it is already a good first step. But we are well beyond needing just a first step, honourable senators. It is time for actual, real change. If we are going to bring forward witnesses to testify at committee on bills, we should at least try to implement what they are telling us. And they are telling us that rolling domestic violence into the term "social context" is not sufficient. As Indigenous witness Jean Teillet said:

> I speak as someone who is actually one of your social contexts. I'm the one you're talking about. You have entire seminars on Indigenous people. We're social context. Social context is a bit of an inappropriate term, as far as I'm concerned.

It is time for us to get this done and get it done properly.

Some senators have suggested that amending Bill C-3 at this stage will delay it yet again and that it will be impossible to pass. To that, I say that the speed with which an amendment could pass rests only in the hands of the Trudeau government. As we saw with Bill C-7, a major and controversial amendment passed through the House of Commons in a matter of hours once the government climbed on board to support it.

If we were to pass this amendment to this government bill, it would return to the House of Commons as a message from the Senate and would be dealt with at an earlier stage of their proceedings, allowing it to be discussed expeditiously. If the Trudeau government were to accept the amendment, a large number of Liberal MPs in the minority-government House of Commons, plus a large number of Conservative MPs, would support it, meaning that it would pass quickly in the House of Commons.

If we pass this very necessary and worthy amendment today, honourable senators, its quick passage would be up to the Trudeau government. They've talked the talk about supporting women; now it's time to walk the walk. What truly feminist government would say no?

Please join me in supporting this amendment and vote "yes." Let's get this done to help vulnerable women and victims of domestic violence. Thank you.

Senator Plett: Honourable senators, I also rise to speak to Senator Boisvenu's amendment. I want to thank Senator Boisvenu for taking the initiative of bringing this amendment forward, and I want to thank Senator Batters for her words today.

It is no secret to most in this chamber that I have some concerns with this legislation. I was not quite on the same page as Senators Boisvenu and Batters throughout the debate on Bill C-3, but I do support the intent. I have concerns with this legislation, as I have had with all previous iterations. As I said, that is not because I do not support the intent of the initiative. I believe that the justice system needs to operate in such a way that it supports victims of sexual violence and encourages them to come forward. We have all heard the egregious comments made to sexual assault victims by judges that are simply appalling and that are clearly based on stereotypes and ignorance of a complex subject matter.

Studies have shown the chilling effect those comments and the entire process has had on the likelihood of victims coming forward. That is unacceptable.

However, I do believe in the vital importance of the independence of the judiciary, and I remain concerned about the impact Bill C-3 could have on this independence. When Justice J. Michael MacDonald, the former Executive Director of the Canadian Judicial Council, testified at the House of Commons Justice Committee, he said that it is essential for the kinds of education and training judges should have to remain entirely within the purview of the judiciary. He noted the dangerous precedent this bill could set by permitting future governments to have the ability to make politically driven directives to the judiciary. He said:

> The concern is that in 20 years from now, if the government of the day were to direct judges to learn about the myth of residential schools . . . you would want the judiciary to stand bravely, courageously, and say, "You can't tell us what we have to learn. If you tell us what we have to learn, you tell us what we have to think, arguably."

• (1620)

Likewise, Chief Justice Wagner of the Supreme Court of Canada stated in February of 2020:

> The judiciary, as a collective, has to be free to decide what training and education judges receive to do their jobs well.

The Canadian Bar Association, among others, raised similar concerns when they testified at the Senate committee.

Of course, there were some witnesses, including the National Judicial Institute, who do not share this concern and who believe this bill strikes an appropriate balance.

Colleagues, for those reasons, I remain undecided as to whether I will support the legislation at the final vote. However, I do believe it is incumbent upon this chamber to ensure that we try to improve every piece of legislation that we have before us to the best of our ability.

Senator Boisvenu has brought forward an amendment that is supported by the testimony of victims who were able to demonstrate precisely how judicial education on matters of domestic violence could prevent violent attacks and save lives. The testimony of these brave women was gut-wrenching and compelling. Most witnesses supported this important inclusion and even explicitly pleaded with the Senate to make this change in their testimony.

I find it troubling to see some senators tell these witnesses that if the amendments they are advocating for were to pass, it would risk killing the bill, essentially putting the onus of the bill's passage on witnesses, in an attempt to have them withdraw their support for such an amendment — shameful. The witnesses we hear from at committee are not there to weigh in on legislative timelines. They are there to offer their opinions on the legislation itself.

I found this line of questioning both inappropriate and misleading. This amendment, while quite possibly being very impactful, is not highly technical and would not require an abundance of time to consider. For those who support this legislation, this amendment is almost a no-brainer, considering the broad support of this legislation in the House of Commons and, I believe, the broad support in this chamber.

I do not understand why a very simple amendment would put this bill in such peril. I find this especially perplexing as the government and its representative were eager and willing to accept major, sweeping complex amendments to the assisted dying bill only a couple of weeks ago. As I was trying to ask Senator Gagné, this was a complex bill that had a timeline, and yet the government managed to get it done. The approval of an amendment like this should take very little time in both chambers and should not have much impact on the timeline at all.

Here we are, on May 6. We're going to vote on this bill today. This bill will go over to the other place if there is an amendment. Next week they can deal with this bill. This does not need to take any time, colleagues. And for the deputy leader to use that as part of her argument, that the bill may fail because we don't have time to deal with it — we're working on the government's timeline. If they want to take the time to pass it, they can do that.

If we are not obligated to consider improving legislation in this chamber, and witnesses are being discouraged from suggesting such improvements, what, colleagues, are we doing here? What was the point of our committee hearings? What is the purpose of these debates if our role is to simply act as a rubber stamp?

I would like to ask the government leader and his deputy leader when they were told to oppose all amendments. How long ago were they told to oppose amendments — before they even knew what the amendments were? The argument is that the stakes are simply too high to risk killing the legislation. But is that the case? What would the impact be on survivors of sexual assault? The National Judicial Institute, the body responsible for judicial education, informed the Legal and Constitutional Affairs Committee that from 2014 to last March, they delivered 51 sessions, either large programs that were dedicated solely to sexual assault cases or sessions in other programs. They delivered 51 of those sessions in the last six years. In addition, they delivered 21 sessions on issues that touch sexual assault cases, like domestic violence, human trafficking, victims' rights and trauma-informed treatment.

When Justice Adèle Kent from the National Judicial Institute was asked by Senator Campbell how this would change the training they are already undertaking, she responded:

> In one respect, I would suggest that the training will continue to evolve the way it has, and in one way, I might say, it would make no difference. But I have to say that since 2017, when Ms. Ambrose introduced Bill C-337, the dialogue between the judiciary, the legislature and the dialogue that we have had with representatives of victims' groups and so on has been valuable.

In essence, she says nothing would change, but the conversations that they have had as a result of Rona Ambrose's bill in 2017 have been valuable and have informed the evolution of their training.

Colleagues, I am failing to see the reason for us to refrain from amending this bill, an amendment that victims of family and domestic violence are asking for, when Justice Kent's comments demonstrate that the significance of this bill will be largely symbolic and will make no difference to the existing training on the topic of sexual assault.

There have been times when we have passed flawed legislation, colleagues, because missing a looming deadline could have dire consequences. For example, many of the government's recovery packages for Canadians during the COVID-19 pandemic have been flawed beyond all measure, but we have passed them because of deadlines.

However, with sexual assault training continuing regardless of this bill's passage, the same pressures are simply not there. If it is Parliament's will to proceed with prescribing the topics judges must be educated on, then I believe we owe it to the victims of domestic violence to get this legislation right. There is no reason, colleagues, that this amendment process would have to be onerous or lengthy. If the government can pass an amendment enabling access to assisted suicide for mental illness in mere hours, it is nonsensical to suggest that a bill that had unanimous support in the House of Commons would require lengthy debate on a very simple, straightforward amendment.

I believe that in supporting this amendment we are fulfilling our role as the chamber of sober second thought, and I would like to commend Senator Boisvenu for his admirable continued work in support of victims of violence and family violence. Thank you.

Some Hon. Senators: Hear, hear.

Hon. David Richards: I would like to ask Senator Plett a question, if I may.

The Hon. the Speaker pro tempore: Absolutely. Senator Plett, do you want to take a question?

Senator Plett: Certainly. I would be happy to.

Senator Richards: Thank you, senator. I think this is an extremely well-intentioned bill and an extremely well-intentioned amendment, but my one concern is this: How do we make sure that this legislative oversight will not make judges feel they are being coerced or forced to seek more convictions as time goes on? That's my one concern with this part of the legislation. Maybe you could give me an answer on that or give me your thoughts on that, senator.

Senator Plett: Let me tell you, Senator Richards, I think the person you should have asked that question to would have been Senator Boisvenu. He's more of a legal expert than I am.

Senator Richards, I believe that we have had, as I said earlier, some horrible instances of judges making very rude comments, doing things, saying things, but I think over the period of time, so much of the training has already improved that.

Now, that's not to say that this bill isn't important. However, to try to leave victims of domestic violence out of this bill, that's my struggle. I'm not sure that the bill will do what it's intended to do. I clearly support the intent of it, but if we do want this bill then I believe we need to include victims of domestic violence as well. I hope that answers your question, senator.

• (1630)

Senator Richards: Thanks very much, senator. That's fine.

[*Translation*]

Hon. Julie Miville-Dechêne: I have a question for Senator Plett.

[*English*]

Senator Plett, as you know, I also care deeply about victims of intimate violence, but I'm wondering what exactly you're trying to do. From what I understand "le Conseil de la magistrature" has said that there is already training on intimate violence for those federal judges. That is being done. It's probably not perfect but, in any case, we have no say on what's going to be taught or not. If it's already done and if they say they are already doing the training, why should we put it in the law? That's one thing. And second, how can we say this will change the whole situation on intimate violence since, in general, it's the provincial judges who are hearing those cases. I'm not exactly following your argument here.

Senator Plett: Number one, senator, in fairness, it's not my amendment. It's Senator Boisvenu's amendment that I was supporting and encouraging.

I don't know that I necessarily have an opinion on your saying this won't do any good because it's a provincial issue. The judges are already being trained on the sexual assault as well, yet the bill is important. Why is the bill important if the judges are already getting that training? I'm saying if you want the bill, then let's at least have it include as much violence as we can in the bill. And I trust — whether this bill passes today or not — the judges will continue to get training as they have been getting before.

As you say you fail to see my argument, I completely fail to see the rationale of your question.

[*Translation*]

Senator Miville-Dechêne: Senator Plett, I'll just say that training on sexual assault isn't the same as training on domestic violence and family violence. Our understanding is that training on domestic violence and family violence already exists. It was introduced as a result of the Divorce Act. What would be the point of including it in this bill if the training is already offered? It isn't repetitive and pointless. Perhaps my question was unclear, but there you go.

[*English*]

Senator Plett: I don't know that your question wasn't clear. However, I didn't see the relevance of the question because you're saying this may not be necessary because this training is already being done. I'm saying the training is already being done, even on the sexual assault, yet people want us to pass Bill C-3. My argument was that if we want to pass Bill C-3 then let's also pass this. I told you at the start I'm not sure how I'm voting on Bill C-3, but I will vote in favour of this amendment.

An Hon. Senator: Question.

The Hon. the Speaker pro tempore: Senator Plett, do you want another question?

Senator Plett: Certainly.

Senator Dalphond: Senator Plett, I understand you're saying this bill is unnecessary but the amendment is a must. Is that what you're saying?

Senator Plett: Senator Dalphond, I have been accused of many things. Not very often have I been accused of someone not understanding what I say. I think you understood perfectly well what I said. I said if the bill is necessary, then let's make it as inclusive as possible. That's what I said and that's what I stand on, and you know that's what I said.

Senator Harder: Question.

The Hon. the Speaker pro tempore: Those opposed to the motion, please say "no."

Some Hon. Senators: No.

The Hon. the Speaker pro tempore: Those in favour of the motion who are in the Senate Chamber will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: Those opposed to the motion who are in the Senate Chamber, please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker pro tempore: I believe the "yeas" have it.

I see two senators standing.

And two honourable senators having risen:

The Hon. the Speaker pro tempore: We're going to have a standing vote.

The government liaison and the Opposition Whip have an agreement on the length of the vote. One hour. We shall be voting at 5:36. Call in the senators.

• (1730)

The Hon. the Speaker: Honourable senators, the question is as follows: It was moved by the Honourable Senator Boisvenu, seconded by the Honourable Senator Plett, that Bill C-3 be not now read a third time but that it be amended — shall I dispense?

Some Hon. Senators: Dispense.

The Hon. the Speaker: Thank you.

Hon. Dennis Glen Patterson: I want to hear the amendment.

The Hon. the Speaker: Senator Patterson wishes to hear the amendment:

That Bill C-3 be not now read a third time, but that it be amended

(a) in the preamble, on page 1, by replacing line 20 with the following:

"sault law, family violence and social context;";

(b) in clause 1, on page 2, by replacing line 21 with the following:

"on matters related to sexual assault law, family violence and social";

(c) in clause 2,

(i) on page 2, by replacing line 29 with the following:

"al assault law, family violence and social context, which includes sys-",

(ii) on page 3, by adding the following after line 11:

"**(4)** The Council should ensure that seminars on matters related to family violence established under paragraph (2)(b) are developed after consultation with persons, groups or organizations the Council considers appropriate, such as family violence survivors and persons, groups and organizations that support them, including Indigenous leaders and representatives of Indigenous communities.";

(d) in clause 3, on page 3, by replacing line 17 with the following:

"matters related to sexual assault law, family violence and social context,".

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

YEAS
THE HONOURABLE SENATORS

Anderson	McCallum
Ataullahjan	Mockler
Batters	Moodie
Bernard	Ngo
Boisvenu	Oh
Carignan	Pate
Deacon (*Ontario*)	Patterson
Duffy	Plett
Griffin	Ravalia
Housakos	Richards
Kutcher	Seidman
Lankin	Smith
MacDonald	Stewart Olsen
Manning	Wallin
Martin	Wells
Massicotte	Wetston—32

NAYS
THE HONOURABLE SENATORS

Bellemare	Francis
Black (*Ontario*)	Gagné
Boehm	Gold
Boniface	Greene
Bovey	Harder
Boyer	Hartling

Brazeau	Jaffer
Busson	Klyne
Campbell	LaBoucane-Benson
Christmas	Loffreda
Cordy	Lovelace Nicholas
Cormier	Marwah
Coyle	Mégie
Dagenais	Mercer
Dalphond	Miville-Dechêne
Dasko	Munson
Dawson	Omidvar
Deacon (*Nova Scotia*)	Petitclerc
Dean	Simons
Duncan	Tannas
Forest	White
Forest-Niesing	Woo—44

ABSTENTIONS
THE HONOURABLE SENATORS

Black (*Alberta*)	Moncion
Dupuis	Saint-Germain—5
Galvez	

• (1750)

THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Dalphond, seconded by the Honourable Senator Gagné, for the third reading of Bill C-3, An Act to amend the Judges Act and the Criminal Code.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

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

PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING—DEBATE

Hon. Peter Harder moved second reading of Bill S-4, An Act to amend the Parliament of Canada Act and to make consequential and related amendments to other Acts.

He said: Honourable senators, I rise virtually today to speak to Bill S-4, An Act to amend the Parliament of Canada Act and to make consequential and related amendments to other Acts. This legislation would update the Parliament of Canada Act to better reflect the new reality here in the Senate.

It has been a little over five years since I took my seat in this chamber. In those years, the Senate has transformed itself from within in many ways. I'm not sure what the class of 2016 expected as we were sworn in on that first day. Speaking for myself, it was daunting to know that we were wading into uncharted territory.

Newly appointed senators, without the benefit of an established party behind them for support and instruction, gathered together. They had the desire to discuss issues, bounce ideas off each other, navigate the demands of the Senate and learn the rules, procedures and operations of this place, which are sometimes arcane and difficult to understand. New senators couldn't function ably as individual silos. As more and more colleagues were appointed, coming together in support of each other and subsequently organizing themselves into like-minded groups was a natural evolution.

While we were feeling our way and doing our best to fulfill our constitutional roles we were, at the same time, putting our stamp on the institution and moving it forward. So began the journey to today.

To their credit, over these past five years all senators have recognized the changes occurring from within and acted upon them, occasionally with some reluctance but always with respect. There was a willingness amongst all senators, even those who preferred the existing two-party arrangement, to make adjustments to the strict rules and procedures of the Senate toward a more modernized approach.

The core premise that all senators are equal led to the sensible review and modification of rules to ensure committee seats for new colleagues and for the equitable treatment of all caucuses and groups in the Senate as they came into being. Bill S-4 is the anticipated legislation that is catching up to and cementing into law the practices this chamber has already instituted and processed changes that the government initiated, though they have not been required to do so in law.

I am delighted to introduce this bill on behalf of the government. It is, in my view, an important step in contributing to the commitment of making the Senate less partisan and more independent, transparent and accountable.

Since 2016, 52 senators have been appointed through the Independent Advisory Board process. There are presently 14 vacancies. The most notable outcome of this reform is that three groups without party affiliation have formed in the Senate: the Independent Senators Group, the Canadian Senators Group and the Progressive Senate Group.

As these groups were established, the Senate amended its internal rules to accommodate them and to provide them with research funding and committee assignments proportionate to

their numbers. This set-up is not novel, so arguing against change using the "that's the way it has always been done" claim holds no weight.

The other place has had multiple parties for a long time. Bill S-4 reflects a multi-group Senate and just as the other place provides for its leadership in a multi-group chamber, under this bill, so will the Senate.

The proposed legislation also fulfills a policy commitment to update the act and reflect the Senate's new, less partisan role. This policy commitment can be found in Minister LeBlanc's 2019 mandate letter and Minister Rodriguez's 2019 mandate letter in which he was asked to support Minister LeBlanc in this initiative. It was also a commitment in the last election.

Amending the Parliament of Canada Act is a continuation of the commitment made by the Prime Minister when the establishment of the Independent Advisory Board on Senate Appointments was announced in December 2015. That was the first step in a process that now results in this legislative change to the Act. I would like to take a moment to congratulate Minister LeBlanc, the Government Representative Senator Gold and all leaders and facilitators — Senators Plett, Woo, Cordy and Tannas — who brought us all to this point.

• (1800)

Prior to the drafting of Bill S-4, comprehensive conversations and consultations were held with all leaders. Their perspectives were heard, and the proposed legislation before us reflects much of what was put forward —

The Hon. the Speaker: Excuse me, Senator Harder. My apologies, but I have to interrupt you now. It is now six o'clock and pursuant to rule 3-3(1), the orders adopted on October 27 and December 17 of 2020, I am obliged to leave the chair until seven o'clock unless there's leave that sitting continue. If you wish the Senate to be suspended please say "suspend."

Senator Plett: Suspend.

An Hon. Senator: Suspend.

The Hon. the Speaker: Almost. I hear a "suspend," so Senator Harder, you will be given the balance of your time when we resume the sitting. The sitting is suspended until 7 p.m.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

• (1900)

[*Translation*]

ROYAL ASSENT

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

May 6, 2021

Mr. Speaker,

I have the honour to inform you that the Right Honourable Richard Wagner, Administrator of the Government of Canada, signified royal assent by written declaration to the bills listed in the Schedule to this letter on the 6th day of May, 2021, at 6:27 p.m.

Yours sincerely,

Ian McCowan

Secretary to the Governor General

The Honourable
The Speaker of the Senate
Ottawa

Bills Assented to Thursday, May 6, 2021:

An Act to implement certain provisions of the economic statement tabled in Parliament on November 30, 2020 and other measures (*Bill C-14, Chapter 7, 2021*)

An Act to amend the Judges Act and the Criminal Code (*Bill C-3, Chapter 8, 2021*)

[*English*]

ADJOURNMENT

MOTION ADOPTED

Leave having been given to proceed to Government Business, Motions, Order No. 50:

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of May 5, 2021, moved:

That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, May 25, 2021, at 2 p.m.

She said: Honourable senators, I ask for leave of the Senate that Motion No. 50 under Government Business be brought forward and called now, and if leave is granted, I move the motion.

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

Hon. Senators: Agreed.

(Motion agreed to.)

PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

On the Order:

> Resuming debate on the motion of the Honourable Senator Harder, P.C., seconded by the Honourable Senator Gold, P.C., for the second reading of Bill S-4, An Act to amend the Parliament of Canada Act and to make consequential and related amendments to other Acts.

Hon. Peter Harder: Honourable senators, I would like to remind colleagues that prior to the drafting of Bill S-4, comprehensive consultations were held with all leaders, their perspectives were heard and the proposed legislation before us reflects much of what was put forward. The government recognized its responsibility to consult with those who would be most affected by any changes to the act. The goal of the bill is to ensure that the Parliament of Canada Act — the legislation governing key aspects of how the Senate operates — legislatively authorizes the current landscape within the Senate. Bill S-4 would extend official recognition to the new groups that have formed. It would include a spelled-out role in the Senate governance and the parliamentary appointments process. Leaders of the groups would receive allowances commensurate with the number of seats held by their group in the Senate.

Building on these steps, changes to the Parliament of Canada Act and other acts are essential to reflect the reality of how the Senate operates today.

First, Bill S-4 would ensure that the largest group — other than the government or the opposition — would receive allowances equivalent to the opposition, and the next two largest groups would receive approximately half the allowances the opposition receives. These new allowances would begin on July 1, 2022, and will assist the recognized parties or groups to fulfill their role of providing sober second advice.

Secondly, the bill amends the Parliament of Canada Act and makes consequential amendments and related amendments to other acts that allow the leader or facilitator of all recognized parties and groups in the Senate to make membership changes to the Senate Standing Committee on Internal Economy, Budgets and Administration. As well, all leaders would need to be consulted on the appointments of the following officers or agents of Parliament: the Senate Ethics Officer, the Auditor General, the Commissioner of Lobbying, the Commissioner of Official Languages, the Public Sector Integrity Commissioner, Privacy Commissioner, Information Commissioner and Parliamentary Budget Officer.

All leaders' input would also be required regarding the appointments of senators to the National Security and Intelligence Committee of Parliamentarians, the NSICOP. The appointments of these officers and agents are crucial to the functioning of government and, by extrapolation, the country. I should add that it has been the practice of the Prime Minister, both in the last Parliament and in this Parliament, to consult all leaders with respect to these appointments, even though it was not legally required.

Third, Bill S-4 would amend the Emergencies Act to provide that at least one senator from each group be represented on the parliamentary committee formed under the act.

Currently, the Emergencies Act requires that a parliamentary review committee of both the House and the Senate be established for the purpose of reviewing the government's exercise of its powers following the declaration of an emergency. Under the current statute, the membership of this committee includes at least one member from each recognized party in the House of Commons and at least one senator from each party in the Senate. The formal recognition of the ISG, PSG and CSG proposed in Bill S-4 would allow each group a seat on this important review body when and if it is required.

Finally, Bill S-4 will add the titles of Government Representative in the Senate, Legislative Deputy to the Government Representative in the Senate, and Government Liaison, where appropriate, to reflect the current model of the Government Representative office.

Bill S-4 also proposes to retain leadership allowances for the government and the opposition — five positions each — and provide leadership allowances for the three other largest recognized parties or groups — four positions each.

The Senate was and is the product of our Confederation. It is a pillar of our parliamentary democracy; the upper house of our bicameral system. It plays an important role in providing legislative review, regional representation and the representation of minority voices. It is master of its own house, and as master, it has adjusted its rules to meet its changing needs. But these were Band-Aid solutions without permanence and do not provide the legal recognition of what is obviously a lasting state of affairs. The government rightfully determined that Bill S-4 should originate in the Senate. It deals with the Senate's institutional framework and organizational processes, and should be discussed and debated here first by those most affected. Because of the long-standing convention not permitting the Senate to expend public funds, Bill S-4 contains a non-appropriation clause which would only permit the bill to be brought into force once monies have been appropriated by Parliament, which is why we are passing this bill and moving it forward to the other place, allowing the proper chamber to introduce the legislation necessary to finalize the amendments.

• (1910)

For those who might question the ability of a Senate bill to include the expenditure of funds, clause 17 of Bill S-4 outlines the appropriate mechanism:

> 17 (1) Subject to subsection (2), this Act comes into force on a day to be fixed by order of the Governor in Council.
>
> (2) No order may be made under subsection (1) unless the appropriation of moneys for the purposes of this Act has been recommended by the Governor General and the moneys have been appropriated by Parliament.

On February 24, 2009, Speaker Kinsella outlined broad principles governing legislation that may have monetary implications.

> It certainly is not the case that every bill having any monetary implication whatsoever automatically requires a Royal Recommendation. When dealing with such issues, the Speaker's role is to examine the text of the bill itself . . . . Of course, the Speaker, in making this assessment, seeks to avoid interpreting constitutional issues or questions of law.
>
> The senator raising a point of order has a responsibility to present evidence and explain to the Senate why a Royal Recommendation is required, linking it to what the text before the Senate would actually require, not optional decisions that may or may not be made at some point after a bill is passed. . . .
>
> In situations where the analysis is ambiguous, several Senate Speakers have expressed a preference for presuming a matter to be in order unless and until the contrary position is established. This bias in favour of allowing debate, except where a matter is clearly out of order, is fundamental to maintaining the Senate's role as a chamber of discussion and reflection.

As well, *Senate Procedure in Practice* explains the following at page 155:

> . . . rulings have noted that a bill that would otherwise require the Royal Recommendation can proceed if it clearly provides that it does not come into effect until funds have been separately appropriated by Parliament.

This is what section 17 in this bill provides.

Honourable senators, Bill S-4 is a respectful piece of legislation. It provides for equal treatment of leadership and reinforces the equity afforded to all groups in terms of consultation, something currently in practice but not cemented in law. It also recognizes the nomenclature that groups have chosen to use. As the chamber has evolved over these past few years, Bill S-4 can be considered an evolutionary piece of legislation. It need not be revolutionary to meet our needs.

It has taken two parliaments for changes to the Parliament of Canada Act to come forward and legislate many of the changes we ourselves have instituted. Bill S-4 is a reflection of the accommodations we have already made. The government is not mandating changes with this legislation. Rather, it is a permissive bill, not prescriptive, which is exactly how we get most things done in this chamber.

For Bill S-4 to be before us today required an alignment between the government representative and the minister. I can attest to that fact personally. For the Prime Minister to allow an embargoed copy of the bill to be forwarded to all groups so that members might reflect on its contents indicates the commitment of establishing the permanence of a multi-group, less partisan process by those at the highest levels.

Honourable colleagues, I ask that Bill S-4 be dealt with expeditiously. The Senate demand for such legislation began several years ago. It is in the interest of all senators to move this bill forward so it can be sent to the other place as soon as possible. We mustn't waste this opportunity.

Some may argue that Bill S-4 does not go far enough. I would disagree. It respectfully reflects the Senate as it exists today. As it stands, there are group leaders and facilitators who have little or no status when it comes to providing input or advice into government appointments, who do not have the legislative authority to make membership changes on the Senate's most powerful committee and who must rely on the benevolence of "recognized" colleagues to fund and manage their groups and research staff without leadership allowances. This needs to change and, with this bill, it will.

Bill S-4 is not by any means the end of Senate reform and modernization. It is, however, the legislating of changes we ourselves have developed and put into practice. It reflects the Senate as it is today, not as you might wish it to be tomorrow. We aren't going anywhere, and we will have the opportunity to move even further down the modernization road with the Parliament of Canada Act no longer being a barrier to institutional reform.

I commend this bill for your consideration. Thank you.

The Hon. the Speaker: Senator Harder, would you take a question?

Senator Harder: Certainly.

The Hon. the Speaker: Senator Batters, do you wish to ask a question?

Hon. Denise Batters: I do.

Senator Harder, we meet again. From my review of Bill S-4, it appears that there are no additional powers being granted to the opposition or to the Leader of the Opposition in this bill, as compared to the current version of the Parliament of Canada Act.

Instead, in my review of it, Bill S-4 includes, in these several references to the opposition, the granting of the same powers to three additional undefined parliamentary groups. As such, Bill S-4 seems to dilute these key powers of the opposition and its important historical role. This makes the opposition merely one of several groups in the Senate.

Senator Harder, are there any references to or powers of the opposition which are now in Bill S-4 but which are not in the current Parliament of Canada Act?

Senator Harder: Thank you for your question, senator. You make me almost nostalgic for the Question Period of my time as Government Representative. Let me say that the bill is intended to reflect the changes to this chamber. This bill does not change the role and function of the opposition, so, therefore, there are no changes to that role either in circumscribing its role and abilities and competencies. In respect of the appointment of parliamentary officers, it reflects the practice of this government both in the last Parliament and this.

Senator Batters: Senator Harder, one of the main features of Bill S-4, as you described it, is the entrenching of brand new nomenclature in the Parliament of Canada Act. We have had terms like "Leader of the Government" and "Leader of the Opposition" and "whip" in the Senate and in many other parliamentary systems and jurisdictions for decades and sometimes for centuries.

But what are basically brand new, historically speaking, are terms in Bill S-4 like "facilitator" and "liaison" and "Government Representative," et cetera. Those terms were really only first used by some in the Senate a few years ago, since the Trudeau government has been in power.

Senator Harder, I note that none of those brand new terms are even defined in Bill S-4. As such, if this bill passes, the Parliament of Canada Act would not include definitions for those words. Under Bill S-4, people holding those undefined position names will receive significant amounts of taxpayer dollars on an ongoing basis.

Senator Harder, why aren't those particular terms defined? What do you think the government should do to fix that?

Senator Harder: Thank you for your question, senator. I believe that the government ought not to interfere in the practices of the Senate in any way. This bill is permissive in allowing the nomenclature that is preferred by various groups to be used. It doesn't force those changes; it makes them permissive. I think you will find, senator, that the practices and experience of the last two parliaments will be reflected on an ongoing basis, and we all know what those roles are; and, frankly, the Parliament of Canada Act has not defined what the roles of previous nomenclature have been.

• (1920)

Hon. Yuen Pau Woo: Honourable senators, I wasn't expecting to come up next but I'm happy to jump in and start by thanking Senator Harder for sponsoring this bill. I thank the Government Representative's office for initiating it, the other leaders for what I expect will be their thoughtful deliberation and, I hope, support and also, of course, Minister LeBlanc for taking the initiative on the government's part.

In the spirit in which Senator Harder has articulated, I want to join him and other speakers tonight at the earliest opportunity to voice my support for this bill and the support of the ISG. I'm speaking extemporaneously in part because I feel it is necessary to send that very signal that Senator Harder has exhorted us to send, and it is a signal of our support and the urgency that we see for this bill to move through this chamber quickly so that it can go to the House for adoption.

I want to pick up on Senator Harder's comment that this bill represents evolution, not revolution. Yet, colleagues, of course, changes in the Senate have always happened through evolution rather than revolution and that is something that we should be proud of. We have not been an institution that turns everything we do upside down because of a new fashion or a fad or the fancy of a number of senators. But we've always tried to be forward-looking and progressive, if you will, while respecting the traditions and history of this institution.

This iteration of evolution in the Senate may well go down as one of the more significant Senate reforms in our long history.

I say that because, to echo Senator Harder, Bill S-4 is additive; it is not subtractive. It is permissive; it is not prescriptive. It enshrines what we already know to be the reality of the Senate insofar as there are groups that are non-affiliated, other than the government and the opposition. In many ways, Bill S-4 simply catches up with the new reality of the Senate.

To the extent that it isn't simply echoing what already happens in this institution, it is permitting what should be happening in this chamber, but which can only be made possible through statute. I make this point because there are other things which the Senate can do by itself through amending its own rules, but the very items that we see in this bill today are only the things that government can do through the Parliament of Canada Act and has now presented to us in the form of Bill S-4.

When I say that this bill is additive and not subtractive, that it is permissive but not prescriptive, what I mean to say is that it is respectful both of the current reality of the Senate but also respectful of Senate traditions and practices.

Insofar as some of you have a particular view of what further Senate reform right mean, this bill is agnostic. It allows for different directions and permutations for which the Senate can further evolve. It doesn't lock us into a particular part, but it recognizes the present reality and it institutes a measure of equality and fairness, given the recognition and given the reality of multiple groups in this chamber.

Colleagues, I hope I can set the example of speaking quickly on this subject and encouraging everyone to move this bill along swiftly so that we can send it to the House — it started here — but not just that we send it to the House; rather, that we send it with a clear message that it has the strong support of this chamber. It was born, bred and cultivated in this chamber and sent with love to our colleagues in the House of Commons, and they know that they are receiving a bill that we support fully and on which we seek their support as well so that we can truly be the modern, complementary chamber of sober second thought in the Parliament of Canada. Thank you.

Some Hon. Senators: Hear, hear.

Hon. Jane Cordy: Honourable senators, I am pleased to join in the debate today in support of Bill S-4, which would make changes to the Parliament of Canada Act. I believe this bill better reflects the current situation here in the Senate of Canada. I would like to thank Senator Harder, who provided an excellent overview of the legislation at hand.

Senator Harder, you have not lost your touch for answering questions.

I would also like to thank Minister LeBlanc for bringing forward this bill and for having conversations with every leader before the bill was tabled.

Honourable senators, some of these changes have been on the Senate's radar for a long time; 20 years, in fact. In 2001, the Rules Committee, chaired by former Senator Jack Austin, recommended that the Senate amend its rules to account for the existence of recognized parties other than the government and opposition. This change was made in 2002 so that the recognized parties included those that were registered under the Canada Elections Act and that had a minimum of five members, which, as we know, has increased to nine members.

The Rules Committee at the time also recommended that the Parliament of Canada Act be amended to reflect the change by providing for additional allowances for the leader, deputy leader and whip of all recognized parties, as is the case in the House of Commons.

As we all know, this recommendation by the Rules Committee was never implemented by any subsequent government. In that absence, the Senate did everything within its own authority to ensure the equality of parties and groups. The first time the 2001 rule change was applied was in 2015 with the former Independent Senate Liberals, neither government nor opposition after the election, but who were nevertheless recognized as a third party under our rules.

Shortly thereafter, the House Leader of the Government in the House of Commons reached out to our former colleague, Senator Jim Cowan, to offer that should any changes be required to the Parliament of Canada Act, he would be pleased to work with him as minister responsible for the act.

In response, Senator Cowan called the minister's attention to the 2001 Rules Committee report and its not-yet-implemented recommendation. In the meantime, the Senate Rules continued to evolve. They were further expanded in 2017 to include other recognized parliamentary groups and conferred upon those groups the same procedural rights as the caucuses of recognized parties.

As I said, the numerous changes we have made within our institution have not resulted in changes to the act itself, which have been a long time coming. When the Senate Modernization Committee began its study on the equal treatment of parliamentary groups, the Senate law clerk and parliamentary counsel provided a briefing note dated May 15, 2018, on the amendments required to various acts of Parliament for recognized parliamentary groups to have the same statutory rights as recognized parties. This briefing note can be found as appendix B in the committee's 2018 report entitled: *Reflecting the New Reality of the Senate*. I know that former Senator Joseph Day brought this briefing note to the government's attention twice in the years since. The note is an excellent piece of work and provided a comprehensive starting point for the changes required.

• (1930)

Indeed, much of what is included in this briefing note has been replicated in the bill before us today. The bill amends the Parliament of Canada Act to ensure that senators who occupy certain leadership positions receive an additional allowance in the same way that members of the House of Commons occupying leadership positions receive an additional allowance. The bill also amends the act regarding membership changes for the Senate Committee on Internal Economy, Budgets and Administration.

Under the current act, only the government and opposition can make membership changes to CIBA when it is operating under its intercessional authority during prorogation and dissolution. For the progressives and all other parliamentary groups in this chamber, this could have been a significant issue when Parliament prorogued last summer. I am pleased to see this particular change.

We know as well that Bill S-4 provides for consultation with the leader of every recognized party prior to the appointment of officers of Parliament as well as the appointments to the National Security and Intelligence Committee of Parliamentarians. Notwithstanding the current acts, the government has in fact carried out consultations like this in recent years. I am pleased that they will now enshrine in legislation what they have done in practice so far.

As I said, the Senate has already done what is within its power to ensure the equality of recognized parliamentary groups and parties. I believe that this bill takes us further in reflecting our current situation without taking away the existing rights or designations currently found in our statutes.

During his appearance before the Modernization Committee on November 21, 2018, Senator Day advocated for a "levelling up" of the powers of leaders and facilitators in the same way that the Law Clerk's briefing note envisioned, that additional rights be given to the leaders of parliamentary groups and parties without any changes to the existing rights of the leaders of the government or the opposition. This approach, duplicated in this bill, ensures equality and fairness for all.

Honourable senators, the Senate has been evolving in its practices and procedures for a very long time, and I have no doubt that this evolution will continue long after we have all left this place. New senators, new governments, new configurations will all play a role in where the Senate goes next. Bill S-4 is a good step, and one I am pleased to support. I hope that Bill S-4 will pass quickly and be sent to the House of Commons. Thank you, *meegwetch*.

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, I was hoping that I would be able to simply rise today and say, "me too." That would probably have been the best way to move this bill forward because, in fact, our Conservative caucus and I agree with many, if not most, of the parts of this bill.

However, I need to take some time to reflect on a few of the statements that Senator Harder made in his myth that this chamber has become less partisan. I'm not sure if he and I have been in the same chamber. I thought we had been. Certainly I don't see this chamber quite in the same way he does as far as the partisanship is concerned. Nevertheless, I think we are all able to have some disagreements and still get along.

This bill we have before us, in fact, is, as Senator Harder, Senator Woo and Senator Cordy have all said, the result of consensus building among the various groups and the parties. I'm proud to have been part of that.

I think the bill before us today impacts one of the fundamental principles of the Senate: the ability to arrive at a consensus among various groups and parties. That is what I spoke about earlier today in the not-so-pleasant speech I made.

After a period of consultation, we have worked out an acceptable agreement that reflects the current reality. I may not agree with Senator Harder about the partisanship, but I do agree that we have a current reality, while recognizing the historical importance of the roles of the government and the opposition.

Colleagues, the Senate will adjourn for two weeks. It's not a hiatus, as we will be working on committees and so forth, but we won't be here for the next two weeks and the bill won't be going anywhere during that time. With that in mind, I'm going to commit to speaking on the first day back, May 25. Certainly, we in our caucus will not, in any way, try to impede the progress of this bill. I commit to doing whatever I can to move the bill forward. With that, colleagues, I will adjourn for the balance of my time. Thank you.

Some Hon. Senators: Hear, hear.

The Hon. the Speaker: It is moved by the Honourable Senator Plett, seconded by the Honourable Senator Batters that further debate be adjourned until the next sitting of the Senate.

If you are opposed to the motion, please say "no."

Hon. Terry M. Mercer: No.

The Hon. the Speaker: I hear a "no."

I am going to ask again. If you are opposed to the motion to adjourn the debate, please say "no."

Senator Mercer: No.

The Hon. the Speaker: I hear a "no."

Those in favour of the motion who are sitting in the chamber now will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: Those opposed to the motion sitting in the chamber will please say "nay."

Some Hon. Senators: Nay.

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

The debate is adjourned.

(On motion of Senator Plett, debate adjourned, on division.)

BUDGET 2021

INQUIRY—DEBATE ADJOURNED

Hon. Diane F. Griffin rose pursuant to notice of Senator Gold on April 20, 2021:

> That he will call the attention of the Senate to the budget entitled *Budget 2021: A Recovery Plan for Jobs, Growth, and Resilience*, tabled in the House of Commons on April 19, 2021, by the Minister of Finance, the Honourable Chrystia Freeland, P.C., M.P., and in the Senate on April 20, 2021.

She said: Honourable senators, I rise today to make senators aware of an issue in the Budget Implementation Act which, if not corrected, will precipitate a flawed policy that has led to an inequity in Prince Edward Island over the past seven years.

In 2014, Prince Edward Island went from being one employment insurance region to having two EI zones: a capital region and a non-capital region. In practice, this meant that two people who might work side by side in a fish plant or at an ice-cream store would qualify for different EI benefits depending on where their home is located.

In February 2020, for example, workers who lived in the capital region needed 665 insured work hours to qualify for EI, while those who lived in the non-capital region needed 490.

This policy disproportionately affects Islanders who rent. According to the 2015 census data, 51.8% of private households in Charlottetown are rented versus 29.6% of households in Prince Edward Island as a whole.

The median total and after-tax incomes of households in Charlottetown in 2015 were lower than that of Prince Edward Island as a whole. The policy also disproportionately impacts

immigrants: 12.4% of those who lived in Charlottetown are immigrants versus 6.4% of the Island as a whole.

• (1940)

This issue has been flagged to the government repeatedly. In 2016, the other place's Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities released a report entitled *Exploring the Impact of Recent Changes to Employment Insurance and Ways to Improve Access to the Program*.

The report noted that:

> The CEIC's Commissioner for Workers, Mary-Lou Donnelly, explained that people have had a very hard time with the changes made to the economic regions in 2014, specifically in northern Canada and in Prince Edward Island.

The report's sixth recommendation was:

> . . . that the federal government reconsider the new employment insurance economic regions created in 2014, and that previous boundaries be restored.

The government has not heeded that recommendation.

The reversal of this policy has been a priority for unions, mayors and the provincial government in Prince Edward Island. In 2018, Carl Pursey, President of the PEI Federation of Labour, told *The Guardian* newspaper:

> We need one zone for P.E.I. because P.E.I. is basically one work area and people travel from one end of the Island to the other to work.
>
> You can have two people working at the same place (right now) and one can draw unemployment longer than the other based on where they live.

In 2019, Charlottetown Mayor Philip Brown, Cornwall Mayor Minerva McCourt, and Stratford Mayor Steve Ogden wrote a joint letter to share their wish for P.E.I. to return to one EI zone, saying that P.E.I. is too small to operate with two zones.

In February 2020, Mayor Brown travelled to Ottawa to lobby the Prime Minister, the Deputy Prime Minister, cabinet members and other parliamentarians on four priorities: housing, infrastructure, heritage and a fairer EI policy.

In January 2020, Honourable Matthew MacKay, P.E.I.'s Minister of Economic Growth, Tourism and Culture, wrote to the federal Minister of Employment, Workforce Development and Disability Inclusion to "consider amendments to the employment insurance regulations to return Prince Edward Island back to one economic region."

This change has been a priority for Island representatives for years, but still the federal government has not acted.

In August 2020, the government, as a response to COVID-19, artificially set the minimum employment rate in all zones at 13.1%. This temporary measure, which provides equity for all Islanders, will soon expire and by consequence re-establishes inequity between those Islanders who live in the Charlottetown zone and those who do not. This is why I was particularly disappointed when the Budget Implementation Act, 2021, delineated the region of Charlottetown and a region encompassing the rest of Prince Edward Island in Schedule VI, Regions for the Purpose of Benefits for Seasonal Workers.

The government had an opportunity to make things more equal for Island workers. Instead, inequity persists in Bill C-30. This makes things even worse because normally EI zones are defined by the regulations, so changing this policy for seasonal workers now, if Bill C-30 passes, would require a new act of Parliament.

Colleagues, I understand that the question of one EI zone may seem minor or trivial. It is not. I am but one of four senators from my province. To paraphrase former Premier MacLauchlan, we may be small but we are mighty. However, Islanders need help from our friends in Confederation who are in this chamber.

Honourable senators, we need your support in the same way that the Senate routinely addresses regional concerns from larger provinces. As a matter of regional fairness, I ask the Senate Social Affairs, Science and Technology Committee, as part of its pre-study, hear witnesses from P.E.I. when it undertakes its examination on Division 36 of Bill C-30.

Honourable senators, P.E.I. is one island with one economic community, which really requires only one EI zone. This budget provides a rare opportunity to start to correct a flawed policy which impacts those who live in the zone named for Charlottetown, the birthplace of Confederation. Changing this policy ensures that the federal government treats an issue affecting P.E.I. with the same respect as an issue impacting a larger province.

Honourable senators, I am considering moving an amendment to the Budget Implementation Act to make P.E.I. one EI zone for seasonal workers. However, it is my hope that my Island colleagues in the House of Commons will amend Bill C-30 before I have the chance to do so. Thank you.

Hon. Frances Lankin: Senator Griffin, thank you very much for bringing this to our attention.

I was not aware of the specific P.E.I. situation. I am aware of the issues of the inequities in the EI zones in general. Just to defend larger provinces, we feel that there's a lot of disrespect in the current schedule of EI zones as well. Not to take away from how long your province has been focusing on this and calling for change.

When does the current provision that makes it temporarily one zone in P.E.I. expire?

I understand that the government is undertaking a complete review of EI. It's an issue I have a lot of interest in. I served on the Mowat Centre EI Task Force, ably co-chaired by our colleague Senator Omidvar and the Honourable Roy Romanow. There was a lot in that report about the inequities.

Do you think there is a place within that review to deal with the P.E.I. situation or is the timing such that there's a requirement to deal with it now? Are you aware of any other provinces that have put forward the same kind of concern or question?

Senator Griffin: There is a lot in that question.

The problem is that this is a statute. Normally, the zones are dealt with by regulation. This is going to be enshrined in the statute, which is going to make this a very different situation.

I agree with you that there needs to be a good look at the whole system. We're in a situation where, as an Island parliamentarian, and our provincial legislature and our mayors in the larger capital regions have all indicated great dissatisfaction with this.

• (1950)

I met with an EI recipient in December, two years ago, who was feeling very unfairly dealt with, and I had to agree with him. He was working for the Charlottetown city works department and lived in Charlottetown. A few weeks later, I attended his funeral, even though I had not met him until the intervention he made with me. It really imparted upon me the dire necessity to get this fixed. There are people who are being hurt by this; immigrants and renters in particular. It's just not fair and it's time to make it right.

Hon. Ratna Omidvar: I have a question if Senator Griffin will take it.

Senator Griffin: Certainly, I will.

Senator Omidvar: Thank you, Senator Griffin. I also did not know about this inequity in Prince Edward Island. I hark back to my role in the review done by the Mowat Centre for public policy. There are so many inequities that are baked into the EI review. Regardless of what happens with your efforts — and I welcome these efforts to fix the inequity in P.E.I. — don't you think it is time for the system, the Senate or maybe the House of Commons, to do a wholesale review of EI?

Senator Griffin: Not only do I think it's time, I think it's well past time that this should occur. Thank you for that point.

(On motion of Senator Gagné, debate adjourned.)

CRIMINAL CODE
IMMIGRATION AND REFUGEE PROTECTION ACT

BILL TO AMEND—THIRD READING

Hon. Salma Ataullahjan moved third reading of Bill S-204, An Act to amend the Criminal Code and the Immigration and Refugee Protection Act (trafficking in human organs).

She said: Honourable senators, I rise today to speak very briefly as the sponsor of Bill S-204, An Act to amend the Criminal Code and the Immigration and Refugee Protection Act (trafficking in human organs). This piece of legislation has been the culmination of over 12 years of parliamentary work on the pressing issue of organ trafficking.

Honourable senators, organ trafficking is a horrendous, predatory practice that targets and exploits impoverished and otherwise vulnerable people. It is a violation of the principles of equity, justice and respect for human dignity. Let us be global leaders in the battle against organ trafficking and pass Bill S-204 here and now. Thank you.

Hon. David Richards: Honourable senators, I rise today in support of Senator Ataullahjan and Bill S-204, and I will be brief as well. I will simply say that the time has come to pass this bill and ask for your support.

I believe that if there is no law making the purloining of organs a criminal offence, no jurisdiction in which to try those who practise such coercion and prey upon the truly vulnerable, then we have abrogated our responsibility to the greater cause of humanity. I realize there is no way to completely end this and not always a way to spot it, but there is forever a way to fight this through our God-given moral integrity. I will not quote or reiterate statistics. I will only say they are as dire as one might expect and pain the conscience of anyone who is decent; any man or woman.

We have often been asked in this world to fight against the darkness that threatens us, to fight the good fight. In this chamber over the last four years, I have seen this happen. I believe that Bill S-204 and Senator Ataullahjan are standard bearers in such a battle, and I ask for your support.

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

Hon. Senators: Agreed.

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

[*Translation*]

PARLIAMENT OF CANADA ACT

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Bovey, seconded by the Honourable Senator Woo, for the third reading of Bill S-205, An Act to amend the Parliament of Canada Act (Parliamentary Visual Artist Laureate).

Hon. René Cormier: Honourable senators, I rise to speak at third reading in support of Bill S-205, An Act to amend the Parliament of Canada Act (Parliamentary Visual Artist Laureate).

Let me begin by thanking the sponsor of the bill, Senator Patricia Bovey; thanks to her unwavering determination, this bill will pass very soon in this chamber — at least I hope it will.

I'd also like to recognize Senator Bovey's outstanding commitment to defending the arts and Canada's artists over many decades. Her contribution is remarkable and deserves our utmost admiration. Thank you, senator.

Honourable colleagues, Bill S-205, if it is adopted, will mark an important step in the dialogue Canadian parliamentarians have among themselves and with the arts in general. We already have the privilege of having a Parliamentary Poet Laureate. It is high time we were joined by other artists, as well.

As you know, in the Parliament of Canada, the only official means of communication and expression allowed in the House and Senate chambers are speaking and writing. At the heart of our deliberations, the words, and the notions underlying them, are the instruments that allow us to delve deeper into the bills we must consider and the matters of interest we must address.

Even though this flow of words we're facing may be essential and fundamental to our work, I agree that we may sometimes feel like we're drowning in it. These words often take over our thoughts and minds and leave very little room for us to use our senses, which also help us to make sense of the world around us, to understand it and change it by enlarging our vision of it.

As Valérie Gauthier, associate professor for the department of languages and culture at the École des hautes études commerciales de Paris, said in a column published in 2016 entitled "Le sens du monde," and I quote:

> First of all, the use of our primary senses — sight, hearing, touch, taste and smell — is an unparalleled source of insight into the world. Our senses enable us to enter into a real and direct relationship with nature and people, as long as we let that relationship develop without our brain imposing some sort of interpretation or analysis that will confuse it. Our senses elicit sensations where, as Baudelaire, said, "Perfumes, sounds, and colours correspond." Sensation is thus a cognitive ability to capture the reality of what is, to see things and people as they are and not for what we want them to represent.

Ms. Gauthier goes on to say, and I quote:

> I am talking here about intelligence that is sensitive to empathy, the rare capacity of a leader to be able to listen for what another person is saying and not for what he wants to hear or to be told. A very powerful remedy for conflict, this creates greater respect for the other person's integrity and greater respect for one's self.

• (2000)

Art connects to all those dimensions, esteemed colleagues. Some people don't have much use for art. Many see it as mere decoration or curiosity. Worse, some see it as an escape from reality. However, it's no coincidence that art has been an integral part of human civilization for more than 30,000 years. Art plays a much more important role than that, which is probably why the neurosciences have investigated how an individual's brain reacts when that person is contemplating a work of art. The answer is astounding. Our brains release dopamine, the happiness hormone often associated with love. Studies have shown a clear link between art and human emotions. In other words, sometimes art can catch us off guard and capture our attention by triggering our most intimate emotions slumbering deep within.

One study showed that we are particularly attracted to abstract art because it allows the brain to transcend reality and access other previously inaccessible states by enabling it to create different emotional and cognitive connections. Being exposed to works of art that are hard to understand and appreciate aesthetically makes us think. We do not just contemplate a work of art. We examine and observe it. We try to understand it and figure it out. All of these activities help develop our ability to think abstractly and therefore increase our problem-solving skills.

Art prompts conversation and exchange. It fosters a sense of empathy, which is essential to society — and to Parliament — because it requires us to actively listen to others and strive to understand them.

In short, esteemed colleagues, art teaches us to listen, to look, to observe, to understand and to imagine. That is true of all art forms, including those that do not employ words, such as the visual arts, music, dance and performing arts.

As legislators, we are surrounded by beautiful works of art in the various Parliament buildings where we work. Much of this art is from other eras, and some of these works tell us about our country's history. Bringing a contemporary visual artist into the Parliament of Canada will encourage us to take a new look at our institution and will surely influence the way we carry out our role as parliamentarians, because works of art have always pushed us to rethink our outlook, to be outraged in the face of injustice and to do something to address it.

That is why I will be voting in favour of this bill, and I urge you to do the same.

I would like to take this opportunity to thank all the Canadian artists who brighten up our world and all the associations that support them, including the Association des groupes en arts visuels francophones, whose work I greatly respect.

Finally, honourable senators, let me express the hope that we may also in the near future create the position of parliamentary composer laureate, as some other jurisdictions have done, for the benefit of all. You can count on me to remind you of this in the form of a bill, and if that isn't enough, I will do so by singing, dancing and using every sense and every means at my disposal to convince you.

Thank you for your attention.

Hon. Senators: Hear, hear!

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

Hon. Senators: Agreed.

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

[*English*]

CONSTITUTION ACT, 1867
PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

On Other Business, Senate Public Bills, Second Reading, Order No. 1, by the Honourable Terry M. Mercer:

> Second reading of Bill S-201, An Act to amend the Constitution Act, 1867 and the Parliament of Canada Act (Speaker of the Senate).

Hon. Terry M. Mercer: Honourable senators, with leave of the Senate, I would ask that consideration of this item be postponed until the next sitting of the Senate.

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

Hon. Senators: Agreed.

(Debate postponed until the next sitting of the Senate.)

[*Translation*]

ASSISTED HUMAN REPRODUCTION ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Lucie Moncion moved second reading of Bill S-202, An Act to amend the Assisted Human Reproduction Act.

She said: Honourable senators, I will not be speaking to this bill. I would take the adjournment for the remainder of my time.

(On motion of Senator Moncion, debate adjourned.)

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

SECOND READING—DEBATE ADJOURNED

Hon. Pierre J. Dalphond moved second reading of Bill S-206, An Act to change the name of the electoral district of Châteauguay—Lacolle.

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

(On motion of Senator Dalphond, debate adjourned.)

[*English*]

INTERNATIONAL MOTHER LANGUAGE DAY BILL

SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Woo, for the second reading of Bill S-211, An Act to establish International Mother Language Day.

Some Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

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

(On motion of Senator Jaffer, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.)

• (2010)

INCOME TAX ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Omidvar, seconded by the Honourable Senator Woo, for the second reading of Bill S-222, An Act to amend the Income Tax Act (use of resources).

Hon. Terry M. Mercer: Honourable senators, I rise today to speak to Bill S-222, the Effective and Accountable Charities Act. I thank Senator Omidvar for introducing this bill. While I will try not to repeat much of what Senator Omidvar has said, I would like to offer some thoughts of my own. The introduction of this bill clearly demonstrates the outdated, complex and costly rules and regulations that prevent great works of charity on behalf of Canadians, not only in Canada but around the world.

As we saw in our report from the Special Committee on the Charitable Sector, this is but one of the many issues that needs to be fixed. What will this bill's proposed changes do to help the sector? The bill:

> . . . amends the Income Tax Act to permit charities to provide their resources to a person who is not a qualified donee, provided that they take reasonable steps to ensure those resources are used exclusively for a charitable purpose.

Charities currently use their resources to fund projects that they support through their charitable purpose. But what if they want to fund a similar project with an organization that does not have charitable status in Canada or in another country?

They can, but the direction and control provision in the Income Tax Act specifically lays out the control the registered charity must have over that project for it to meet the purpose and requirements of the law.

This was, at one time, intended to protect the donors' money and the integrity of the charity. It is now untenable for many small groups to comply. As a result, there are unfortunate limits on the great works of charity many of them want to accomplish. As Senator Omidvar rightly laid out, the partnership process is overrun with problems. Our report stated:

> According to stakeholders, demonstrating "direction and control" in such partnerships involves "complex written agreements" and "onerous reporting requirements," which engender "unnecessary" administrative costs.

The report went on to say:

> In the view of the Canadian Bar Association, the CRA's guidance on direction and control could be relaxed without falling foul of the statutory requirements.

Senator Omidvar reviewed some examples of how this regime is hurting the smaller organizations that want to do works that a larger, recognized charity wants to help them with.

My question is also how it makes any sense for charity A to fund a project by organization B — which could be hundreds of kilometres away or, indeed, across the globe — if they must exercise complete control over the project? Who is on the ground? Who understands the needs of a community when it comes to what is being funded? That's right — the organization.

So if they share a similar charitable purpose, how can we make it easier for a charity and an organization to accomplish their goals? Adam Aptowitzer, Lawyer, Charities and Not-for-Profits for Drache Aptowitzer LLP, noted in his testimony before the committee:

> I'm not in favour of the control and direction test. As my colleagues suggest, in some cases it's a bit of a farce to suggest that Canadian involvement in an international project at a minority level should have control over the project. It's simply unworkable in many circumstances. It's certainly offensive in many circumstances, and it doesn't do Canada any favours.

He goes on to say about direction and control:

> Whatever test does replace it, as I hope this committee will suggest, does both accentuate the idea that Canadians are accountable for spending of the funds but also portrays to the Canadian government that the funds are being spent as they were originally intended.

I believe this is what this bill is trying to do.

Witnesses at our committee suggested different approaches to improve the situation. For example, Kevin Perkins, Executive Director of Farm Radio International said this:

> My feeling is that, rather than putting the expectation on direction and control of the daily spending decisions or the activities that the intermediaries do, we should be putting more emphasis on the due diligence, monitoring and assurance sides of things.

He went on to say:

> That includes making sure there is a system to monitor and ensure that the partner is doing what it said it would do and using the money the way it said it would use it, and putting in more emphasis on the due diligence but also more flexibility in terms of allowing the partner to make more decisions about the priorities for that community.

Honourable senators, I couldn't agree more.

Some witnesses used the United States model as an example of a system of due diligence. As Senator Omidvar noted, their model uses the language of "expenditure responsibility" while her bill proposes "resource accountability" — both similar approaches that will ensure oversight but withdraw the burden of direction and control. This bill's approach may indeed solve the dilemma charities face.

If a charity can take "reasonable steps" to ensure that their resources are being put to good use, and as long as the charitable purpose of the charity is in turn being followed, this legislative change would allow charities to expand their reach and help them do what they do so well: accomplish the greater good across Canada and around the world.

Everyone is held accountable, and the delivery of services remains trustworthy.

I look forward to seeing this bill moved to committee, where senators can further explore what the bill intends to do and how effective it can be. I invite you to read our special committee's report as well.

As Senator Omidvar and I wrote in a recent op-ed, charities and non-profits have been one of the sectors hardest hit by the COVID-19 pandemic. I cannot underscore enough just how much Canadians have relied on charities during this time. Their services are going to be needed more than ever in the post-pandemic period. Let's see what we can do to help them be at their best and operate as efficiently as possible, to maximize the benefits to all Canadians. Thank you, honourable senators.

Hon. Mary Coyle: Honourable senators, I rise to speak in support of Bill S-222, An Act to amend the Income Tax Act (use of resources).

I'm honoured to be speaking to you today from Mi'kma'ki, the unceded territory of the Mi'kmaq people.

Honourable colleagues, Bill S-222 is an important bill affecting Canada's charitable sector. That sector employs approximately 2 million Canadians and represents $135 billion, or 8.1% of GDP. Our international cooperation sector alone includes over 1,200 charities, employs 14,000 Canadians and spends more than $5 billion annually.

Senator Omidvar, the sponsor of Bill S-222, explained that this bill amends the language of the Income Tax Act, which currently limits registered charities to spending their charitable dollars on their own activities or those of other registered Canadian charities. With the hoped-for passing of this bill and the development, by the Canada Revenue Agency, of the related regulations, Canadian charities would be able to expand and adjust their funding relationships with non-profits, international partner organizations, social enterprises, Indigenous organizations and others, as long as the funding was directed at a recognized charitable cause.

• (2020)

To be clear, with this change, the "what" funds are spent on would remain the same — funds would be spent on charitable purposes — but the "how" and "through whom" would be broadened, thus emancipating resources for their intended purposes and transforming, for the better, relationships among partner organizations.

In their February 19 article *Making it Easier to do Good: Doing Away with the "Own Activities" Requirement*, a group of 37 lawyers who work regularly with Canadian registered charities commented:

> The current rules are inefficient, overly complex, and out of touch with those of other global actors. They create lost opportunities by making it difficult, in some ways prohibitively so, to carry out legitimate charitable work. Further, they impede collaborative partnerships between Canadian charities and their ally organizations around the world.

Senator Omidvar's solution, as detailed in Bill S-222, is to move away from the current language in the Income Tax Act of "own activities" and its related and required "direction and control" by the Canadian charity over a donee, to new language of "resource accountability."

The amendments to the act proposed by this new bill replace the reference to "charitable activities carried out by it" throughout the act, with the words "charitable activities." It amends one section of the act to expand the definition of "charitable activities" to allow charities to use their resources for charitable purposes by taking reasonable steps, and it inserts a section outlining what "reasonable steps" means.

The Income Tax Act does not define the terms "charitable activities" or "charitable purposes." The Canada Revenue Agency relies on the common-law definition, which describes a charity as an organization established for any of the following four purposes: the relief of poverty, the advancement of education, the advancement of religion, and other purposes beneficial to the community in a way the law regards as charitable.

As many of you know, colleagues, my life before joining you in the Senate involved decades of work in the non-profit and charitable sectors, both locally and internationally. From 41 years ago, working as a Cuso cooperant on rural industries in Botswana; to becoming a rural development adviser in Indonesia through the University of Guelph; to running Calmeadow, a Canadian NGO working in micro-finance in Canada and internationally; to leading the Coady International Institute at St. Francis Xavier University; to supporting Stephen Lewis in the early years of his foundation and Roméo Dallaire with his Child Soldiers Initiative; and more recently, working with Haitian leaders to establish the Haitian Centre for Leadership and Excellence, I have seen my fair share of what the international and domestic development community can accomplish through effective partnerships.

My intention today is to focus most of my remarks on how Bill S-222 can improve Canada's role in international cooperation. However, I would first like to briefly highlight some critical issues regarding the relationship between the charitable sector and the Indigenous community in Canada.

Kris Archie is Executive Director of The Circle of Philanthropy and Aboriginal Peoples in Canada. The Circle is an open network that promotes giving, sharing and philanthropy in order to support the empowerment of First Nations, Inuit and Métis communities and individuals in building a stronger and healthier future.

In a recent presentation, Ms. Archie was critical of the existing charities legislation, which she characterizes as being based on and perpetuating a paternalistic view of Indigenous Canadians. The Income Tax Act not only ties their hands as they look at creative ways of community advancement through philanthropy, but it also causes harm. It further entrenches colonial histories, hinders the establishment of horizontal partnerships initiated by or involving Indigenous communities and groups, imposes overwhelming administrative burdens, and most importantly, causes so many lost opportunities that are essential to building self-reliance, prosperity and well-being.

She went on to say that with the current "direction and control" elements required of charities by the Income Tax Act, there is also significant concern about the appropriation of the intellectual and cultural property rights of Indigenous peoples.

There is so much more that could be said on this matter, but I will leave it there for now and recommend that Ms. Archie would be an excellent witness when this bill is being studied by committee.

Honourable colleagues, Canada is an important player in the international arena, and it has committed itself to being a strong advocate for sustainable development and achieving the goals of Agenda 2030.

In the preamble to *Transforming our World: The 2030 Agenda for Sustainable Development*, it is noted that eradicating poverty is not only the greatest global challenge facing us, but it is an indispensable requirement for sustainable development. Ending poverty cannot be done by the efforts of governments alone. It requires a network of partners across the globe working together.

The commitment to action through partnership has been well enshrined in Canada's foreign policy and international cooperation strategy for many years. Global Affairs Canada describes itself as strongly committed to advancing sustainable development at home and abroad. Working with a wide range of diverse partners, Global Affairs Canada is contributing to the elimination of poverty and inequality, and building a more peaceful, inclusive, prosperous and resilient world for everyone. Canada is committed to a whole-of-government, whole-of-society approach to implementing the 2030 Agenda at home and abroad.

Further, Canada's Feminist International Assistance Policy — which seeks to reach the poorest and most vulnerable, particularly through advancing gender equality and the empowerment of all women and girls — is meant to underscore the importance of human dignity, defend the rights of women and girls, and contribute to building local capacity for sustainability.

So there we have it. Canada is committed to working with a wide range of diverse partners, is committed to taking a whole-of-society approach, wants to build resiliency and is committed to building local capacity. Our current rules governing the Canadian charitable sector in the Income Tax Act work against these policy commitments.

At the May 2016 Humanitarian Summit in Istanbul, Canada signed onto the Grand Bargain, a unique agreement to get more means into the hands of people in need and to improve the effectiveness and efficiency of humanitarian action. Included in the commitments of the Grand Bargain are more support and funding tools for local and national responders, and an effort to ensure the people receiving aid participate in making the decisions that affect their lives.

In order to achieve the overall purpose of the Grand Bargain, and now with the COVID pandemic causing increased global devastation, Canadian humanitarian organizations and their partners urgently need this simple change to our Income Tax Act. As Senator Omidvar explained, the wording in the Canadian Income Tax Act and related administrative policy guidelines require charities working with other types of organizations abroad to impose direction and control over them.

The current Income Tax Act requires that all resources of what it defines as a charitable organization be devoted to charitable activities carried on by the organization. It also further clarifies that its status as a registered charity could be in jeopardy if it makes a gift to a non-qualified donee.

What this means in practice is that local organizations abroad must essentially surrender control to the Canadian charity they are partnering with if they wish to receive funding. As is the case with Indigenous partnerships, this paternalistic and colonial approach permeates and taints our charitable work abroad.

Bill S-222 responds to the Senate Special Committee on the Charitable Sector recommendation that the Government of Canada direct the Canada Revenue Agency to revise Guidance CG002 "Canadian registered charities carrying out activities outside Canada."

The current wording of the Income Tax Act goes against the important concept of local ownership, which, as highlighted by Cooperation Canada, is central to any effective development approach.

Kevin Perkins, the Executive Director of Farm Radio International, put it this way in his testimony:

> Our ultimate success depends on helping local development partners to become more effective and sustainable. If these organizations function only as intermediary service providers, their critical role in effective development may be diminished, which could undermine the long-term goal of self-reliance.

• (2030)

Canadian organizations are trying to contribute to making the world a better place, but they are challenged by a regulatory framework at odds with best practices.

Honourable colleagues, I understand this frustration and, frankly, the embarrassment from my own experiences over the years. After the devastating 2010 earthquake in Haiti, the world rushed in to help with the immediate humanitarian emergency and then the critical effort to "build back better" so Haiti would be stronger and more resilient in the future and, as Haitian colleagues would say, would no longer be a graveyard for well-intentioned and expensive — but unsustainable — dependency-creating efforts. Haitian organizations themselves are best placed to reach local communities and respond to local needs and opportunities. If they need to depend on a Canadian intermediary, it takes more resources, runs the risk of not "scratching where it itches" and takes away from the development of local institutional capacity.

As Ilana Landsberg-Lewis, co-founder of the Stephen Lewis Foundation, has noted of the Income Tax Act:

> The provisions carry an unmistakable whiff of colonial imperialism and are a truly regrettable holdover of an old model of international development that Canada should have by now completely outgrown. The 21st century is about development cooperation, not development command and control.

Colleagues, the international development community has known better for a long time. Now is the time to adapt. Bill S-222 will make that critical adaptation possible.

This welcome change will result in Canadian charities sharing power instead of holding power over their international partners. It will foster and support local ownership and increased capacity for achieving more and better results. It will reduce the administrative burdens and ensure more funds will be used to achieve the charitable purposes.

It will improve accountability. It will increase Canadian charities' ability to more swiftly pool funds with others when responding to emergencies. It will reduce dependency and help establish partnerships based on trust, mutual respect and equality.

Colleagues, most importantly, it will result in less poverty, better health and education, greater economic opportunities, less economic disparity, stronger democracies, improved gender equity, less violence and a healthier planet for all. Colleagues, who could argue with that?

Honourable senators, please join me in supporting Bill S-222 and let's send it to committee as soon as possible for further study. Thank you. *Wela'liog*.

(On motion of Senator Martin, debate adjourned.)

[*Translation*]

COPYRIGHT ACT

BILL TO AMEND—SECOND READING—DEBATE

Hon. Claude Carignan moved second reading of Bill S-225, An Act to amend the Copyright Act (remuneration for journalistic works).

He said: Honourable senators, I rise today in support of Bill S-225, An Act to amend the Copyright Act, at second reading. With this bill, I hope to restore the balance between traditional media and digital platforms and especially to make sure that content producers receive fair compensation, which will be paid by those who are now freely benefiting from the content.

The crisis that traditional media outlets have been facing for over 10 years does not seem to be subsiding on its own, and our governments are dragging their feet. Digital platforms receive advertising revenue without paying compensation or royalties to content producers. This financial transfer has serious consequences for the survival of many daily newspapers and traditional media outlets. We are powerless against this devastation, and all we can do is to lament it, because the disappearance of many enlightened and verified sources of information can only hinder Canadians' proven knowledge.

It's often said that information is a pillar of our modern democracies. Credible information sources have to battle the phenomenon of fake news, which is rampant on social media. This problem is truly pernicious because these social networks are poaching traditional media's ad revenue. As a result, traditional media are suffering mightily because they have to keep producing relevant, fact-checked content, but they don't get the revenue generated by interest in their products. This lopsidedness in the media ecosystem makes it impossible for the media to play their essential role in our society, which is to fully and accurately inform the public.

It's estimated that the ad revenue generated from print media content by GAFAM — Google, Amazon, Facebook, Apple and Microsoft — is between $200 million and $600 million per year in Canada, and most of that money flows to the United States.

In Ottawa, the Trudeau government still hasn't come up with a framework that would enable print media to collect a portion of the revenue their content generates.

On February 17, the same day I introduced my bill, a group of Quebec publishers sought to bring the subject to Prime Minister Trudeau's attention by publishing an open letter and full-page ads, primarily in newspapers.

The message that these publishers had for the Prime Minister boiled down to this, and I quote:

> We are being deprived of our fair share of digital revenue. . . .

> We urge the government and the Parliament of Canada to take action as quickly as possible. . . .

The letter was co-signed by the management of *La Presse*, the *Journal de Montréal*, and the *Journal de Québec*, among others, as well as some media cooperatives that include *Le Droit*, *Le Nouvelliste*, *Le Soleil*, *Le Quotidien*, *La Tribune* and *La Voix de l'Est*.

That message says it all, and I believe that it has already been proven that print media is in crisis. That is certainly true in Canada, but also in all of the other countries of the world. For example, according to a daily economic newspaper, traditional media in France has been completely upended. In the context of an economic crisis and a technological revolution, print media, television and radio outlets have felt the full impact of the rise of GAFAM. A study conducted by the consulting company BearingPoint for the French ministry of culture and the Conseil supérieur de l'audiovisuel contained some astounding statistics. Between 2000 and 2017, the advertising market for communications and media went from 12 billion euros to 10.3 billion euros, but revenues for traditional French media, such as television, print media, radio, signage and cinema, dropped by 43% to 6.7 billion euros. During the same period, the share of internet advertising revenue, mainly for Google and Facebook, went from basically 0% to 35% and reached 3.6 billion euros.

As I mentioned earlier, it is estimated that between $200 million and $600 million in ad revenue in Canada is being redirected to GAFAM. That's huge, especially when you consider that this ad revenue is based on content produced largely by traditional media. What's wrong with this picture? This is akin to a wine producer who toils for an entire season, pays wages, buys supplies and puts in the effort, but his lettuce-growing neighbour gets to sell a big portion of his bottles of wine without paying him any dividends. It doesn't make sense, but that's what is happening with the traditional media, whose journalistic content is literally being skimmed off.

Australia recently passed a law that requires digital platforms to come to a revenue-sharing agreement with print media. The government essentially proposed to adopt a media code. Its bill aims to force digital platforms, mainly Google and Facebook, to pay media outlets for their content or face heavy fines. This is one of the most aggressive initiatives against the two web giants, which are fighting it. This "binding code of conduct," which is supposed to govern relations between the financially troubled media and the giants that dominate the internet, comes after 18 months of negotiations that have failed to bring the two sides together.

• (2040)

Beyond the obligation to pay for content, this "binding code of conduct" deals with issues such as access to users' data, the transparency of algorithms, and the order in which content appears in the platforms' news feeds and search results.

You have probably heard that GAFAM and their ilk did not appreciate this very much and went so far as to remove the country's news from their digital platform. The Australian government stood up to these web giants, leaving them no choice but to agree to negotiate and reach an agreement. A few days before passing the bill, the Australian government introduced a new provision instating a two-month period to promote negotiations between digital media and traditional media before the code is enforced and an arbitrator rules in favour of either party. Australia became the first country to bring in legislation to restore some balance between the digital platforms and print media.

In March 2019, the European Union adopted new copyright rules for the internet. Sharing snippets of news articles will still be allowed, since this is specifically excluded from the scope of the directive. However, the directive also contains provisions to prevent news aggregators from abusing this exception. For example, Google News can continue to display snippets in news feeds, as can Facebook when articles are shared, provided that these snippets are "very short."

France was the first European country to implement this directive through Law No. 2019-775. In response to this legislation, Google unilaterally decided not to display article extracts, photographs, infographics or videos unless publishers granted Google authorization to use them free of charge.

In April 2020, France's competition regulator, the Autorité de la concurrence, ordered Google to negotiate with publishers and news agencies regarding how much they are owed under the country's legislation on copyright and related rights for the reuse of their protected content. I want to share an excerpt from this document:

> Following a complaint lodged in November 2019 by several unions representing press publishers (Syndicat des éditeurs de la presse magazine, l'Alliance de la presse d'information générale) and Agence France-Presse (AFP) of practices implemented by Google on the occasion of the entry into force of the law of 24 July 2019 on related rights, the Autorité de la concurrence today orders interim measures in the context of the urgent interim measures procedure. The Autorité found that Google's practices on the occasion of the entry into force of the related rights law were likely to constitute an abuse of a dominant position, and caused serious and immediate harm to the press sector.
>
> It thus requires Google, within three months, to conduct negotiations in good faith with publishers and news agencies on the remuneration for the re-use of their protected contents. This negotiation must retroactively cover the fees due as of the entry into force of the law on 24 October 2019.

The Autorité de la concurrence imposed emergency measures to allow interested publishers and news agencies:

> . . . to engage in negotiations in good faith with Google in order to discuss both the terms of the re-use and display of their content and that of the remuneration associated to it.

On July 3, 2020, Google appealed the Autorité de la concurrence's decision. As you can see, honourable colleagues, these are huge issues hinging on the staggering profits web giants are unwilling to share with traditional media even though they created the content.

However, I believe that these two regimes open the door to multiple negotiations between the big five and traditional media, which means more opportunities for things to get out of control.

Let's talk about Canada now.

In January 2020, the Broadcasting and Telecommunications Legislative Review Panel presented a report entitled *Canada's Communications Future: Time to Act* to Minister Bains and Minister Guilbeault. The report's introduction includes the following recommendations, which I will quote:

> regulatory intervention to ensure that creators of news are compensated for the use of their original content by online platform providers;

Section 3.4.2, entitled "Modernizing the CRTC's regulatory framework," is also very interesting. Here's one of the things it says:

> There is also an uneven playing field between social media platforms and news media organizations. A very small number of dominant social media platforms are a critical source of audiences for news media organizations. As a result of the imbalance in bargaining power, news content creators are unable to individually negotiate terms over the use of their content by social media platforms. The CRTC should also have the jurisdiction to determine or approve terms of trade where it considers that this is necessary to address an imbalance of power in news content.

The Trudeau government has been in office since the fall of 2015 and nothing has been done yet. That is incomprehensible because this is a major issue. If a free and democratic society is based on a strong free press, it must also be based on a fair and level playing field. What is happening right now in the news world is completely unbalanced and unfair.

The bill seeks to create a framework so that traditional media are compensated for their journalistic material that is collected and disseminated by GAFAM without financial compensation. It will create a new right, the right to compensation for journalistic works.

In amending the Copyright Act, I'm suggesting that the existing legislative system be used to protect and administer the new right to remuneration for journalistic works. By simply adding journalistic works, we can continue to use a known framework that has proven to be effective for other copyrights in Canada.

The bill doesn't create a new copyright. It creates a new right to remuneration for journalistic organizations for the reproduction or publication on a digital platform of journalistic works owned by them. This remuneration right is separate from any other right granted by the Copyright Act. The remuneration that the bill seeks to provide would therefore be in addition to any income obtained by these organizations from their copyright.

Under this legislation, journalistic organizations may join together to form a collective society. This society, once recognized by the Copyright Board, will undertake negotiations with the platforms designated by the government, that is, GAFAM.

What exactly is a collective society? Let us first talk about copyright. Copyright is one of the three main types of intellectual property; the other two are patents and trademarks. Copyright seeks to maintain an appropriate balance between, on the one hand, encouraging creativity and fighting infringement and, on the other hand, ensuring the exchange of ideas and knowledge and protecting freedom of expression. Copyright does this by governing certain business practices applicable to specific intangible assets. Copyright grants the owner of a work the exclusive right to reproduce, execute or perform in public and to publish the entire or significant part of the work or, if you will, the "economic rights."

The economic rights allow the owner to control the commercial use of the work for the purpose of earning revenue. The owner can earn revenue from the work by assigning one or more copyrights or granting a "licence" to a third party in exchange for royalties. To prevent copyright owners from appropriating a part of public discourse and thus preventing the creation of future works, the law imposes limits and exceptions to economic rights. One of these limits is the term of the rights. In Canada, economic rights generally last for 50 years after the death of the author or publication of the work, depending on the case.

• (2050)

Nevertheless there is an exception to this rule: Economic Action Plan 2015 Act , No. 1, extended the term of copyright protection for a published sound recording and a performer's performance fixed in a published sound recording to 70 years.

It may not be very practical for a user to obtain permission to use several works. For example, take the case of a radio station that broadcasts dozens and even hundreds of songs in its daily programming. In this case, the station's management would have to obtain permission for each holder to play each of the musical works. This would result in enormous costs that in the long term would penalize the copyright holders. With such conditions, it is likely that few broadcasters would agree to pay the amounts and make the effort required to add these protected works to their programming.

In order to reduce these transaction costs, the Copyright Act implements a collective copyright management regime in certain sectors. Copyright owners can thus entrust the administration of their rights to a collective society. To ensure the regime's effectiveness, many of these societies hold a monopoly over collective management in their respective sectors. Since these monopolies may encourage anti-competitive practices, the act gives the Copyright Board of Canada the task of arbitrating the relationships between the collective societies and the users. The board is made up of independent experts and it establishes the royalties that should be paid for the use of works administered by a collective society.

Under my bill, print media will be able to form a collective society, which should then seek accreditation from the Copyright Board. The collective society will establish its tariffs and have them approved by the board. In order to establish the royalties that should be paid for the copyrights administered, the collective societies can file a proposed tariff with the board.

If GAFA refuse to negotiate and come to an agreement, these web giants will simply no longer have the authorization to publish news articles on their platforms, since they would be facing sanctions for copyright infringement of journalistic works. It would therefore be in their interest to negotiate and come to an agreement with the collective society.

In the event of a disagreement, either party can request that the board rule on the dispute. If the parties are unable to agree on royalties to be paid with respect to rights or are unable to agree on any related terms and conditions, the collective society or user may, after giving notice to the other party, apply to the board to fix the royalty, other than royalties referred to in subsection 29.7(2) or (3) or paragraph 31(2)(d).

I want to point out that print media outlets will not be required to form a collective society.

Clause 26.2 of the bill authorizes the Governor in Council to designate a digital platform provider to be responsible for remunerating journalistic organizations for the reproduction or publication of content on said platforms.

As such, the bill is no different from the Australian system. The Senate could amend the bill to establish one or more objective criteria under which these providers would be designated, but the specific context in which the bill is presented would lead to a similar result. These criteria would be developed to include the small number of providers that are already recognized as being at the heart of the problem, such as Facebook, Google and Twitter.

On March 29, Kevin Chan, the head of Facebook Canada, told the House of Commons Standing Committee on Canadian Heritage that Facebook would try to avoid a repeat of the news blackout the tech giant imposed in Australia, provided that the country's legislation would not compel the company to do so. That is essentially a veiled threat. He was referring to the fact that Facebook blocked all news on its Australian platform for five days last month in response to a bill that would have forced the web giants to pay royalties to news media for links to their content.

However — and I had confirmation of this just recently — countries must act as a unit and with determination to bring web giants into line. To do that, a concerted action movement is emerging. I recently got a call from Berlin, from a media and technology company operating in over 40 countries. This company is currently trying to create a network of a very large number of traditional media outlets across the globe on the issue of electronic media. In their view — and I share it — sheer numbers will be able to put enormous pressure on electronic platforms. It is therefore essential that as many legislatures as possible around the world pass laws to govern giants like GAFA. Otherwise, one of the pillars of our democracies, the print media and traditional journalism as a whole, will be seriously weakened.

In closing, honourable senators, you will agree that this issue is important and has generated a great deal of commentary. This bill will give us the opportunity to hear from very interesting witnesses, who will further enlighten us on all aspects surrounding the issue of electronic platforms and the use of content produced by traditional media.

I therefore urge you to support this bill at second reading so it can be studied in committee as soon as possible.

Thank you for your attention.

[*English*]

Some Hon. Senators: Hear, hear.

The Hon. the Speaker pro tempore: We have three senators with their hands up. I would like to highlight that we have about three and a half minutes left until 9 p.m.

Hon. Frances Lankin: Honourable senators, let me attempt brevity.

Senator Carignan, I'm excited about your bill. I agree with the goal that you seek to achieve.

I have a specific question about the arrangements that news media have now in terms of content sharing. For example, a number of national newspapers collectively own and operate a press service that then feeds stories to them. There's a contractual arrangement. The same kind of contractual arrangement applies to news integrators and image banks, like Getty Images.

I'm interested to know whether or not the tariff/rate structure would have an impact on the current rates that have been negotiated and that operate for these sharing services. Thank you.

[*Translation*]

Senator Carignan: In fact collective societies could be created and, if they wish, be accredited. These societies could negotiate rates based on their interest and their own collective. They could also establish their negotiation strategy and identify what might represent equitable compensation. They could make the request to negotiate with the members of GAFA, members of corporations or digital platforms that will be identified by the Governor in Council. Presumably the Googles and Facebooks of this world will take part.

In the event of a disagreement, the dispute will be settled by the Copyright Board of Canada. It will all be part of the negotiation. The bill seeks to create this framework for negotiation between the parties to be able to come to an agreement that will be adapted to each situation, including the one you just described.

[*English*]

Hon. Patricia Bovey: Thank you, Senator Carignan.

This is complex, and I'm pleased to see you move forward with this and with multiple platforms. I'm going to come at it differently.

You mentioned musicians, and that artists can join collectives but they don't all have to. I'd be interested in knowing more about how you see the intersection between creators of all disciplines — artists of all disciplines — working with the media on these large electronic platforms.

• (2100)

We've seen what's happening internationally as a result of works going up on the internet. I would like a little more of your thoughts, if I may. I'm sure we'll have other times to discuss it in greater depth.

[*Translation*]

Senator Carignan: In fact, it is the collective society. As you know, for writers, for example, depending on the different works or the different artists, a collective of common interests is created. It could be news outlets, print media or groups of content producers, and it will be up to them to get accredited and enter into negotiations for the artist or person producing the works. All of that is included in the contractual framework with the media outlet or the newspaper. It is set out in the remuneration framework, but there is nothing stopping the parties, during the negotiation of the artist's or journalist's remuneration, from negotiating content or royalties from this publication or in their name when the framework and agreements are created.

Once this is all put in place, I believe that different content producers — a journalist for example — could negotiate some of the royalty into their compensation. Anything is possible at that point.

The Hon. the Speaker pro tempore: Senator Carignan, it is now 9 p.m. However, I want to inform you that you have 17 minutes left as part of this debate to answer senators' questions when this matter is called again.

(*At 9 p.m., pursuant to the orders adopted by the Senate on October 27, 2020 and December 17, 2020, the Senate adjourned until Tuesday, May 25, 2021, at 2 p.m.*)

APPENDIX

DELAYED ANSWERS TO ORAL QUESTIONS

HEALTH

MANDATORY QUARANTINE

(*Response to question raised by the Honourable Diane F. Griffin on November 17, 2020*)

Canada Border Services Agency (CBSA)

All travellers, with limited exceptions, must use ArriveCAN to provide travel, contact and quarantine information upon entry into Canada, whether entering Canada by air or land. This information is crucial to Canada's response to COVID-19 and is shared with the Public Health Agency of Canada (PHAC) for compliance and enforcement.

All travellers arriving by air, with some exceptions, must show proof of a valid COVID-19 molecular test to board a flight to Canada, and again upon entry to Canada. Travellers must take a COVID-19 molecular test before exiting the airport, and on day 8 of their 14-day quarantine. With limited exceptions, air travellers must stay in a government-authorized hotel for three nights following their entry to Canada.

All travellers arriving by land, with some exceptions, must provide proof of a valid COVID-19 molecular test taken in the United States. They must also test themselves on day 1 and day 8 of their 14-day quarantine. Some ports of entry offer on-site testing locations administered by PHAC.

Border services officers refer symptomatic travellers to PHAC officials. Symptomatic foreign nationals are prohibited from entering Canada.

The CBSA tracks all travellers' entry into Canada and maintains records on the number of travellers referred to PHAC officers.

FOREIGN AFFAIRS

FUNDING FOR UNITED NATIONS RELIEF AND WORKS AGENCY

(*Response to question raised by the Honourable Linda Frum on February 8, 2021*)

Canada provides assistance to Palestinian refugees served by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Canada's support helps over 500,000 Palestinian children who rely on UNRWA. Canadian officials monitor UNRWA's activities and participate actively on UNRWA's Advisory Commission, which allows for oversight, influence, and engagement on key issues.

Canada and other donor governments expect UNRWA to uphold UN values and humanitarian principles, including neutrality, in all its activities. Canadian funding reinforces UNRWA's ongoing efforts in this regard, including work by UNRWA staff to identify, monitor, and follow up on violations of these principles. There is no place for hatred or incitement of violence.

It is deeply concerning that problematic educational materials were circulated. UNRWA recognized its error and is taking corrective actions to ensure that UN values are upheld. The Minister of International Development and Canadian officials continue to work closely with partners and UNRWA's senior management to address the issue. Continued engagement positions Canada to insist on UNRWA's accountability and transparency, including through taking further corrective actions, as needed.

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