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OFFICIAL REPORT
(HANSARD)

Tuesday, December 7, 2021

The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Tuesday, December 7, 2021

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

Prayers.

[*Translation*]

SPEAKER'S STATEMENT

The Hon. the Speaker: Honourable senators, yesterday was the deadline for senators who wished to be candidates for the position of Speaker pro tempore to communicate that fact to the Clerk of the Senate. The Honourable Senator Bovey and the Honourable Senator Ringuette advised him that they wished to stand as candidates. As announced on December 1, we will now hear from the candidates for a maximum of three minutes each. I will call on them in alphabetical order.

[*English*]

SPEAKER PRO TEMPORE OF THE SENATE

CANDIDATES' REMARKS

Hon. Patricia Bovey: Honourable senators, I speak from the unceded territory of the Algonquin and Anishinaabe.

[*Translation*]

Thank you for the opportunity to talk about my candidacy for the position of Speaker pro tempore of the Senate. My regards to my colleague, Senator Ringuette.

In this place, we debate, discuss and make decisions about all kinds of issues, concerns and rights. A respectful environment conducive to balancing multiple perspectives and points of view is crucial to that process.

The Speaker pro tempore is responsible for ensuring that sense of respect and fairness in the deliberations of this house while always protecting and promoting the fundamental equality of all senators.

Collaboration among us, among all our groups, is also essential to a functional modern Senate.

[*English*]

You know that my interests, like our debates, are multidimensional. They are not only about arts and culture, but include the important voices of all Canadians garnered from my travels to every part of this country. They embrace the interconnected concerns of the Arctic, reconciliation, Black Lives Matter and the economic, living and health concerns of all residents of Canada.

As most of you know, I acted as pro tempore for two years. I have sponsored both government and Senate public bills, and through my work as deputy chair and a steering committee member of a number of committees, you have seen my understanding of this chamber's roles, rules and procedures.

Embodying and following the Rules as I do and have done, defending them as pro tempore in the Senate with fairness, integrity and impartiality, building trust is paramount. Those principles comprise my mantra for this office and for all my Senate responsibilities.

These five years with you as a member of this chamber, honouring its roles on behalf of all Canadians, have been impactful. It would be a privilege to serve the Senate as Speaker pro tempore, and the role would draw from all my Senate experiences and my pre-Senate, five-decade career of cultural and educational leadership and policy development in British Columbia, Manitoba, throughout Western Canada and from serving national institutions — those in Quebec and our country internationally.

[*Translation*]

I promise to serve with diligence and dignity, engagement and substance.

Thank you, *meegwetch*.

Hon. Senators: Hear, hear.

Hon. Pierrette Ringuette: Honourable senators, I rise today to seek your support in my bid to become Speaker pro tempore for this first session of our Forty-fourth Parliament.

As I indicated to you last week, I am interested in guiding our deliberations, when our Speaker is absent, and sharing my experience, skills and knowledge with you.

[*English*]

This week marks my nineteenth year as a senator, and I have white hair to show it. Of course, during all those years, I have witnessed and participated in vigorous debates leading to votes. I have always done so with respect for senators expressing different perspectives which, I believe, enrich us all.

Our world, our country and the Senate of Canada have had to adjust to the reality of COVID-19 in early 2020. Our hybrid sittings, including Committees of the Whole, enabled us to fulfill our mandate, and I was honoured to serve as Speaker pro tempore to ensure robust and respectful debates. To do so, one certainly needs to know the Rules, the required decorum and many more subtleties that a seasoned parliamentarian ascertains so that our deliberations are respectful, fair and impartial.

Honourable senators, this is the seasoned perspective I am able to offer as Speaker pro tempore.

[*Translation*]

Honourable senators, in addition to my 19 years in the Senate, my personal experience as Deputy Speaker of the New Brunswick Legislative Assembly and as Assistant Deputy Speaker in the House of Commons taught me to treat everyone with respect, fairness and impartiality.

• (1410)

The success of our efforts also depends on the ability of the Chair to oversee our sometimes contentious debates. Each of us brings our own values and ideals to the Senate, which enriches our work. However, we all share the same goal of maintaining rigour and reinvigorating the Senate of Canada for the well-being of Canadians.

[*English*]

Honourable senators, I was honoured to serve as your Speaker pro tempore following our first process, and I welcome this second election process for our Speaker pro tempore. It is another step in our journey to modernize the Senate and signals that this is not a static institution.

In my perspective, everyone wins in a democratic process — those that vote and those that put their name forward. I want to thank Senator Bovey for being a candidate and, as always, I wish her well.

[*Translation*]

I hope I can count on your support. Thank you.

Hon. Senators: Hear, hear.

[*English*]

The Hon. the Speaker: Honourable senators, the Clerk will distribute information shortly about how to vote, and you will be able to vote until 6 p.m. tomorrow. The information will be sent to the Senate email address that you use to access Zoom for sittings of the Senate or a committee meeting. As there are only two candidates, senators will be asked to select only one.

We will now proceed with Senators' Statements for the 12 minutes remaining.

SENATORS' STATEMENTS

TRIBUTE TO NAV BHATIA

Hon. Leo Housakos (Acting Leader of the Opposition): Honourable senators, "Superfan" is the name coined by NBA great and then-General Manager of the Toronto Raptors Isiah Thomas in recognition of the one and only Nav Bhatia, perhaps the most well-known fan of any professional sport. The day-one Raptors fan has been riding a high ever since he saw his beloved basketball team bring the NBA championship home to "We the North" a couple of years ago. He was the first non-player ever to receive a player championship ring; that's how much he means to the Toronto Raptors. And he has now made it into the Naismith Memorial Basketball Hall of Fame; that's how much he means to the NBA.

Now Nav's story is being turned into a Hollywood film starring and produced by Kal Penn. It promises to be a story about tenacity and perseverance — the team's, but more importantly, Nav's story. I had the pleasure of speaking personally with Nav a few years ago when my son was buying his first car. He is as genuine, enthusiastic and pleasant as ever.

Nav came to this country seeking refuge from the dangers he, as a Sikh man, faced in his native India. He had trouble finding work in his field of engineering. Nobody wanted to hire a guy with a turban and an accent. He eventually found work as a car salesman, but quickly realized that he would face the same discrimination by many of his work colleagues. He knew he'd have to work twice as hard if he was going to make it. It's a familiar story amongst immigrants.

Nav could have done what so many immigrants did at the time. He could have anglicized his name, cut his hair and not worn the turban. But he had promised his dear mother many years before that was one thing he would never do. So he did what he does best; he approached his job and his co-workers with his trademark charm and upbeat personality, and he established a sales record that stands to this day.

Nav went on to become manager of that dealership and eventually purchased it. It's one of three car dealerships that he now owns. There's so much more I can tell you about this incredible man and how he has become an ambassador for a basketball team, a city and now a whole country — but I wouldn't want to spoil the movie. I just wanted to take an opportunity to give superfan Nav Bhatia a tip of the hat for his courage, his perseverance and his unwavering dedication to being a positive role model for so many young Canadians, a great Raptor and a great Canadian. Thank you, honourable senators.

Some Hon. Senators: Hear, hear.

VIOLENCE AGAINST WOMEN

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak to the urgent need to all violence against women and girls. As you all know, yesterday, December 6, marked a very significant day of commemoration in the fight against female violence. Thirty two years and one day ago on December 6, 1989, 14 young women were killed by misogynistic, senseless and indefensible violence. These 14 women were attending L'École Polytechnique and working on obtaining their engineering education when a man decided to open fire in their classroom and killed them just because they were women.

Honourable senators, there are many types of violence against women. They include intimate partner violence, which includes battering, psychological abuse, marital rape and femicide; sexual violence and harassment, meaning rape, forced sexual acts, unwanted sexual advances, child sexual abuse, forced marriage,

street harassment, stalking and cyberharassment; human trafficking, which can mean slavery, sexual and exploitation; child marriage; and female genital mutilation.

In 1997, the Government of Canada passed a law to amend the Criminal Code and have female genital mutilation recognized as a form of aggravated assault. Unfortunately, this legislation has never been enforced in Canada. Female genital mutilation happens in over 90 countries and on every continent. The End FGM Canada Network estimates that there are more than 100,000 survivors across Canada, and possibly thousands of girls remain at risk.

Honourable senators, December 7 falls within the United Nations' annual 16 Days of Activism against Gender-Based Violence. Today, yesterday and every day we remember the urgent need to end violence against women in all of its sinister forms.

According to the Canadian Femicide Observatory for Justice and Accountability:

> . . . 92 women and girls were killed in Canada in the first six months of 2021, up from 78 during the same period in 2020 and 60 in 2019.

Honourable senators, this is not an issue of the past. It is a present issue, and without serious action it will continue in the future. Let us work together to ensure our granddaughters are not facing the same violence our mothers faced, our sisters faced and our daughters face. Thank you, senators.

Some Hon. Senators: Hear, hear.

THE LATE CHERRY KINGSLEY

Hon. Kim Pate: Honourable senators, like a shooting star, Cherry Kingsley blazed bright, but last week left us too soon and wanting more. We met in 1988. Within minutes of meeting her, I offered her what she described as her first "straight job," and so she became the founding member of the Alberta Youth In Care and Custody Network and the driving force behind the Youth Advocate in '88 conference.

When her housing fell through, she moved in and so joined our family, later adding her beloved son Dakota to our circle. When Cherry was 11, she and her sister fled their home to escape abuse by her stepfather. Indigenous girls, they were both taken into care and at once abandoned to the streets. Like too many, she was used, abused and traumatized by many and trafficked between Calgary and Vancouver. She challenged us to recognize the misogyny, racism and class bias of ordinary men — fathers, husbands, grandfathers, uncles and brothers — particularly men in significant positions of privilege who objectified, dehumanized, degraded, used and abused children and young women. She challenged police officers, social workers, politicians and the UN to uphold the rights of women and children.

Cherry was brilliant, articulate, courageous, generous and caring, and used her experiences to open the eyes and minds of many. She demanded we all recognize that children were trafficked and exploited in the sex trade and were not willing participants. Thanks to her, international human rights bodies changed their language and eliminated the term "child prostitute" from all lexicons.

In 1996, Cherry and Senator Pearson attended the first World Congress against Commercial Sexual Exploitation of Children. In 1998, they co-chaired Out From the Shadows, an international summit of sexually exploited youth. They presented the results and an agenda for action to the United Nations. The same year, Cherry co-authored the *Sacred Lives* report with future B.C. MLA Minister Melanie Mark.

• (1420)

She also found common cause with former senator Roméo Dallaire and former Minister Ethel Dorothy Blondin-Andrew, who nominated Cherry for a Governor General's Award in Commemoration of the Persons Case in 2000. When asked by security staff here on the Hill what the medal was for — quicker than lightning — she quipped "Hurdles!"

I am so grateful to have known and loved Cherry. I miss her in more ways than I can describe. Thank you.

Hon. Senators: Hear, hear.

THE LATE JACK CABLE, Q.C., O.Y.

Hon. Pat Duncan: Honourable senators, I rise today from the traditional territory of the Kwanlin Dün First Nation and the Ta'an Kwäch'än Council to give thanks on behalf of Yukoners and Canadians for the lifetime of public service by Jack Cable.

Jack was born on August 17, 1934, the date of the discovery of gold in the Yukon. Jack earned a bachelor's degree in chemical engineering at the University of Toronto, a master's degree in business administration from McMaster University and a law degree from Western University. Called to both the Ontario and Yukon bar, he moved his family to the Yukon in 1970, practising with others and founding a well-recognized, distinguished law firm.

Jack served as president of Yukon Energy, the Yukon Development Corporation, a director of the Northern Canada Power Commission, or NCPC, president of the Whitehorse and Yukon chambers of commerce and director of the Yukon Science Institute. He helped found the Recycle Organics Together Society, or ROTS, and the Boreal Alternate Energy Centre. The list of Jack's involvements goes on and on.

Honourable senators, Jack Cable was Sue Edelman's dad — my sister Girl Guide, fellow swim club mom and colleague in the Yukon Legislative Assembly. My most vivid memories of Jack, however, are serving with Jack and Sue as my colleagues in the Yukon Legislative Assembly, a father-daughter team elected to the Yukon legislature.

Jack, Sue and I served as three members of the Third Party in the Yukon Legislative Assembly. Three members of the Yukon Party, all men, were designated as the official opposition in that session, despite Jack's very well-reasoned argument presented to the Speaker and the clerk.

Sue and I, as new MLAs, learned a great deal from Jack. Our preparations for Question Period are one of my very fond memories. Sue and I would leave our meeting thinking our questions were well prepared. Dear Jack would most often return from a perhaps coincidental encounter in the hallways with one of the members of the Yukon Party.

After these coincidental encounters, the well-crafted questions by Sue and I would often be redeveloped or fine-tuned with advice that Jack had gained from new information from these coincidental encounters. Jack would say, "We are ad idem on this, are we not?"

Jack served as the member for Riverside from 1992 until 2000. Upon his retirement from elected office, he served as the Commissioner of Yukon, the territory's equivalent to a lieutenant-governor, until 2005, whereupon he retired to farm root crops and Christmas trees. Proceeds from the sale of the Christmas trees benefited the Braeburn Lake summer camp.

Jack gifts to the Yukon were environmentally sound and powerful. He was also a mentor — training, guiding, cajoling and leading more than one politician in our territory.

Whether you are conversing in Latin ad idem — of the same mind — or not, there is agreement. The legacy of Jack Cable lives on in his tremendous contributions to the people of the Yukon. We honour him and thank his extended family and friends and his wife, Faye, for sharing his leadership and commitment and, most especially, Jack for leaving our Yukon, and Canada, a better place.

Thank you, *mahsi'cho*.

ROUTINE PROCEEDINGS

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

FIRST REPORT OF COMMITTEE TABLED

Hon. Sabi Marwah: Honourable senators, I have the honour to table, in both official languages, the first report of the Standing Committee on Internal Economy, Budgets and Administration entitled *Financial Statements of the Senate of Canada for the year ended March 31, 2021*.

[*Translation*]

LEGAL AND CONSTITUTIONAL AFFAIRS

REPORT PURSUANT TO RULE 12-26(2) TABLED

Hon. Mobina S. B. Jaffer: Honourable senators, pursuant to rule 12-26(2) of the *Rules of the Senate*, I have the honour to table, in both official languages, the first report of the Standing Senate Committee on Legal and Constitutional Affairs, which deals with the expenses incurred by the committee during the Second Session of the Forty-Third Parliament.

(*For text of report, see today's* Journals of the Senate, *p. 117.*)

THE SENATE

NOTICE OF MOTION TO RESOLVE INTO COMMITTEE OF THE WHOLE TO CONSIDER SUBJECT MATTER OF BILL S-2

Hon. Marc Gold (Government Representative in the Senate): Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

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

1. the Senate resolve itself into a Committee of the Whole at 4:00 p.m. on Thursday, December 9, 2021, to consider the subject matter of Bill S-2, An Act to amend the Parliament of Canada Act and to make consequential and related amendments to other Acts, with any proceedings then before the Senate being interrupted until the end of Committee of the Whole;

2. if the bells are ringing for a vote at the time the committee is to meet, they be interrupted for the Committee of the Whole at that time, and resume once the committee has completed its work for the balance of any time remaining;

3. the Committee of the Whole on the subject matter of Bill S-2 receive the Honourable Mark Holland, P.C., M.P., Leader of the Government in the House of Commons, accompanied by no more than three officials;

4. the Committee of the Whole on the subject matter of Bill S-2 rise no later than 65 minutes after it begins;

5. the witness' introductory remarks last a maximum total of five minutes; and

6. if a senator does not use the entire period of 10 minutes for debate provided under rule 12-32(3)(d), including the responses of the witnesses, that senator may yield the balance of time to another senator.

[*English*]

STATUTES REPEAL ACT—NOTICE OF MOTION TO RESOLVE THAT THE ACT AND THE PROVISIONS OF OTHER ACTS NOT BE REPEALED

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

That, pursuant to section 3 of the *Statutes Repeal Act*, S.C. 2008, c. 20, the Senate resolve that the Act and the provisions of the other Acts listed below, which have not come into force in the period since their adoption, not be repealed:

1. *Parliamentary Employment and Staff Relations Act*, R.S., c. 33(2nd Supp.):

   -Part II;

2. *Contraventions Act*, S.C. 1992, c. 47:

   -paragraph 8(1)(*d*), sections 9, 10 and 12 to 16, subsections 17(1) to (3), sections 18 and 19, subsection 21(1) and sections 22, 23, 25, 26, 28 to 38, 40, 41, 44 to 47, 50 to 53, 56, 57, 60 to 62, 84 (in respect of the following sections of the schedule: 2.1, 2.2, 3, 4, 5, 7, 7.1, 9, 10, 11, 12, 14 and 16) and 85;

3. *Comprehensive Nuclear Test-Ban Treaty Implementation Act*, S.C. 1998, c. 32;

4. *Public Sector Pension Investment Board Act*, S.C. 1999, c. 34:

   -sections 155, 157, 158 and 160, subsections 161(1) and (4) and section 168;

5. *Modernization of Benefits and Obligations Act*, S.C. 2000, c. 12:

   -subsections 107(1) and (3) and section 109;

6. *Yukon Act*, S.C. 2002, c. 7:

   -sections 70 to 75 and 77, subsection 117(2) and sections 167, 168, 210, 211, 221, 227, 233 and 283;

7. *An Act to amend the Canadian Forces Superannuation Act and to make consequential amendments to other Acts*, S.C. 2003, c. 26:

   -sections 4 and 5, subsection 13(3), section 21, subsections 26(1) to (3) and sections 30, 32, 34, 36 (with respect to section 81 of the *Canadian Forces Superannuation Act*), 42 and 43;

8. *Budget Implementation Act, 2005*, S.C. 2005, c. 30:

   -Part 18 other than section 125;

9. *An Act to amend certain Acts in relation to financial institutions*, S.C. 2005, c. 54:

   -subsection 27(2), section 102, subsections 239(2), 322(2) and 392(2);

10. *An Act to amend the law governing financial institutions and to provide for related and consequential matters,* S.C. 2007, c. 6:

    -section 28;

11. *Budget Implementation Act, 2008*, S.C. 2008, c. 28:

    -sections 150 and 162;

12. *Budget Implementation Act*, *2009*, S.C. 2009, c. 2:

    -sections 394, 399 and 401 to 404;

13. *An Act to amend the Transportation of Dangerous Goods Act*, 1992, S.C. 2009, c. 9:

    -section 5;

14. *Payment Card Networks Act*, S.C. 2010, c. 12, s. 1834:

    -sections 6 and 7; and

15. *An Act to promote the Efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Commission Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act*, 2010, c. 23:

    -sections 47 to 51 and 55, 68, subsection 89(2) and section 90.

• (1430)

HEALTH-CENTRED APPROACH TO SUBSTANCE USE BILL

FIRST READING

Hon. Gwen Boniface introduced Bill S-232, An Act respecting the development of a national strategy for the decriminalization of illegal substances, to amend the Controlled Drugs and Substances Act and to make consequential amendments to other Acts.

(Bill read first time.)

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

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

[*Translation*]

L'ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

PARLIAMENTARY CONFERENCE ON THE SAHEL, NOVEMBER 14-15, 2019— REPORT TABLED

Hon. Dennis Dawson: Honourable senators, I have the honour to table, in both official languages, the report of the Assemblée parlementaire de la Francophonie concerning the Parliamentary Conference on the Sahel, held in New York, New York, United States, from November 14 to 15, 2019.

PARLIAMENTARY SEMINAR ON PARLIAMENTARY OVERSIGHT AND PUBLIC POLICY EVALUATION, NOVEMBER 14-15, 2019— REPORT TABLED

Hon. Dennis Dawson: Honourable senators, I have the honour to table, in both official languages, the report of the Assemblée parlementaire de la Francophonie concerning the Parliamentary Seminar on Parliamentary Oversight and Public Policy Evaluation, held in Brazzaville, Republic of Congo, from November 14 to 15, 2019.

[*English*]

QUESTION PERIOD

PUBLIC SAFETY

HUAWEI—5G TECHNOLOGY

Hon. Leo Housakos (Acting Leader of the Opposition): Honourable senators, my question is for the government leader in the Senate, Senator Gold. This is in relation to the ongoing review that the Trudeau government is conducting with regard to Huawei's participation in Canada's 5G network, particularly due to the fact that the government has been promising a decision as far back as September 2019. Actually, at the time, they promised they would give a decision before the 2019 election, and now two elections have come and gone and, unfortunately, we still don't have an answer to that question.

Bell and Telus have recently been knocking on the door of the government looking for compensation with regard to Huawei equipment that they might be obligated to take out of the network. Recently there was a news story in the *National Post* that the government basically says it's too early for them to comment on compensation, which again highlights the fact that this government isn't dealing with their important issues regarding security.

Given the fact that the Five Eyes have taken clear action, given the fact of China's behaviour towards the Michaels, given the fact of the Uighur genocide, given the fact of what's going on in Hong Kong, when will the Trudeau government take a clear and unequivocal decision with regard to Huawei's participation in Canada's 5G, and why are they taking such a long time?

Hon. Marc Gold (Government Representative in the Senate): The government remains committed to making sure that our infrastructure and networks are kept safe and secure and do not compromise our national security. The examination of the existing technologies, 5G technologies and the associated security considerations remain ongoing. The Government of Canada is working with Public Safety Canada; the Communications Security Establishment; the Department of National Defence; the Canadian Security Intelligence Service; Global Affairs; and Innovation, Science and Economic Development Canada together on this important issue. It also includes the important advice we receive from our allies.

I note and am advised that the Prime Minister has indicated a decision on Huawei is expected within the coming weeks.

Senator Housakos: Senator Gold, let's hope this holds true, because we have been waiting for years and now hear that we will have the decision in the coming weeks. Of course, Senator Gold, Bell and Telus are two of the biggest telecom companies in Canada. Bell had an operating revenue of $22.8 billion in 2020, and Telus reported $15.5 billion. We are all well aware that Canadians continue to pay some of the most extraordinary, out-of-this-world, highest fees when it comes to wireless service.

Senator Gold, was there anything promised to these telecom companies that led them to believe that it was a wise decision to go ahead with Huawei equipment, and will your government commit today to safeguarding taxpayers' money and deny any requests for compensation from telecom companies for removing their Huawei equipment?

Senator Gold: I'm not aware of — nor am I in a position to report on — what discussions may have taken place, which is the first part of your question. I am not in a position to make any commitments on the part of the government with regard to the second part of your question. The government will make its announcements when it is ready to do so.

[*Translation*]

JUSTICE

OMBUDSMAN FOR VICTIMS OF CRIME

Hon. Pierre-Hugues Boisvenu: My question is for the Leader of the Government in the Senate. The position of Federal Ombudsman for Victims of Crime has been vacant since October 1, 2021. For the past two months, victims of crime have had no official representative within the federal government. The last time this position was vacant, in 2017, it took the Minister of Justice a year to fill the position, whereas around the same time, the position of Correctional Investigator, the ombudsman for criminals, was filled in a month.

Can you explain to the victims and to this chamber, during this week of action against violence against women, why the position is still vacant and when the Department of Justice plans to fill it?

Hon. Marc Gold (Government Representative in the Senate): I thank the honourable senator for the question. As for the reason the position has not been filled and when it will be filled, I will ask the government the question and come back with an answer.

• (1440)

Senator Boisvenu: The Ombudsman for the Department of National Defence and the Canadian Armed Forces recently requested that he no longer report to the Minister of National Defence in order to ensure independence in dealing with the complaints he receives. The Office of the Correctional Investigator also reports to Parliament, and therefore to the Minister of Public Safety, in order to maintain its independence. However, the Office of the Federal Ombudsman for Victims of Crime reports to the Minister of Justice and depends on that minister's goodwill to continue operating.

Senator Gold, will the government ensure that the two positions — the Federal Ombudsman for Victims of Crime and the Ombudsman for the Department of National Defence and the Canadian Armed Forces — are put on an equal footing, by having the Office of the Federal Ombudsman for Victims of Crime report to the House of Commons rather than the Minister of Justice?

Senator Gold: I thank the honourable senator for his question. As you know, at the beginning of this Parliament, the government and the new cabinet made fundamental changes with respect to victims of sexual assault in the Armed Forces.

With regard to your question, I will ask the government about its intentions, and I will get back to you as soon as I receive an answer.

[*English*]

HEALTH

COVID-19 PANDEMIC RESPONSE PLAN

Hon. Stan Kutcher: Honourable senators, my question is for the Government Representative in the Senate. Senator Gold, we are now about two years into the pandemic, and we continue to struggle with the rapid sharing of metadata amongst provinces, territories and the federal government. While some good progress has been made — for example, the variants of concern leadership table struck by the Deputy Minister of Health — we are not where we need to be to mount a national data-founded response to this pandemic. Could you please tell us what additional measures are being considered by the federal government to improve this situation?

Hon. Marc Gold (Government Representative in the Senate): Honourable senator, thank you for the question and for your leadership on health issues in this chamber. Thank you also for giving me some advance notice of this question, as I've made inquiries. It's an important question, as you and many others have pointed out in this chamber. I've not yet received a response. When I do, I shall report back to the chamber in a timely fashion.

Senator Kutcher: Senator Gold, we know that COVID infection rates and the subsequent morbidity and mortality are much higher in the unvaccinated and that unvaccinated Canadians are a reservoir for continued mutations and spread of this virus. This reality puts vaccinated people at risk of contracting the disease and continues to put pressure on our ability to deliver needed health care for non-COVID conditions.

What additional measures is the Government of Canada planning to take to ensure that the risk to Canadians who are following best available public health advice is not increased because of the unwillingness of the few to do so?

Senator Gold: Thank you for your question. The Government of Canada continues to work closely with its partners in the provinces and territories and with health care professionals and advisers to find and promote the best ways to encourage Canadians to be vaccinated and to encourage Canadians, whether vaccinated or not, to take public health measures to minimize the risk of exposure. It will continue to do so.

CITIZENSHIP, IMMIGRATION AND REFUGEES

SIKH REFUGEES

Hon. Paula Simons: Honourable senators, my question is for the Government Representative in the Senate.

Since 2015, Calgary's Manmeet Singh Bhullar Foundation has been working to help Sikhs from Afghanistan escape religious persecution. To date, the foundation has gotten 650 members of Afghanistan's small Sikh minority community to temporary refuge in Delhi, India, but most have been stranded there for years. There are currently sponsor families standing by in Calgary, Edmonton, Leduc, Kelowna, Chilliwack and other communities ready and willing to welcome these displaced people to Canada.

The Canadian government has signed a memorandum of understanding with the foundation to bring these Sikh refugees here. The foundation tells me that those who are waiting have passed security background and health checks. Yet, to date, only 74 have been admitted to Canada. While the Bhullar Foundation is grateful for all the assistance the government has provided, and hopeful that more families will arrive in Canada soon, can you please tell us why there have been so many delays in resettling this vulnerable population safely and what your government is doing to expedite their arrival now?

Hon. Marc Gold (Government Representative in the Senate): Honourable senator, thank you for your question. The largest and the most difficult hurdle in getting people out of Afghanistan remains, regrettably, the lack of safe, secure and reliable routes out of the country — a country controlled by the Taliban. Furthermore, countries in the surrounding region have established their own entry and exit requirements, and these have frequently changed since the end of the evacuation. Despite these difficulties, the government continues to work closely with international and regional partners to expand these operations. It has been expanding its partnership with the Manmeet Singh Bhullar Foundation in an effort to resettle those hundreds of

persecuted Afghan Sikhs and Hindus. With regard to Sikh resettlement efforts in particular, I will have to report back to the chamber when I have more specific details.

Senator Simons: Thank you very much for your response.

I want to emphasize that I'm not talking about a population of people who are within Afghanistan, although there are still Sikhs in Afghanistan looking for evacuation. I'm talking about the more than 600 people who have been in India, some up to five or six years, who have not been able to come here despite the fact that this memorandum of understanding has been signed. I'm hoping you might be able to shed some light on why this population, which has passed their security checks and health checks, is still stalled in India.

Senator Gold: I will make inquiries and report back. Thank you.

[*Translation*]

TRANSPORT

CANADIAN RAILWAYS

Hon. Dennis Dawson: My question is for the Leader of the Government in the Senate.

As all senators know, climate change has disrupted our rail-based supply chain, and now, a foreign hedge fund has launched a bid to take over our largest railway company, Canadian National. It is fitting that the first bill introduced here has to do with railways, because they are essential to Canada. These Canadian companies were created because our railways are so important.

What does the government plan to do in the coming months and weeks to protect the interests of these companies? The threat is real. I remind senators about Donald Gordon, who declared that French Canadians were not good enough to work for Canadian railways. The last four presidents of CN were francophone, however. What are we going to do to make sure that Canada retains control over this institution and protects jobs in Montreal and the railway interests of not only Quebecers, but all Canadians?

Hon. Marc Gold (Government Representative in the Senate): I thank the honourable senator for his question and for pointing out just how important these companies are to Canadian society.

With respect to the specific issue you mentioned, the Government of Canada and authorities connected to the government are responsible for assessing the offers and opportunities to change ownership. They are doing their job and will continue to do it to protect Canadians and Canadian companies as best they can.

[*English*]

Senator Dawson: You also know that a foreign-owned hedge fund is the largest shareholder of Canadian National Railway Company, or CN's, direct competitor, Canadian Pacific, or CP Rail. Are there any plans for the government to refer this highly troubling matter to Competition Bureau Canada for examination? Transport is an important issue in Canada — we're in a room built for rail transportation. I hope the government will intervene to ensure that Canadian interests are best served, Mr. Leader.

Senator Gold: Thank you, honourable senator, for your question. The Government of Canada, as we all do in this room, understands how important transportation is for Canada generally, not only to our history but also to our well-being and economy. This chamber should rest assured that the Government of Canada will continue to keep the best interests of Canadians at heart when it reviews these matters.

AGRICULTURE AND AGRI-FOOD

SUPPORT FOR FARMERS AND PRODUCERS

Hon. Diane F. Griffin: Honourable senators, my question is for the Government Representative in the Senate. The Potato Wart Domestic Long Term Management Plan, which was put in place after potato wart was detected for the first time in Prince Edward Island in 2000, has worked well.

• (1450)

The Canadian Food Inspection Agency, or CFIA, has done extensive enforcement. As a result, potato wart was detected quickly when it reappeared in two Island fields this year. The system worked.

But then the CFIA shut down export of table potatoes to the United States anyway. Senator Gold, what is the point of having a long-term management plan if Island farmers, truck drivers and processors aren't going to be able to export their potatoes?

Hon. Marc Gold (Government Representative in the Senate): Senator, thank you for your question. As I've explained in this chamber in recent weeks, the decision to impose a temporary ban on the export of P.E.I. potatoes was a difficult one. The decision was taken by the government as — if I may use the expression — the "least bad" alternative that it faced in the context of this ongoing trade relationship.

With regard to your specific question, the Canadian Food Inspection Agency and the Government of Canada take the detection of quarantine pests seriously. The Canadian Food Inspection Agency's Potato Wart Domestic Long Term Management Plan is an important one. It remains and should remain in place. It's being applied to any new finds, as are other regulatory measures, to ensure that potato wart does not spread. However, with regard to the situation — and it's a difficult situation for potato farmers in Prince Edward Island — the government has intentions to put into place a strategy to deal with this situation to not only provide reassurance but to restore markets and to support farmers.

Senator Griffin: Senator Gold may be aware that tomorrow a large truckload of Prince Edward Island potatoes will arrive in Ottawa for free distribution — just down the street here. If anyone wants a 10-pound bag of potatoes, that's the place to get them tomorrow. I don't know if you were aware of that.

Senator Gold: Although I'm aware of many things, Senator Griffin, this was one of the many of which I was not. I look forward to receiving my bag of potatoes.

FOREIGN AFFAIRS

CANADA-CHINA RELATIONS

Hon. Marilou McPhedran: Honourable senators, my question is to Senator Gold.

I ask this question in the midst of the international 16 Days of Activism against Gender-Based Violence. My question to the government is about Canada speaking out of concern for the safety and freedom of Chinese tennis star Peng Shuai, which has been in serious doubt since the beginning of November when she accused a powerful former Chinese Communist Party official of sexual assault. Senator Gold, in a recent statement, Human Rights Watch criticized the International Olympic Committee's, or IOC, eagerness to ignore the voice of an Olympian who may be in danger and to support claims of state-sponsored media in China. Why has Canada not spoken out about this case and called for an independent investigation as other governments have?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question and for underlining the very troubling and unacceptable situation. I don't have the specific answer as to why the Government of Canada has not proceeded publicly and unilaterally as you've suggested.

However, I do know that the Government of Canada, working with its allies on this and on many other issues dealing with our very difficult relationship with a difficult country, China, continues to work hard — often behind the scenes but hard nonetheless — to make sure that China and our allies understand how unacceptable the Chinese behaviour, in too many respects, is to the Canadian government.

Senator McPhedran: I wonder, Senator Gold, if you could please ask for an indication of when we might have a public statement from the Government of Canada on both the issue of sexual abuse by high-ranking officials and state disappearances of those who make accusations. Also, what specifically is the Government of Canada prepared to do to address the concerns around this particular case of Peng Shuai?

Senator Gold: Thank you, I most certainly will make those inquiries.

INDIGENOUS SERVICES

INDIGENOUS COMMUNITY SUPPORT FUND

Hon. Dennis Glen Patterson: Honourable senators, my question is for the Leader of the Government in the Senate. Senator Gold, phase 4 funding of the Indigenous Community Support Fund, or ICSF, was announced in June 2021.

However, the funding has only just been received by regional Inuit organizations.

The total amount for Nunavut is over $30 million, of which the Qikiqtani Inuit Association, or QIA, my region's Inuit organization, has been allocated $11.7 million. The intended use of these funds will be to help secure our communities against the ever-prevalent impacts of COVID-19. I have been advised by the QIA that they, along with the other two regional organizations in Nunavut, urgently require confirmation that their ICSF agreement will be extended into 2022-23, as has been done in previous phases.

I submit that it's unreasonable and impractical for the Government of Canada to provide substantial and fundamental investments to Inuit without consideration for the sufficient time needed to provide vital supports.

My question, Senator Gold, is simple: Will the government confirm that this critical funding can be carried over into the 2022-23 fiscal year in order for Inuit to adequately address and respond to COVID-19?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. The government was pleased to provide the funding to the organizations, and I'm happy that it has been received in your area.

With regard to your question, though, I don't have an answer. I will make inquiries and be happy to report back.

Senator Patterson: Senator Gold, I appreciate your willingness to inquire into this urgent matter, but this is not the first time we've heard of promised funding flowing into the hands of those who need it so late in the fiscal year that it leaves them scrambling. As I said earlier, phases of ICSF funding also had to be extended. Chasing down these extensions puts additional and unnecessary strain on organizational capacity. Is the government willing to put measures in place to ensure that funding is flowing in a timely manner, relieving partners like the QIA of the burden of chasing down extensions? Shouldn't carry-overs, for instance, be automatic if funding is only received well into Q4 of a fiscal year?

Senator Gold: Thank you for the follow-up question. I will add that to the inquiries I make to the government and will attempt to report back in a timely manner.

PUBLIC SAFETY

ASSISTANCE FOR VICTIMS OF FLOODING

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, my question is also for the government leader in the Senate. In response to the recent emergency in my province, the Government of Canada announced it would match every dollar donated to the British Columbia Floods and Extreme Weather appeal of the Canadian Red Cross until December 26. Last week, a request was made from four Conservative members of Parliament from B.C. for the federal government to broaden this support and match donations to other registered charities also involved in the ongoing efforts. This request is not to criticize the important work of the Red Cross here in B.C. but an acknowledgement that the need on the ground remains great and no single organization can do it all. Leader, what is your government's response to this specific request?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question, senator. There's no doubt that the ravages that have been visited upon your province — indeed elsewhere but your province in particular — are serious and of great concern to the Government of Canada. That's why it has provided the assistance that it did and the commitments that it has made. I do not know exactly what the status is of the request made, to which you refer, if I understand correctly, this week or last week. I'll certainly make inquiries and report back when I have an answer.

• (1500)

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

Senator Martin: No. I heard the leader say he would be reporting back, so thank you for looking into that.

[*Translation*]

FOREIGN AFFAIRS

HAITI—INTERNATIONAL COMMISSION OF INQUIRY

Hon. Marie-Françoise Mégie: My question is for the Government Representative in the Senate. According to a December 3 article by Mr. Deglise in *Le Devoir*, on August 3, 2021, less than a month after Jovenel Moïse was murdered, the Haitian government officially asked the UN Secretary-General, António Guterres, to create an "international commission of inquiry" and a special court.

Senator Gold, the investigation is stalled against a backdrop of violence, corruption and political obstruction to court hearings. Can you tell us if Canada will come out for or against Haiti's official calls for the UN to create an international commission of inquiry? Or will it abstain altogether?

Hon. Marc Gold (Government Representative in the Senate): Canada continues to encourage Haitian authorities to investigate the circumstances surrounding the assassination of President Moïse and bring the perpetrators to justice. Canada has not yet received a formal request from Haitian authorities for support in this matter.

As for the creation of a UN international commission of inquiry into the assassination of President Moïse, with all due respect for Haiti's national sovereignty, Canada would support such an initiative as a staunch defender of the fight against impunity. Currently, Canada's total aid budget for Haiti is about C$89 million per year. We are attentive to the needs and aspirations of Haitians, so we remain flexible and ready to work with Haiti and the international community toward a more stable, democratic and prosperous future.

Senator Mégie: I would like to add that the request has in fact been made, so your response leaves me perplexed, Senator Gold, given that the article in *Le Devoir* clearly indicates that.

Senator Gold: I will look into it further, even though, to my knowledge, the request has not been formally received. However, I apologize in advance if I am wrong. I will do more research with the information I was provided.

[*English*]

PRIVY COUNCIL OFFICE

PARLIAMENTARY SECRETARY TO THE LEADER OF THE GOVERNMENT IN THE HOUSE OF COMMONS (SENATE)

Hon. Leo Housakos (Acting Leader of the Opposition): Honourable senators, my question is for the Leader of the Government in the Senate, and I'll begin, Senator Gold, by offering my sincere congratulations because I know you just received a new parliamentary secretary representing you over on the other side of the house, the lower chamber.

Colleagues, for those of you who don't know, on Friday the Prime Minister appointed Liberal MP Mark Gerretsen as the parliamentary secretary to Senator Gold. Leader, is this an entirely new creation? There has never been a parliamentary secretary, to my knowledge, stylized this way, and it appears to again acknowledge the fact that the Trudeau government has sort of raised their hands in the air, not knowing what to do with this new reformed Senate.

The truth of the matter is, Senator Gold, we talk about independence, yet never before have we seen this type of relationship between a government representative/government leader and a parliamentary secretary.

What exactly is MP Gerretsen's responsibility under his new position? Wouldn't it have been a lot easier, government leader, if you were allowed to represent this august chamber in the governing national caucus? Wouldn't it have been even easier if you were allowed to take your rightful place as a member of the Privy Council sitting at the cabinet table so you can give us timely answers to our questions?

Some Hon. Senators: Hear, hear.

Hon. Marc Gold (Government Representative in the Senate): I was raised to always give gifts back when I'm offered one, so let me congratulate you on being consistent for the last five years in attempting to delegitimize the new and less partisan independent Senate. With all due respect, the fact is that your characterization of the reasons for which the parliamentary secretary was named — and it is indeed an innovation — have it completely backwards.

This is an indication of the importance that this government attaches to its relationship with the Senate. It's a recognition that there is still work to be done — and this is not at all to visit this upon the honourable senator opposite — for all members of Parliament, whether in the Senate and certainly in the House of Commons, to recognize that the Senate has changed and that the Senate needs to be thought of in a different, more consistent and coherent way in the other place.

The parliamentary secretary, who I will have the pleasure to work with is part of a growing team of ministers who understand the value that the Senate brings and the work that it does and will continue to do. I'm proud to represent this government in this chamber and to be part of the process of modernization and growing independence of this chamber. It serves Canadians well.

The Hon. the Speaker: The time for Question Period has expired.

ORDERS OF THE DAY

PARLIAMENT OF CANADA ACT

BILL TO AMEND—SECOND READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Harder, P.C., seconded by the Honourable Senator Bellemare, for the second reading of Bill S-2, An Act to amend the Parliament of Canada Act and to make consequential and related amendments to other Acts.

Hon. Leo Housakos (Acting Leader of the Opposition): Honourable senators, I rise on Bill S-2, An Act to amend the Parliament of Canada Act and to make consequential and related amendments to other Acts.

Colleagues, I will be brief. At the end of the day, when I look at legislation like this, for example, which is an exact piece of legislation we dealt with in the previous Parliament, nothing has changed. We had a Committee of the Whole that addressed this issue.

The Hon. the Speaker: I'm sorry, Senator Housakos. Senator Moncion is raising a point of order.

POINT OF ORDER

Hon. Lucie Moncion: It's about the masks, Your Honour.

The Hon. the Speaker: Honourable senators will remember that on November 22, 2021, we attempted to return the Senate Chamber to full chamber attendance. One of the conditions was that when in the chamber, senators are to wear masks at all times. If, for medical reasons, a senator is unable to wear a mask, we can accommodate senators when they wish to speak by either socially distancing them in the chamber if we have room or allowing for the use of the gallery when senators are not speaking and then rearranging so when senators are speaking they can be socially distanced in the chamber.

I want to remind senators that the use of masks at all times while in the chamber is necessary for now.

Hon. Leo Housakos (Acting Leader of the Opposition): Thank you, Your Honour. My interpretation of the rules you sent out — and I will respect them — was that if we had social distancing space around us that we could take the mask off if we had a cumbersome time breathing. It is a little bit cumbersome.

The Hon. the Speaker: I dislike wearing a mask as much as everybody else when speaking because it is cumbersome. I did say to one senator in particular, who said that he had medical problems speaking, to check with the senators around that individual, and if they were uncomfortable with the mask not being worn, then we could arrange for them to be socially distanced.

If that's the case at any time, I would just ask senators to bring it to my attention. We'll make the appropriate accommodations.

Senator Housakos: Thank you, Your Honour.

PARLIAMENT OF CANADA ACT

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Hon. Leo Housakos (Acting Leader of the Opposition): Back to Bill S-2, colleagues. As I was saying earlier, there was unanimous agreement on this bill by all leadership sides at the end of the last Parliament. Again, we understand the principle behind this. We all recognize this place is in a fluid situation and it is changing. Of course, these amendments to the Parliament of Canada Act reflect those changes. I think for the benefit of time it's completely unnecessary to bog down this chamber. We already have limited time in order to debate our private members' bills, our motions and try to get through more important government legislation. For the benefit of saving that time, I do

not think we should become repetitive and conduct our business in such a way that it unnecessarily delays the rest of the Order Paper.

Honourable senators, I ask for leave that the bill be read a second time.

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

Hon. Senators: Agreed.

(Bill read second time.)

BILL TO AMEND—THIRD READING

Hon. Leo Housakos (Acting Leader of the Opposition): Honourable senators, I ask for leave that the bill be deemed read a third time and passed with consent of the chamber.

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

Hon. Senators: Agreed.

(Bill deemed read third time and passed.)

• (1510)

JUDGES ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Pierre J. Dalphond moved second reading of Bill S-3, An Act to amend the Judges Act.

He said: Honourable senators, it is my pleasure to rise today to initiate second reading of Bill S-3, An Act to amend the Judges Act. I would like to draw my colleagues' attention to one of our most important duties as parliamentarians — to serve as good custodians of the institutions we have inherited from our predecessors, which will survive beyond our service in this chamber.

No one here would dispute that our system of justice — and the independent and outstanding judiciary who serve at its core — represents one such institution. Yet, judicial independence and excellence do not flow inevitably from our Constitution, however much we may be tempted to take them for granted. They require the sustained effort and attentiveness of many different actors over time, this chamber among them.

Today, we are called upon to ensure that the legislative framework enabling oversight of the conduct of federally appointed judges is up to the task. We are also called upon to ensure that the process by which Parliament may ultimately be asked to remove a Superior Court judge is one that is and appears fair, effective and worthy of Canadians' confidence and trust. These are weighty responsibilities, and I look forward to our debate during the course of second reading of this bill and its review in committee.

[*Translation*]

Allow me to begin by sharing the context for this legislation with you. Drafters of the Constitution, mindful of the importance of the independence of the judiciary, a principle first recognized in the Magna Carta, made sure that once judges are appointed, they could not easily be removed by the government or by Parliament. As we know, this process exists in the U.S. as well, and they call it the impeachment of a judge.

This principle is set out in section 99 of the Constitution Act, 1867, which, in its still unofficial version, states:

> . . . the judges of the superior courts shall hold office during good behaviour, but shall be removable by the Governor General on address of the Senate and House of Commons.

Since 1867, four such motions have been considered, but the judges resigned before either chamber could make a decision. Therefore, it is not an often-used process, but it remains very important in our Constitution for preserving judicial independence and intervening in cases where necessary.

[*English*]

In 1971, Parliament amended the Judges Act to provide for the creation of the Canadian Judicial Council, a body chaired by the Chief Justice of Canada and comprising every chief justice and deputy chief justice of the country's superior courts, including the federal courts.

The council, or CJC, was mandated to promote efficiency and uniformity, and to improve the quality of judicial service in Canada's superior courts. As a critical part of this mandate, the CJC is given the authority to investigate allegations of misconduct against Superior Court judges. When such allegations are determined by the CJC to be so serious as to warrant removal from office, the act directs the CJC to submit a report to the Minister of Justice with a recommendation that the judge be removed from office. The minister must then decide whether to put the matter to Parliament, inviting both chambers to exercise their constitutional power under section 99(1) of the Constitution Act, 1867 — to which I referred earlier — requesting that the Governor General dismiss the judge.

Crucially, this power is tempered by the constitutional principle of judicial independence and the security of tenure it affords to every Superior Court judge in the absence of their proven incapacity or misconduct.

[*Translation*]

By imposing a process where judges themselves investigate allegations of misconduct against their colleagues, the 1971 legislation protected judges from acts of intimidation or retaliation by the executive power, Parliament, a party dissatisfied with a ruling or the public pressure of the day.

Furthermore, since the Judges Act provides that we, the parliamentarians, cannot remove a judge until we have received the report and recommendation of the justices in charge of the investigation, Canadians can rest assured that this draconian

measure will only be taken when it is truly justified, subject to the rigorous safeguards of judicial independence and procedural fairness.

The Supreme Court has established in previous rulings that these are constitutional obligations, and it even extended them to the provincial courts. The Judges Act is the means by which these obligations are fulfilled at the federal level.

The model adopted by Canada for regulating the conduct of federally appointed judges remains one of the best in the world. However, its main elements have not changed since 1971, despite fundamental changes in administrative law and the evolution of public values and expectations, which inform the development of standards for judicial conduct. Consequently, certain structures and procedures under the current framework of the Judges Act may be considered outdated. Even worse, we recently saw that they are not always effective or efficient, which undermines the public confidence that they are supposed to inspire.

[*English*]

Several issues have emerged as cause for concern. One of these is the length and cost of judicial conduct proceedings. Inquiry committees constituted by the CJC are considered to be federal administrative tribunals. As such, their decisions, whether interlocutory or final, are reviewable first by the Federal Court, then by the Federal Court of Appeal, and possibly, with leave, by the Supreme Court of Canada.

This gives the judge subject to the process — or maybe his or her lawyer — an opportunity to initiate as many as three stages of judicial review. This has proven to be a recipe for adversarial zeal and abuse of process, with individuals launching judicial review proceedings seemingly to effect delay rather than pursue valid legal interests. In a recent case, the Federal Court of Appeal refused to hear an appeal regarding a judicial review of the Federal Court, saying this was abuse of process. This has proven to be a recipe for adversarial zeal, as I said, and we need to act. Judicial conduct inquiries can be delayed for years as a result.

• (1520)

In a recent case, a complaint process initiated in 2012 resulted in the recommendation of the council that a judge be removed from office. That became final only in February 2021, nine years later. But, honourable senators, during that entire period — until the day the Governor General dismisses the judge or until the voluntary retirement of the judge — a judge's salary continues to be paid and their pension benefits keep accruing; that is until recently. In addition, the legal fees and costs accrued by the council and the judge, before the council's panels and the courts, are assumed by the taxpayers.

The last Budget Implementation Act we adopted contained provisions to freeze a judge's pension entitlements as soon as the Canadian Judicial Council decides or recommends that the judge should be removed from office. Unless a decision is overturned on appeal or rejected by the Minister of Justice or by either chamber, the judge will only be entitled to the pension that would have been received up to the date of the hearing panel's decision that the removal is justified. That should shorten the process by years, or at least it removes a motive or grounds to keep fighting before the courts.

The fact that judicial independence warrants the provision of publicly funded counsel to a judge has meant that, in some cases, lawyers have collected millions of dollars in fees for launching exhaustive legal challenges that are ultimately proven to be without merit, such as in the case I referred to previously. The situation demands correction.

Commenting on the case that took roughly nine years, after the Federal Court of Appeal's decision was rendered in the summer of 2020, in an open letter to Canadians, the Canadian Judicial Council wrote:

> Specifically, over the past decade, we have all witnessed public inquiries that have taken far too long and have been far too expensive. We have witnessed countless applications for judicial review, covering every imaginable aspect of the process. These have been enormously time-consuming, expensive and taxing on our federal courts. Furthermore, all costs, including those incurred by the judge who is at the centre of the inquiry, are fully funded by the taxpayer. The judge at issue continues to receive full salary and pension benefits as time passes. This leaves the perception that the judge benefits from these delays. Highlighting this problem, we refer to a painfully obvious pattern, as opposed to any individual case: a pattern that is contrary to the public interest and access to justice.

That came in a press release from the chief justices of the superior courts of Canada — a very rare occasion.

The following is from a press release then issued by the Canadian Council, chaired by the Chief Justice of Canada.

At the close of the entire process regarding that judge, on February 25, 2021, eight years after the first complaint in connection with the same judge, the Chief Justice of Canada, the Right Honourable Richard Wagner said:

> As Chairperson of the Canadian Judicial Council, I reiterate the need to adopt legislative reforms that Council has long called for in order to improve the judicial conduct review process, and thereby maintain public confidence in the administration of justice. On behalf of the judiciary and the public it serves, I therefore welcome the commitment of the Minister of Justice and the Prime Minister to proceed with those reforms as soon as possible in order to avoid any such saga in the future. As the Minister of Justice said today, "Canadians deserve better".

This bill is the response from the government.

Another shortcoming of the current process is that the Judges Act only empowers the council to recommend for or against the removal of a judge. It cannot impose lesser sanctions for misconduct that falls below the necessarily high bar governing judicial removal. As a result, instances of misconduct may fail to be sanctioned because they clearly do not approach this high bar.

There is also a risk that judges may be exposed to full-scale inquiry proceedings — and to the stigma of having their removal publicly considered — for conduct that is more sensibly addressed through alternative procedures and lesser sanctions.

Amendments to correct these defects would not only render conduct proceedings more flexible and proportionate to the allegations that provoke them; they would provide greater opportunities for early resolution and reserve the most costly and complex hearings for the most severe cases.

[*Translation*]

Finally, the Judges Act requires that a recommendation for the removal of a judge be made to the Minister of Justice by the council itself rather than the inquiry committee established to review the conduct of a particular judge. Thus, once the inquiry committee has reached its conclusions, the council must deliberate, with at least 17 members present, and prepare a report and a recommendation to the minister. This approach goes beyond what procedural fairness requires, but it places a significant burden in terms of time and energy on at least 17 Chief Justices and Associate Chief Justices, who must review the transcripts of the proceedings before the inquiry committee, as well as written submissions from counsel and sometimes even oral submissions regarding the inquiry committee. As the council itself recognizes, this approach is inefficient and contrary to the public interest in terms of the optimal use of judicial resources. This too must change.

Those are just a few of the reasons for which the legal process for judges must be reformed. I also want to mention the public consultation on the disciplinary process reform conducted by the government in 2016, which revealed strong support for developing a more transparent disciplinary process that is easier for the public to access, especially because of the increased opportunities for members of the public with no legal training to take part in the process.

The government then benefited from ongoing discussions with representatives of the Canadian Judicial Council and the Canadian Superior Courts Judges Association, an association that represents almost all 1,200 superior court judges, about their concerns and respective visions for the disciplinary process reform. I have the utmost respect for the work of the association and the council, given that in my former life, I was president of the association for a few years and was also a director for over a decade. I was also a member of some of the council's committees. These are important issues, and I am pleased that the government is proposing improvements to the system.

I will come back to the importance of these consultations at the end of my speech. For now, suffice it to say that nearly everyone involved supports the proposed changes, which I believe will improve the effectiveness, cost-effectiveness, flexibility and transparency of the disciplinary process for judges, while respecting the principles of fairness and judicial independence, which is so essential.

Those are the objectives of the bill. I will now describe some of its key aspects.

[*English*]

The legislation before you introduces a more versatile process. After initial screening by CJC officials, any complaint that cannot be dismissed as completely without merit will be referred to a review panel composed of representatives of the public and the judiciary.

After reviewing the matter on the basis of written submissions only, the review panel would be empowered to impose remedies short of removal from office — for example, a requirement that the judge take a course of professional development or issue an apology.

This would enable the effective, fair and early resolution of cases of misconduct that do not require a full-scale public hearing.

• (1530)

Should a review panel decide that an allegation against a judge may indeed warrant their removal from office, the proposed legislation requires that the matter be referred to a full public hearing. These hearings will function differently from the current inquiry committees. First, the hearing panel itself will include representation by a lay member of the public and by a representative of the legal profession in addition to judicial members. A lawyer will be appointed to present the case against the judge, much as a public prosecutor would do.

The judge will continue to have the opportunity to introduce evidence and examine witnesses, all with the aid of their own counsel. In sum, the process will be structured as an adjudicative and adversarial hearing — a format that befits the gravity of the issues involved, both for the judge and for public confidence in the integrity of justice.

At the conclusion of these public hearings, a hearing panel would determine whether or not a judge should be removed from office. It would then report its recommendation to the Minister of Justice without intermediate review by the council as a whole. This will bring a timely resolution to many of the most severe allegations of misconduct against judges, allowing the minister — and ultimately Parliament — to act swiftly in response to a hearing panel's recommendation. Canadians can rest assured that this measure, intended to be exceptional, will only be taken when it is truly justified. Therefore, it is not an often-used process and does not intend to be one.

The rigour of the hearings process will give the minister, parliamentarians and the public at large confidence in the integrity of any findings and recommendations. The hearing panel's report itself will be made public, ensuring transparency and accountability.

At the conclusion of the hearings process, and before the report on removal is issued to the minister, both the judge whose conduct is being examined and the lawyer responsible for presenting the case against the judge will be entitled to appeal the decision to an appeal panel. This appeal mechanism will replace the current recourse to judicial review before the Federal Court, the Federal Court of Appeal and leave the Supreme Court. In other words, rather than making the council hearings subject to

external review by multiple levels of court, with the resulting costs and delays, the new process will include a fair, efficient and coherent appeal mechanism internal to the process itself.

A five-judge panel would hold public hearings akin to those of an appellate court and have all the powers needed to effectively address any shortcomings in the hearing panel's process. Once it has reached its decision, the only remaining recourse available to the judge or the counsel that was acting before the hearing panel will be to seek leave to appeal to the Supreme Court of Canada. They will be only one step into the legal system, strictly speaking, with the Supreme Court on leave. Entrusting process oversight to the Supreme Court will reinforce public confidence and avoid lengthy judicial review proceedings through several levels of court.

These steps on appeal will be governed by strict deadlines, and any outcomes reached will form part of the report and recommendations ultimately made to the Minister of Justice. In addition to giving confidence in the integrity of judicial conduct proceedings, these reforms are expected to reduce the length of proceedings by a matter of years.

[*Translation*]

To maintain public confidence, the disciplinary process for judges must produce results not only in a timely fashion, but at a reasonable cost to the public purse. The costs should be as transparent as possible and subject to sound financial controls. The bill includes robust provisions to ensure that the costs related to the process are managed prudently.

Currently, the number of disciplinary investigations applicable to judges varies from year to year. This makes it impossible to set a specific budget for costs in any given year. Managers must use cumbersome mechanisms to get the necessary ad hoc funding.

[*English*]

To remedy this problem, the proposed legislation would effectively divide process costs into two streams. Funding for constant and predictable costs — those associated with the day-to-day review and investigation of complaints — would continue to be sought through the regular budget cycle. However, the second stream — consisting of highly variable and unpredictable costs associated with cases that proceed to public hearings — would be funded through a targeted statutory appropriation established in this bill. In other words, costs associated with public hearings would be paid directly from the Consolidated Revenue Fund.

It should be recalled that these hearings are a constitutional requirement; a judge cannot be removed from office absent a judge-led hearing into their conduct. It is thus appropriate that a non-discretionary expense incurred in the public interest, and in fulfillment of a constitutional obligation, be supported by stable and effective access to the Consolidated Revenue Fund.

Parliament must nonetheless be assured that the scope of this statutory appropriation is clearly defined. The type of process expenses as well as guidelines for their quantum must be clearly spelled out. There must be accountability and transparency to reassure Parliament and Canadians that public funds are being prudently managed.

As a result, the provisions establishing the appropriation clearly limit the categories of expenses it captures to those required to hold public hearings. Moreover, these expenses would be subject to regulations made by the Governor-in-Council. Planned regulations include limits on how much lawyers involved in the process can bill and limiting judges who are subject to proceedings to one principal lawyer.

The bill also requires that the Commissioner for Federal Judicial Affairs make guidelines fixing or providing for the determination of any fees, allowances and expenses that may be reimbursed and that are not specifically addressed by the regulations to be adopted by the government. These guidelines must be consistent with any Treasury Board directives pertaining to similar costs and any difference must be publicly justified.

I note that the Commissioner for Federal Judicial Affairs, who will be responsible for administering these costs, is a deputy head and accounting officer and is therefore accountable before parliamentary committees. He could be asked questions about this in the future.

Finally, the bill requires that a mandatory independent review into all costs paid through the statutory appropriation be completed every five years. The independent reviewer will report to the Minister of Justice, the commissioner and the chair of the council. Their report will assess the efficacy of all applicable policies establishing financial controls and will be made public.

Taken together, these measures will bring a new level of fiscal accountability to judicial conduct costs, while replacing the cumbersome and ad hoc funding approach currently in place. This is a necessary complement to procedural reforms; both procedural efficiency and accountability for the expenditure of public funds are necessary to ensure public confidence.

[*Translation*]

During the reform drafting process, the government paid close attention to the public feedback that was collected through an online survey and to the feedback from key representatives of the legal community, such as the Canadian Bar Association, the Federation of Law Societies of Canada, and the provinces and territories.

As I have already mentioned, the Canadian Judicial Council and the Canadian Superior Courts Judges Association were consulted. The participation of representatives from the council and the association was both necessary and appropriate, because the Constitution dictates that this process must be managed and administered by the judges. By consulting the council, the government was able to get feedback from the people directly responsible for administering the judicial discipline process.

• (1540)

Furthermore, by consulting the association, the government was able to hear directly from the representatives of the judges subject to this process.

In the same press release I mentioned earlier, the Right Honourable Richard Wagner, Chief Justice of Canada, stated, and I quote:

> Over the past few years, the Council has consistently called for new legislation to be tabled in order to improve the process by which concerns about judicial conduct are reviewed. The efforts of members of Council to develop proposals in this regard have been fruitful, and we appreciate the openness with which the Minister of Justice has engaged the Council in his consultations. . . . While the Council will take some time to carefully review the proposed amendments, we are confident that these reforms will bring about much needed efficiency and transparency to the judicial conduct review process.

Given that our goal is to design a process that enables the judges themselves to fulfill an important public mission, I hope that our deliberations will be guided by respect for their experience and wisdom.

I would also like to point out that on June 9, 2021, when I introduced this bill in the last Parliament before it died on the Order Paper, the Canadian Judicial Council released the revised and modernized version of *Ethical Principles for Judges* mainly to provide better oversight of judges' conduct.

[*English*]

In conclusion, I began this speech by noting our responsibility as parliamentarians to serve as good custodians of the institutions we inherit, including an independent judiciary. More than 50 years ago, our predecessors had the foresight to craft a judicial conduct process that removed any prospect of political interference by giving the judiciary control over the investigation of its members.

Today, respect for this form of judicial leadership is firmly entrenched. It is a gesture of respect for judicial independence under the Constitution itself, and a source of public confidence in the institutions of justice that exist to serve them. It falls to us today to renew this commitment by modernizing the judicial conduct process, providing its judicial custodians with a legislative framework that contains all of the tools needed to protect the public trust in a modern and evolving society. These include tools to enhance efficiency, to bring transparency, to ensure accountability, to provide versatility and to maintain the highest standards of procedural fairness. I wholeheartedly recommend the bill before you in this spirit, and I look forward to its passage.

Thank you, *meegwetch*.

Some Hon. Senators: Hear, hear.

(On motion of Senator Martin, debate adjourned.)

[*Translation*]

CRIMINAL CODE

BILL TO AMEND—SECOND READING

Hon. René Cormier moved second reading of Bill C-4, An Act to amend the Criminal Code (conversion therapy).

He said: Dear colleagues, I am feeling emotional as I rise today to begin debate at second reading of Bill C-4, which proposes to prohibit conversion therapy, an odious practice that stigmatizes and discriminates against lesbian, gay, bisexual, transgender, queer and two-spirit communities.

This practice is harmful for those subjected to it and detrimental to society in general. Pseudo-therapies that perpetuate stereotypes and myths have no place in Canadian society.

Although these interventions are often called conversion "therapies," there is nothing therapeutic about them. They are based on the premise that LGBTQ2+ individuals can and must change, and they often take insidious forms.

For those who still doubt that this harmful practice takes place in our country, the results of the 2019-20 Sex Now Survey show that approximately 10% of men belonging to a sexual minority who responded to the survey had been subjected to conversion therapy in Canada.

This survey also found that exposure to these destructive practices was greater among non-binary and transgender individuals, immigrants, youth and low-income persons.

In most cases, the conversion therapy was experienced in religious settings, and in other cases, it was considered health care. Esteemed colleagues, conversion therapy is a real thing, it is harmful and it is still going on in our country.

For decades, the LGBTQ2+ community, especially those who have survived this type of therapy, has been bravely and assiduously advocating for an end to this wrong-headed practice. The time has finally come to respond and to protect adults and children.

Bill C-4 includes enhanced versions of the protections proposed in the former Bill C-6, which was introduced in the previous Parliament, and it sends a clear and necessary message. No form of conversion therapy will be tolerated in Canada.

I would be remiss if I did not mention the emotional reaction many Canadians had when this bill was unanimously passed in the other place on December 1.

Although we were startled by how quickly it was passed, the solidarity shown in that place speaks to the values we cherish as Canadians: equality, dignity and respect for all, regardless of our differences.

Bill C-4 represents another step in the long process to have the rights of the LGBTQ2+ community recognized in Canada.

From the partial decriminalization of homosexuality in 1969 to the passage of Bill C-23 in 2000, which gave same-sex couples the same social and tax benefits as heterosexual couples in common-law relationships, the Civil Marriage Act in 2005, which made same-sex marriage legal across Canada, Bill C-16 in 2017, which added gender identity and gender expression as prohibited grounds for discrimination under the Canadian Human Rights Act, and Bill C-66 in 2018, a bill that I had the privilege of sponsoring in the Senate and that expunges historically unjust convictions against people in the LGBTQ2+ communities, our country has reached important milestones in upholding the fundamental rights and dignity of all citizens.

It would take several legislative attempts to get to this bill, and for that, allow me to salute our former colleague, retired senator Serge Joyal, who introduced Bill S-260 in this chamber during the Forty-second Parliament, bringing this issue to the attention of his parliamentary colleagues.

Today it is up to us to carry the torch by taking a careful and thorough look at Bill C-4, showing empathy and working diligently so that all Canadians, regardless of their age, sexual orientation, gender identity or gender expression, can love the person of their choice, be free to be loved themselves and live their truth in safety.

[*English*]

Bill C-4 is specifically designed to protect the dignity and equality of LGBTQ2+ Canadians by ending conversion therapy in Canada. It would do so by criminalizing conversion therapy in all settings, regardless of age or consent. Although former Bill C-6 would have comprehensively protected children, it would only have protected adults from forced conversion therapy and prohibited the commercialization of the practice. Bill C-4's comprehensive approach is intended to target the different types of harms that conversion therapy poses. These harms can manifest themselves at the individual level, including for persons who had consented to undergo conversion practices.

• (1550)

The research about the harms of conversion therapy stemming from Canada and the U.S. clearly identifies its devastating outcomes for individuals, including feelings of shame, isolation, anxiety, depression, problematic substance use and suicidality. For example, the 2019 American *Trevor Project National Survey on LGBTQ Youth Mental Health* found that 57% of transgender and non-binary youth who have undergone conversion therapy report a suicide attempt in the last year.

Canadian and international professional associations have denounced these practices. To name a few: the World Health Organization, the United Nations Committee Against Torture, the Committee on the Rights of the Child, the Human Rights Committee, the Canadian Psychiatric Association, the Canadian Psychological Association, l'Ordre professionnel des sexologues du Québec, and the Canadian Association of Social Workers were clear about these practices. They are dangerous.

I would also like to bring to your attention the testimonies of the courageous individuals who appeared in the other place during the study of former Bill C-6. Their words are revealing. They said that the harms of conversion therapy are serious, regardless of age or consent, and that the best way to protect against them is to totally ban the practice. We need to listen to them, colleagues.

There is ample evidence of the harmful effects on victims of conversion therapy, but let us not forget that the effects of these discriminatory practices are also manifested on a larger societal scale. Indeed, the very existence of conversion therapy practices is harmful to the dignity and equality of LGBTQ2+ communities, because these practices posit that there is something fundamentally wrong with LGBTQ2+ individuals, and that they should change who they are, who they love, and how they express themselves to arrive at a sexual orientation, gender identity or gender expression that some believe is preferable.

[*Translation*]

This premise is inherently discriminatory and harmful, not only to LGBTQ2+ communities, but also to society in general, because we are all diminished by practices that undermine the equality and dignity of every member of our society.

One way to end practices based on such a hurtful and discriminatory premise is to prohibit them altogether, regardless of whether an individual grants consent.

This is not an unusual or inappropriate role for criminal law. The federal Parliament has the jurisdiction to criminalize a legitimate public health harm. In this case, the evidence is overwhelming. Conversion therapy is deeply harmful.

Banning conversion therapy, when the recipient is a consenting adult, naturally raises questions about compliance with the Canadian Charter of Rights and Freedoms. The idea of conversion therapy may be linked to religious beliefs for some people, while others may believe that they should have the freedom to choose the interventions they feel would benefit them.

However, the well-documented harms, as well as the prevalence of conversion therapy practices among vulnerable members of an already marginalized community, support the decision for a complete ban on these practices.

[*English*]

To this, I would add that we cannot ignore the notable movement on the international scene that points to an emerging consensus about conversion therapy's harms and legal responses to prohibit it, such as those proposed in this bill.

The UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity released his report entitled *Practices of so-called "conversion therapy"* in the spring of 2020.

That report found that the best way to address conversion therapy's harms is to ban the practice from being advertised and carried out in all settings, whether public or private, including education, community or religious settings. In particular, the UN Independent Expert's report describes the practices of conversion

therapy as ". . . deeply harmful interventions that rely on the medically false idea that LGBT and other gender diverse persons are sick . . . ."

The report also notes that these practices inflict severe pain and suffering and result in long-lasting psychological and physical damage.

Colleagues, let me quote two passages from this report:

> All practices attempting conversion are inherently humiliating, demeaning and discriminatory. The combined effects of feeling powerless and extreme humiliation generate profound feelings of shame, guilt, self-disgust, and worthlessness, which can result in a damaged self-concept and enduring personality changes.
>
> These practices also violate the prohibition of torture and ill-treatment, since they take point of departure in the belief that sexually diverse or gender-diverse persons are somehow inferior – morally, spiritually or physically – than their heterosexual and cisgender siblings and must modify their orientation or identity to remedy that inferiority. Therefore, any means and mechanisms that treat LGBT persons as lesser human beings are degrading by their very definition and may amount to torture depending on the circumstances, namely the severity of physical and mental pain and suffering inflicted.

[*Translation*]

In addition to the UN Independent Expert's report, several countries are studying or have adopted mechanisms to ban conversion therapy.

The Australian Capital Territory recently passed legislation criminalizing the practice of conversion therapy on minors and people with impaired decision-making ability.

France has also introduced a bill to ban conversion therapy practices that affect a person's mental or physical health.

This summer, a bill was introduced in New Zealand that would make it an offence to perform conversion therapy on a minor or a person who lacks decision-making capacity and to perform a conversion practice on anyone if it causes serious harm. Serious harm is defined as:

> . . . any physical, psychological, or emotional harm that seriously and detrimentally affects the health, safety, or welfare of the individual.

Consent would not be a defence against either proposed offence.

In addition, the British government is currently holding public consultations on a proposal to criminalize certain aspects of conversion therapy, particularly in the form of "talking conversion therapy," as well as physical acts conducted in the name of conversion therapy.

Lastly, senators will recall that Malta was the first nation to criminalize conversion therapy on "vulnerable persons," which includes people under the age of 16.

In Canada, various provinces, one territory and several municipalities have done their part in their respective jurisdictions.

The Yukon, Ontario, Quebec, Nova Scotia and Prince Edward Island have enacted legislation specifying that conversion therapy is not an insured health service and banning health care professionals, and in some cases everyone, from providing treatment in specific circumstances. Manitoba has issued a position statement against these practices.

Municipalities such as Vancouver, Calgary, Edmonton, St. Albert, Lethbridge, Saskatoon, Regina and Kingston have answered the call by prohibiting businesses from offering conversion therapy within their city limits.

Dear colleagues, these Canadian and international steps add momentum to the movement to ban conversion therapy. They send a clear message that our country is more than ready to put an end to such practices and that the approach of Bill C-4, which consists of using criminal law to completely ban this harmful practice in all settings and disciplines, is neither unique nor inappropriate.

• (1600)

[*English*]

I would now like to discuss the definition of conversion therapy included in Bill C-4 since it impacts the scope of all four of the bill's proposed offences.

Bill C-4 defines "conversion therapy" as a "practice, treatment or service," which I will collectively refer to as an intervention, that is designed to achieve one of the six prohibited objectives:

> (a) change a person's sexual orientation to heterosexual;
>
> (b) change a person's gender identity to cisgender;
>
> (c) change a person's gender expression so that it conforms to the sex assigned to the person at birth;
>
> (d) repress or reduce non-heterosexual attraction or sexual behaviour;
>
> (e) repress a person's non-cisgender gender identity; or
>
> (f) repress or reduce a person's gender expression that does not conform to the sex assigned to the person at birth.

Specifying that interventions designed to repress or reduce non-heteronormative or non-cisnormative feelings or behaviour as being "conversion therapy" responds to concerns that conversion therapy providers could seek to avoid criminal liability by hiding behind a thinly veiled argument that their efforts are intended to reduce or repress certain forms of feelings or expression, not change who a person is.

The definition also includes a very important "for greater certainty" clause, which clarifies that interventions aimed at helping a person explore or develop their integrated personal identity are not conversion therapy if they are not based on the assumption that a particular sexual orientation, gender identity or gender expression is to be preferred over another. Again, this clause protects legitimate supportive practices, services and treatments and not conversion therapy practices purporting to help an individual change a fundamental aspect of their identity under the guise of identity development or reconciliation therapy.

This clause also clarifies that gender transition interventions, those steps that would be chosen and taken by a person to live more in accordance with their gender identity or expression, are not conversion therapies.

In the previous Parliament, concerns were expressed that former Bill C-6's definition, which was substantively the same as that proposed by Bill C-4, was vague and may capture mere conversations about sexual orientation, gender identity or gender expression. I would like to address this concern directly and explain why I do not share it.

This bill's definition contains two separate components, both of which must be met. First, the conduct must constitute an intervention or, in the precise words of the bill, a "practice, treatment or service." Those terms have a clear, literal meaning that imply established, structured or formalized interventions that are generally offered to the public or a segment of the public. Second, an intervention must also be designed to achieve one of the definition's prohibited purposes: namely, to impose heteronormative or cisnormative standards on the individual subjected to it.

This approach to defining "conversion therapy" is entirely appropriate and consistent with the bill's important objectives of protecting LGBTQ2+ persons from interventions that discriminate against them.

[*Translation*]

The definition was carefully tailored to target only interventions that cause harm because they are based on the premise that heteronormative and cisnormative identities and expressions are to be preferred over other identities and expressions.

Bill C-4 would also protect all Canadians from the commercialization of the practice by prohibiting anyone from receiving some benefit from conversion therapy or promoting or advertising it. It also provides an extra layer of protection for children by targeting people who want to remove them from the country to have them undergo conversion therapy.

Esteemed colleagues, this bill clearly amends the Criminal Code to create the following offences. Charges may be laid against those who knowingly cause another person to undergo conversion therapy, including by providing conversion therapy to that other person; those who knowingly promote or advertise conversion therapy; those who receive a financial or other material benefit, knowing that it is obtained or derived directly or indirectly from the provision of conversion therapy; and those who remove a child under 18 from the country to subject that child to conversion therapy.

Exactly what Bill C-4 would ban was carefully drafted to include only harmful practices aimed at changing someone's identity, based on the discriminatory premise that certain sexual orientations and gender identities and expressions are less desirable than others.

It does not include supportive interventions or the mere expression of beliefs about sexual orientation, gender identity or gender expression. Furthermore, the proposed approach does not prevent individuals from making their own choices about how to express their gender identity or sexual orientation. It only addresses interventions that are designed to change an individual's identity.

The approach taken in Bill C-4 may seem bold, but a comprehensive ban is the best way to achieve the important goal of protecting LGBTQ2+ individuals and communities from the harms and discrimination that result from conversion therapy.

Colleagues, I personally am proud that Canada is showing leadership on this issue. Indeed, this bill would place Canada at the forefront of the international community. Passing it here in this country would make a difference for all Canadians, of course, but when we think of the victims of these practices around the world, we can easily imagine the impact it would have on the international stage.

[*English*]

Canadians value diversity; we know that. We want a country that respects the differences between us. That is the very aspect of Canada that defines us. In Canada, everyone should feel safe to be who they are.

I know we are all committed to realizing Bill C-4's overarching objective of protecting the dignity and equality of all Canadians. This bill reflects our fundamental Canadian values, as articulated in our Charter of Rights and Freedoms. I know that we all agree that Canada should be a place where diversity is celebrated, not reviled — a place where everyone can live in equality and freedom.

[*Translation*]

Honourable colleagues, this bill is not one of opposition. It does not seek to cast judgment on individual religious beliefs. It does not seek to prevent parents who care about their children's health and happiness from having conversations with them.

Nor does it seek to prohibit teachers from talking about sexual orientation and gender identity with their students. Above all, it seeks full recognition for the fundamental right of each and every person to live in dignity.

After doing some research and investigation into the matter, and thinking about the more than 47,000 men who have undergone conversion therapy in Canada, as reported in the Sex Now Survey that I mentioned earlier, I look forward to us being able to study and pass Bill C-4 in a timely manner.

To close on a more personal note, I would like to say that fortunately, there are many people in Canada who have not experienced conversion therapy. Thanks to the support of their communities, some individuals did not have to make these painful choices. People going through the process of accepting their sexual orientation or gender identity experience some dark and tortured times. Wanting to end their suffering becomes their only thought.

When I was 19 years old, I was so distraught, I could have ended up dying by suicide or undergoing conversion therapy like many others. The inner torment was overwhelming, and the fear of rejection was so real. Fortunately, I am here today thanks to my family, my community and my friends, who supported me without judgment as I came to accept who I was. I am so grateful to everyone who helped me.

• (1610)

Esteemed colleagues, today my thoughts are with the victims of conversion therapy, those who survived and had the courage to share their stories and those who, sadly, did not survive these terrible, discriminatory practices.

As legislators, let's ensure that anyone who is dealing with these agonizing choices has the opportunity to live a full life. Let's pass Bill C-4 so these people are not pushed into anything that could have a disastrous impact on them.

Human Rights Day is in a few days, and I urge all of us to work together, as I know we can do, to study and pass Bill C-4 as quickly as possible so that everyone living in this country can be protected and loved for who they are, as human beings asking only to live, love, be happy and contribute to society.

Thank you. *Wela'lin*. *Meegwetch*.

[*English*]

Hon. Mobina S. B. Jaffer: Honourable senators, I rise today to speak on second reading of Bill C-4, An Act to amend the Criminal Code (conversion therapy).

I want to begin by thanking Senator Cormier, the sponsor of this bill. He has worked very hard on the former Bill C-6 and now Bill C-4. He and his office, including Marilyse Gosselin, have worked exceptionally hard to ensure that Bill C-4's vision is realized and we will all see that. Thank you for your dedication. I also want to thank my own team, including Madison Pate-Green, for all their hard work and support.

Honourable senators, like many of you, I have received countless emails and calls from Canadians who have views on all sides of this bill. I believe we need to ensure all sides are heard in this debate. One email I received pleaded with me:

> If passed into law, parents risk five years in jail for asking a counsellor to help them work through gender dysphoria issues with their child. . . .
>
> If this bill is passed it will prevent members of the LGBTQ+ community from getting the help they desire. During debate on Bill C-6, this bill's predecessor, the House of Commons Standing Committee on Justice and Human Rights heard testimony from LGBTQ+ Canadians about how counselling helped them understand their identity and reduce their non-heterosexual sexual behaviour. . . .
>
> Parents, teachers, and pastors should all be able to play a supportive role in the life of a young person struggling with gender identity. . . .
>
> Harmful forms of conversion therapy should be banned. But Bill C-4 is too broad, and wrongly includes Christian counselling and other support services in the ban.

Honourable senators, we just heard from Senator Cormier — and we will hear from others — that it will make Canadians realize that conversation is not what this bill is about; it is about harming individuals. And I believe, senators, there is still doubt in the minds of some Canadians that this bill prevents conversations. They only have to hear what Senator Cormier said — and I'm sure when the minister comes to the committee it will give them assurance that it is not about banning conversations between parents or counsellors; it is about harming an individual. Just as we did with medical assistance in dying, we have a responsibility to listen to all Canadians across our country and really consider what they are telling us. Given that this is second reading, I will continue listening to all the speeches as this debate continues.

Many Canadians believe that conversion therapy is rooted in the idea that to identify as anything other than straight or cisgender — meaning a person whose personal and gender identity are the same as their birth sex — is a mental illness. There are lots of studies that tell us children who are forced into unaccepting and thus harmful environments will, in turn, often experience detrimental mental health. This can manifest in many ways, such as symptoms of anxiety, depression and, in the worst and most traumatizing circumstances, death by suicide.

David Kinitz is a PhD student in social and behavioural health sciences at the University of Toronto. He very courageously shared his story:

> I am a survivor of conversion therapy and I know first-hand how harmful it is. At 16, I decided to self-enrol in conversion therapy out of a desire to be "straight" and act in more masculine ways. My formative years were filled with invalidating experiences and heteronormative pressures that led me to the point of thinking that being queer was something that was incompatible with living in our society, forcing me to want to consider changing, or worse, take my own life.
>
> I'm telling my story because I believe no other youth should go through what I, and so many others, have experienced.

He goes on to say that, "Conversion therapy should be criminalized."

> I am now a health researcher and an advocate of LGBTQ+ equity working on a project at Simon Fraser University led by social epidemiologist Travis Salway. The study hopes to understand experiences of survivors and to recommend healing methods.

Echoing David's sentiment, in 2012, the Pan American Health Organization found no medical justification in the practice and that it threatened the health and human rights of those who endure it.

In 2016, the World Psychiatric Association reportedly found ". . . no sound scientific evidence that innate sexual orientation can be changed." Further, the Independent Forensic Expert Group of health specialists regard conversion therapy as deceptive, false advertising and fraud.

Less than 25% of Canadians believe that you can actively convert an LGBTQ+ person to become heterosexual through psychological or spiritual intervention. Support in banning conversion therapy across Canada was highest amongst women, at 62%, and those aged 18 to 31 at 64%. In 2019, an opinion poll highlighted that a majority of Canadians, three in five, are against conversion therapy. That same year, the current federal government publicly called upon all provinces and territories to ban this torturous practice.

Recently, a UN envoy cited a global survey that suggests four out of five people who endure conversion therapy were younger than 25, roughly half of whom were under the age of 18.

Honourable senators, I now want to read to you parts of conversion therapy that are far too often swept under the rug of paralyzing shame and unhealed trauma: beatings, rape, forced nudity, force-feeding or food deprivation, isolation and confinement, forced medication, verbal abuse and humiliation.

According to Article 37(a) of the United Nations Convention on the Rights of the Child:

> No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

• (1620)

Honourable senators, I know that conversion therapy strips a person of their most basic and intrinsic liberty to be free from persecution, free from hatred and free to be themselves without fear.

Senators, I want to share with you that when we went through the MAID hearings, they were long. We had all kinds of people who spoke to us with different points of view on that bill. When I travel across the country even now, I hear from people who are still not sure, but they were at our hearings and said that at least they were heard.

I genuinely believe that in our country today we need conversations. We need to understand the points of view of other people. If we shut down debate, we are essentially saying that we don't care how you feel. If we open the door, even if we don't agree with them, we'll make them feel heard.

That's why today, senators, I stand in front of you at second reading and ask that you consider sending this bill to committee so that those people who feel that their point of view should be heard will be heard. I thank you for your attention, senators.

Hon. Leo Housakos (Acting Leader of the Opposition): Honourable senators, Bill C-4 is a bill that has been turned into a controversial political football, unfortunately. I want to rise, colleagues, to point out that in the last Parliament we received the predecessor to Bill C-4, of course, on the eve of the government adjourning for an unnecessary election. The government, on a number of occasions, has said that the LGBTQ2 community is very important to them. So important that, of course, six years went by and, of course, this bill was not initiated until it was tabled in the House, again at quarter to midnight before Parliament rose for the general election.

I want to say this: No community — not the LGBTQ community, not any Canadians — deserves to be treated as a political prop or for political expediency. That's not the Canadian way.

I can say this: The community has been heard. It was heard by the House of Commons. And, of course, we saw the House of Commons do the right thing a number of days ago and pass this piece of legislation unanimously. They did so because they thought it was in the national interest to do so.

Colleagues, we already have government business before committees in this place. We only have a week left before we traditionally rise for the break. We have Bill C-3 that's already in pre-study before the Committee on Legal and Constitutional Affairs. There is a series of private members' bills, as I mentioned earlier, and motions that many parliamentarians in this chamber want to get to.

I think we have to develop the reflex in this institution that, when something is in the universal interest and public interest, we not create unnecessary duplication and engage in unnecessary debates. Furthermore, I don't think we should be using any issue as a political prop or make it divisive. We should be, as an institution, working to bring all Canadians together.

Therefore, honourable senators, with the consent of the chamber, I ask for leave that the bill be read a second time. Thank you, colleagues.

Hon. Peter Harder (The Hon. the Acting Speaker): Is leave granted, honourable senators?

Hon. Senators: Agreed.

(Bill read second time.)

BILL TO AMEND—THIRD READING

Hon. Leo Housakos (Acting Leader of the Opposition): Honourable senators, I ask for leave that the bill be deemed read a third time and passed by this chamber.

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

Hon. Senators: Agreed.

Some Hon. Senators: Hear, hear!

(Bill deemed read third time and passed.)

THE SENATE

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

Hon. Marc Gold (Government Representative in the Senate), pursuant to notice of December 2, 2021, moved:

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

1. the Senate invite any minister of the Crown who is not a member of the Senate to attend the Senate at least once every second week that the Senate sits, during Question Period at a time and on a date to be determined by the Government Representative in the Senate, after consultation with the Leader of the Opposition and the leaders and facilitators of all recognized parties and recognized parliamentary groups, and take part in proceedings by responding to questions relating to their ministerial responsibilities, subject to the rules and orders then in force, including those relating to hybrid sittings, if the Senate is then holding such sittings, except that neither senators when asking questions nor the minister when answering need stand;

2. the Government Representative in the Senate, in consultation with the Leader of the Opposition, and the leaders and facilitators of all recognized parties and recognized parliamentary groups, determine the minister to appear during such Question Period;

3. at the beginning of Orders of the Day, the Government Representative in the Senate or the Legislative Deputy to the Government Representative in the Senate inform the Senate, as soon as possible in advance, of the time and date for Question Period with a minister, and the designated minister, but no later than the sitting day that would precede the day on which the minister would appear;

4. senators only have up to one minute to ask a question, and ministers have up to one minute and thirty seconds to respond, with this process continuing until the time for Question Period expires; and

5. the Question Period last a maximum of 60 minutes.

He said: Honourable senators, I rise today to speak briefly to government Motion No. 7, which will re-establish a process for a minister to participate in the Senate's Question Period every second Senate sitting week.

While I deeply regret that this motion will relieve me, from time to time, of the pleasure of attempting to answer your questions, I am most happy to propose it because it constitutes yet another step in restoring a sense of normalcy to the Senate's operations. I am also pleased to propose this motion because it establishes a new format for ministerial Question Period that is based upon meaningful consultation and agreement with the leadership of all groups and informed by the Senate's extensive experience hosting ministers in this chamber over the course of two Parliaments.

So while this may be a government motion, as is so often the case, it bears the fingerprints of all groups.

For example, the Progressive Senate Group proposed that the motion specify that ministerial Question Period be held every second week in order to ensure some regularity for ministerial Question Period while maintaining some flexibility on the specific dates.

In addition, it was quite important to the opposition in the Senate that the questions of senators and the answers of ministers be subject to time constraints so that more senators may have the opportunity to ask questions. On the other hand, it was important to us in the Government Representative Office that the Senate's ministerial Question Period not simply be a mimic of that which takes place in the other place, where the length of time for questions and answers is limited to 35 seconds. We felt that would not suit the Senate's historic identity as a more sober and less politically charged environment.

What we have before us, one minute for questions and one minute and 30 seconds for answers, is a reasonable approach that balances the various legitimate concerns around the leadership table.

[*Translation*]

With respect to the process, under the terms of this motion, I commit to consulting my colleagues extensively to determine which ministers should be invited to Question Period in the Senate, and I will prioritize their appearance accordingly.

[*English*]

I would note that Senator Harder, during his time as Government Representative — and you look very good in that chair, Senator Harder — successfully ensured that senators were

satisfied with the timing and identity of the ministers appearing before this chamber. I am absolutely committed to doing the same.

Colleagues, this innovation of having ministers appear on a regular basis has proven beneficial for both senators, who have had the opportunity to ask direct questions relating to the specific responsibilities of the minister, and to the ministers, who have become better acquainted with the priorities of their Senate colleagues.

While Canada, and, indeed, the world, is still battling COVID-19, we recognize that the business of governing the country does not stop. This motion demonstrates to Canadians a new level of cooperation between our chambers.

Outside of the legislative work being undertaken, the practice of holding ministers' Question Period in the Senate has given us the opportunity to pose questions relating to the portfolios of ministers. Ministers' Question Period will offer senators the opportunity to ask relevant questions, highlight the concerns of their province or region and request information as appropriate.

Therefore, I ask that honourable colleagues pass this motion quickly. As we move into 2022, and before the resumption of Parliament after the holiday break, I would like to be able to begin the invitation process for those ministers that the Senate leadership has chosen to appear before us.

• (1630)

In the past, ministers Question Period has proven to be a mutually beneficial undertaking — not always agreeable for some, ministers or senators perhaps, but as is always the case here in the Red Chamber, a respectful one.

Thank you, colleagues.

Hon. Leo Housakos (Acting Leader of the Opposition): Just a clarification, government leader, for the record, we've been in discussions in regard to ministerial Question Period. Our side is very comfortable with the content of this motion. We want to verify that we will go back to the tradition of respecting the rule in this chamber that strangers who are not officially summoned senators cannot take a seat in the Senate. Thus, ministers of the Crown, like any witness when they come to the chamber, will be testifying and answering questions from senators from the witness dock. I just wanted to put that on the record that the government leader has acquiesced to that request.

Senator Gold: Yes. Thank you for your question, and for the opportunity to clarify.

That is exactly our understanding. It is the understanding, and shared with COPO, that ministers will sit in the aisle. As the motion indicates, neither the ministers nor senators questioning will be obliged to stand when asking or answering a question. That is the understanding.

The Hon. the Acting Speaker: Honourable senators, are you ready for the question?

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*Translation*]

FEDERAL FRAMEWORK ON AUTISM SPECTRUM DISORDER BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Housakos, seconded by the Honourable Senator Smith, for the second reading of Bill S-203, An Act respecting a federal framework on autism spectrum disorder.

Hon. Tony Loffreda: Honourable senators, today I rise as the critic for Bill S-203, An Act respecting a federal framework on autism spectrum disorder. I can assure you that I support Senator Housakos' bill and hope it will be passed. I would like to thank both Senator Housakos and Senator Boehm for their speeches last week. I think that, together, they showed us why we are in urgent need of a federal framework.

I'm here today as an ally of the community of people with autism spectrum disorder, not as a caregiver or person with direct, personal experience with people with autism. I know some of you have that kind of experience, and I hope we'll have a chance to hear from you.

[*English*]

Colleagues, as Senator Housakos pointed out last week, this bill would empower the Minister of Health to develop a federal framework on autism spectrum disorder in consultation with other cabinet ministers, representatives from provincial and territorial governments and relevant stakeholders from the medical, research and advocacy communities.

The bill requires that the framework address six key areas. They are: financial support for autistic persons and their families, including the establishment or expansion of tax benefits as required; support for caregivers of autistic persons; a national research network to promote research and improve data collection on autism spectrum disorder; a national public awareness campaign to enhance knowledge and understanding about autism spectrum disorder; an online resource on best practices to support autistic persons, their families and their caregivers; and mechanisms to ensure accountability in the use of federal funds for autistic persons and their families.

As you can see, the bill provides the minister with a roadmap on what the framework should include and is broad enough to allow for flexibility and originality. It is, by no means, too prescriptive. The bill also requires that the minister table the federal framework in both houses of Parliament within 18 months after the day on which S-203 receives Royal Assent.

I am also happy to see that the bill includes a five-year ministerial review. Upon completion of this review, the minister must table a report that sets out the measures from the framework that have been implemented, those that have yet to be implemented, and their effectiveness in supporting autistic persons, their families and caregivers.

As I've often said, you can't improve what you don't measure. If you collect data and if you assess performance, you are in a much better position to manage results, properly evaluate outcomes, and make appropriate changes and improvements moving forward.

As you know, there's been talk about establishing a national autism strategy for many years. There's been meetings. There's been funding. There's been proposals and blueprints. And yet, here we are today debating a bill that would legislate the creation of a federal framework on ASD.

Two months ago, the Canadian Autism Spectrum Disorder Alliance—CASDA, held its 7th Annual Canadian Autism Leadership Summit during which they reiterated their strong desire for the implementation of a strategy that would ensure that all autistic people living in Canada have full and equal access to the resources they require to achieve their full potential. As Senator Boehm pointed out, a national strategy could be created within the framework proposed in S-203.

As it was mentioned last week, there are many ASD advocates in this chamber. I would be remiss if I didn't acknowledge the work of our former colleague Senator Munson.

As for me, my involvement with the autistic community goes back more than 10 years, more than a decade ago, and it all started when our friend and colleague Senator Housakos introduced me to Giant Steps.

As he alluded to in his speech, for more than 40 years, Giant Steps has been offering second-to-none educational services to students aged 4 to 21 years old with autism spectrum disorders. I always refer to it as the Harvard of autism schools in Canada. It is truly a global leader in its field.

More than a decade ago, the school initially reached out to me in my capacity as a senior executive at RBC and because of my community involvement and philanthropic activities. At the time, most banking institutions were hesitant to invest in schools. It was always more difficult to secure financing. They and we wanted to change that. I can proudly say there has been considerable improvement on that front.

I was immediately touched by the struggles and hardships of families affected by ASD, the limited resources and the financial gaps in offering adequate services that are highly individualized, intensive and holistic.

One meeting — that's all it took for me to be fully onboard and committed to helping Giant Steps raise funds so it could properly expand its services and resources, share and adopt best practices, and increase awareness. For more than 10 years, and up until my appointment to the Senate, I've helped raised significant funds for Giant Steps.

I'm also happy to report, as mentioned by Senator Housakos last week, that Giant Steps also recently secured a $15-million grant from the Government of Québec and raised millions of dollars for a new, 67,000 square foot, cutting-edge facility in Montreal.

The Giant Steps Autism Centre will include a specialized school, a training centre for adults, a community resource centre and a research hub, all dedicated to the lifespan needs of people with autism. It has been designed to take into consideration the many perceptual differences and sensory challenges often facing people with autism.

One of the last fundraising events I chaired for the school was in June 2018 when I served as honorary president of the Formula 1 Grand Prix du Canada gala. "The Grand Evening," as we call it, raised funds for two groups dedicated to autism: Giant Steps and the Véro & Louis Foundation.

[*Translation*]

For those who may not be familiar with the Véro & Louis Foundation, it was founded in 2016 to advocate for long-term housing for adults with autism. The foundation's ultimate goal is to create homes for people with autism who are 21 years of age and older, with or without intellectual disabilities. The first house opened last spring in Varennes, a suburb of Montreal. The foundation is aiming high and hopes to build more such homes.

A multidisciplinary team of experts left nothing to chance in the design and construction of the house. Everything was carefully thought out. In an article published on June 10 in *La Presse*, Laila Maalouf wrote, and I quote:

> In this brand new building surrounded by green space and birdsong, next to newly built condos, everything exudes calm and serenity. The environment is subdued, specially designed to avoid any sensory stimulation that would disturb the well-being of the residents. Absolutely everything, down to the smallest detail, has been thought out and purposely designed with that in mind. The lighting is soft; the corners are rounded; the mirrors in the bathrooms can be covered up for those who prefer not to see their reflection; the white paint on the walls is combined with light-coloured wood to create a soothing effect . . . Even the stainless-steel countertops in the kitchen are matte to avoid any reverberation.

• (1640)

I felt the need to quote this excerpt from *La Presse* because it clearly shows the importance of research and best practices, two things that Bill S-203 seeks to do by establishing a national framework.

[*English*]

In many ways, I feel like knowledge and understanding will lead to awareness and acceptance. If we understand the difficulties and uniqueness of autism spectrum disorder, or ASD, we will have greater awareness and are in a better position to accept and embrace those differences — judgment free. One crucial piece of Bill S-203 is just that: a national public awareness campaign.

Before I wrap up, I want to share a story from Italy that goes to the heart of what this bill seeks to achieve: namely, the development and implementation of a federal framework that could provide autistic Canadians with assistance with respect to employment. Time and time again, we hear that individuals with ASD are often left to fend for themselves once they reach adulthood. Housing and employment are major barriers for many. The Véro & Louis Foundation is trying to fill that void by offering a home for autistic adults, but I want to briefly mention a wonderful success story from Milan, Italy, called PizzAut – not to be confused with Pizza Hut.

PizzAut is a new Italian pizzeria run by young adults with autism. It is a laboratory for social inclusion and a non-profit organization that offers work, training and, above all, dignity to people with autism. Each autistic person receives personalized training to become a pizza chef or a waiter. Each workspace and tool has been designed to help support them in their daily work. Taking orders, for example, could be a daunting task for some. Samsung stepped in and created the first app that allows autistic people to literally manage a restaurant. Everything was designed and engineered with the autistic person in mind. They were at the heart of its development. Autistic waiters get to work in a completely independent way.

What else could we ask for? We get to eat good pizza while doing some good, promoting diversity, embracing inclusiveness, creating a feeling of community and giving these young adults a sense of accomplishment and belonging — a sense of purpose. A sense of purpose is what we all want in life, and they deserve that too.

Let's not forget to mention that PizzAut has been a major hit since it opened its doors last spring. There's already talk about expanding the model, and why not? It's a brilliant idea: It's noble, inclusive and empowering. In fact, the city of Milan is honouring PizzAut today, December 7, with a certificate of Civic Merit as part of its Ambrogini d'Oro awards.

Over the years, I've met with board members of autistic schools, educators, parents closely affected by autism and other stakeholders to explore future employment possibilities for the autism community. I know there is some interest, and I've also met with potential investors looking into replicating the PizzAut model in Canada. In fact, they were the ones who approached me. That's how I became aware of the model. We all know how difficult it is for adults on the spectrum to secure employment in adulthood, so this is great news, and I see much potential for this initiative.

It's also worth pointing out that the finance and labour committee of the Italian Senate adopted an amendment to its tax law last week, endorsed by all parties, that would provide important tax and contribution reductions for innovative companies and start-ups that hire workers with autism spectrum disorder. This sends a strong signal to the business community that embracing diversity and giving ASD individuals employment opportunities will be rewarded. The amendment is not law yet but, as I understand it, success is just around the corner.

The big challenge is providing work for those with autism, and I was advised that people from PizzAut came looking for advice, asking if there was something we could do in the Senate to create a law similar to what they have in other countries — to encourage Canadian companies to hire those with ASD and to create a sense of community. We need a sense of community for the people who have autism and for adults especially — because the schools are great, but once they get to a certain age, they need more. This is what we have to create. I am confident that they will export that model elsewhere, and we will eventually have both purpose and work for adults with autism.

Honourable senators, as I conclude, I want to remind everyone that ASD affects 1 in 66 children and youth in Canada. We also know that a person with ASD may find it difficult to connect or interact with other people for a multitude of reasons. They could have difficulty communicating with others, find social situations intolerable or simply show little or no interest in a plethora of activities, subjects and hobbies. In my humble opinion, Bill S-203 can offer a glimpse of hope and encouragement to the ASD community, and particularly to parents and caregivers who need that hope and encouragement.

Last week, Senator Boehm reminded us that, like other parents of autistic individuals, he worries about the future and who will advocate for his son. I want to reassure you, Senator Boehm, and thank you and Senator Housakos for introducing the bill. I want to reassure you, senators, and the entire ASD community of my unending support and commitment. I will continue to advocate for greater resources, services and funding for the autistic community.

I hope our colleagues will join us on this quest, and I hope this bill can be sent to committee before the holidays so it can be given the attention it deserves. I have no doubt that the many stakeholders will welcome the opportunity to offer some insight on this bill, which is very important. Canada's ASD community is relying on us all to get this done, to get it done right and to get it done soon. Thank you.

Some Hon. Senators: Hear, hear.

(On motion of Senator Duncan, debate adjourned.)

[*Translation*]

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-207, An Act to change the name of the electoral district of Châteauguay—Lacolle.

He said: Honourable senators, I will not take as long as I did to talk about the bill on judicial discipline, which is a far more complex topic than the one I will speak to now for a few minutes.

Honourable senators, today I am pleased to undertake second reading of Bill S-207, An Act to change the name of the electoral district of Châteauguay—Lacolle.

This little bill has two short clauses and would finally act on the will of the House of Commons, which in 2018 passed a private member's bill that had been introduced by MP Brenda Shanahan in 2017 to fix an error made in 2013 by the Federal Electoral Boundaries Commission for the Province of Quebec that has since been criticized by constituents in my senatorial division, De Lorimier.

Unfortunately, after being introduced in the Senate by our former colleague, Senator André Pratte, this bill died on the Order Paper in June 2019 while being considered by the Legal and Constitutional Affairs Committee, to which it had been referred seven months earlier on November 22, 2018.

• (1650)

The members in the other place fixed this error more than three years ago, but the Senate did not.

Allow me to explain this error by providing some historical context on the Senate division of De Lorimier, which I am honoured to represent in the Senate.

As you all know, in 1867, Quebec, known then as Lower Canada or Canada East, was divided into 24 electoral divisions with precise geographical boundaries, much like the 54 ridings at the time. This was done to facilitate the election of senators and is not seen elsewhere in Canada.

[*English*]

As you may know, the parliament of the Province of Canada, created by the Union Act of 1840, had two houses: the legislative assembly and the legislative council. The latter was the upper house of the united parliament. In 1854, in response to a request from Canadians, the British Parliament adopted a bill that authorized the election of the legislative councillors, and in 1856, implementation legislation was passed by the parliament of the Province of Canada. Pursuant to this legislation, the new members of the legislative council were to be elected for eight-year terms from 48 divisions: 24 in Upper Canada and 24 in Lower Canada. Twelve members were elected every two years from 1856 to 1862. As you know, Sir John A. Macdonald and Sir George-Étienne Cartier were not very keen on having elected senators. They thought this would be detrimental to the status of elected MPs. Of note, since 1914 — since the ratification of the seventeenth amendment in the U.S. — all U.S. senators have been chosen by direct popular election. This resulted in a transformation of the relationship between the U.S. Senate and the House of Representatives. That has resulted in the real power being in the Senate.

In Canada, to avoid upsetting the elected members of the then upper house of the united parliament, Sir John A. Macdonald wisely suggested to the Crown in 1867 that they appoint nearly all of them to the new Canadian Senate.

In other words, most of the first senators appointed to this chamber had been previously elected. This could be of interest to those who were recently elected by Albertans to represent them in this chamber and now wish to submit their names to the advisory committee on Senate appointments, in order to be considered for appointment to the Senate. In their letter, they should refer to the 1867 precedent.

[*Translation*]

The 24 senatorial divisions in Quebec correspond to the 24 divisions created to elect 24 councillors to the legislative council in 1856. In accordance with section 22 of the Constitution Act, 1867, even today, Quebec senators are appointed for each one of these 24 divisions, unlike the situation in Ontario. Because Quebec's area has increased since 1856, part of modern Quebec does not have Senate representation.

At present, my Senate division includes three electoral ridings: Saint-Jean, Châteauguay—Lacolle and Salaberry—Suroît.

Additionally, in my beautiful Senate division, there are three places with the name Lacolle: the municipality of Lacolle, the site of two battles that took place during the War of 1812, with a population of about 3,000; the municipality of Saint-Bernard-de-Lacolle, with a population of 1,600; and one of the busiest border crossings in the country, Saint-Bernard-de-Lacolle, which is located a few kilometres from an equally well-known crossing, Roxham Road, which is used by people wanting to illegally enter Canada to claim political asylum or for family reunification purposes without being turned away as they would be at a regular border crossing.

The two municipalities, both proud of their distinct history and their current circumstances, are located just 11 kilometres apart and near the border with the state of New York. In the minds of people from outside the region, there has always been some confusion between these two municipalities.

What is more, most people who cross the border into the United States, and even the media, refer to the customs station in Saint-Bernard-de-Lacolle as the Lacolle border crossing.

The confusion was compounded in 2013 when the redrawn federal riding in my senatorial division was named Châteauguay —Lacolle.

Châteauguay is the main municipality in the area, so it is only natural that it would be part of the name of the riding represented by Ms. Shanahan, who was first elected in 2015 and has since been re-elected twice, including this October, with a slim majority of 12 votes following a judicial recount that ousted an adversary who had been declared the winner on election night.

However, the municipality of Lacolle is not part of that riding, so adding it to the riding name is a mistake. That municipality is actually located in the adjacent riding of Saint-Jean, which has been represented since 2019 by MP Christine Normandin, a respected lawyer I have had the pleasure of collaborating with.

In other words, the commission responsible for electoral redistribution in 2013 made a mistake when it added the "Lacolle." The new riding could have been called Châteauguay—Saint-Bernard-de-Lacolle, but not Châteauguay—Lacolle.

The members who reviewed the commission's work missed this mistake at the time. People in my senatorial division did pick up on it, however. The people of Lacolle, Saint-Bernard-de-Lacolle and other parts of my division reported the mistake to the candidates running in the 2015, 2019 and 2021 elections.

In fact, during the 2015 election campaign, Ms. Shanahan committed to changing the riding name. Once she was elected, she introduced a bill in the other place to change the name Châteauguay—Lacolle to Châteauguay—Les Jardins-de-Napierville. This bill, Bill C-377, was adopted.

This new name emerged from extensive discussions with residents, mayors and regional stakeholders. The name Châteauguay—Les Jardins-de-Napierville was a logical and meaningful choice for several reasons.

First, Jardins-de-Napierville is the name of the RCM, or regional county municipality, that includes 9 of the 15 municipalities in the riding called "Châteauguay—Lacolle."

Second, the largest city, Châteauguay, is on the northwestern edge of the riding, while the Jardins-de-Napierville RCM includes the nine municipalities in the southeastern part of the riding.

Third, the Jardins-de-Napierville RCM, whose beauty is reflected in the word "jardins," meaning gardens, is Quebec's top market gardening region, for which it has earned quite a reputation as well as a prominent place on Quebecers' dinner plates.

Fourth, the name Châteauguay—Les Jardins-de-Napierville reflects the part urban, part rural character of the riding.

In short, the name proposed in the 2016 bill is uncontroversial. Quite the opposite: All the mayors in the region support the name change, and several hundred people even signed a petition urging us to pass the bill in 2017.

Lastly, the name "Châteauguay—Les Jardins-de-Napierville" meets all the technical criteria set by Elections Canada.

In May 2018, Ms. Shanahan's Bill C-377 was introduced in the Senate, sponsored by our former colleague André Pratte. Well aware of the situation, Senators Pratte, Dawson and Carignan rose in this chamber on behalf of the three groups represented in the Senate and spoke in favour of the bill at second reading stage. No one spoke against it.

• (1700)

However, the bill was only passed by the Senate at second reading stage on November 22, 2018, and was then referred to the Legal and Constitutional Affairs Committee for what we hoped would be a short, quick study.

Unfortunately, as this was a private member's bill and not a government bill, it could not be studied by the Legal and Constitutional Affairs Committee in the seven months that followed, because the committee was very busy studying government bills, including the numerous amendments to the Access to Information Act and the Criminal Code, as honourable senators will recall.

Today I propose that we finish the work that was interrupted in June 2019 by referring this bill to the Legal and Constitutional Affairs Committee, which could quickly proceed to a study that I believe will be rather short.

Having said that, some may wonder if it is still necessary to correct the mistake made in 2013, now that we have electoral boundaries commissions, which fulfill the constitutional obligation to review riding boundaries after every 10-year census.

The redistribution process defined in the Electoral Boundaries Readjustment Act could lead to changes in the boundaries of three ridings in my Senate division and possibly new designations. To answer this legitimate question, I have to point out several things.

First, the boundaries commissions will start their work in mid-February 2022, when Statistics Canada publishes the population numbers from the 2021 census. Then there will be the publication of a proposal on electoral boundaries for each province, prepared by the relevant boundaries commission. Next, there will be public hearings and reports that should be submitted to the Speaker of the House of Commons around mid-December 2022, although that deadline could be extended by two months. The reports will therefore be sent to the House of Commons toward the end of 2022 or the beginning of 2023.

These reports will then be referred to a House of Commons committee, where objections signed by at least 10 members may be filed within 30 days. The committee then has to study the objections received in the 30-day period and draft a report that will be transmitted to the relevant boundaries commissions.

So ends the parliamentary phase set out in the legislation, while adding at least two months to the process.

It will then be up to each of the commissions that received objections to determine if there is good reason to change the boundaries or names of ridings before submitting a final report to the Speaker of the House of Commons, care of the Chief Electoral Officer. That step should be completed in May or June 2023.

The Chief Electoral Officer will then prepare a representation order describing the electoral districts established by the commissions and send it to the government, which is supposed to pass an order-in-council within five days of receipt. This step should be completed in September 2023 or the month after.

Lastly, pursuant to the act, the order-in-council will become effective on the first dissolution of Parliament that occurs at least seven months after the date fixed by the proclamation, which would be April 2024 at the earliest, or possibly May or June 2024.

In short, Canada's new electoral map, including the boundaries and designations of the 342 ridings, 77 of them in Quebec, not 78 anymore, would not apply until a general election called after April or May 2024 at the earliest.

Had the October 2021 election produced a majority government, we might conclude that there's no point fixing the historical error in the name of the riding represented by Brenda Shanahan. However, she says her bill is still necessary.

Indeed, the probability that the constituents in the federal riding of Châteauguay—Lacolle will return to the polls in a general election called before April or May 2024 cannot be ruled out.

In that situation, voters should not be asked to vote again to elect a member of Parliament who will represent a misnamed riding for a few more years. In short, it would be wise to finally pass this bill, and I urge everyone to do so as soon as possible.

Thank you. *Meegwetch*.

[*English*]

Hon. Dennis Glen Patterson: May I ask a question?

Senator Dalphond: Yes, with pleasure.

Senator Patterson: Senator Dalphond, thank you for the enlightening reasons for this bill in which you describe the history of the districts in Quebec assigned to senators. I would like to ask you, Senator Dalphond, do you believe that the senatorial districts in Quebec are historical anomalies not consistent with the modern democratic and much larger province of Quebec?

Senator Dalphond: Thank you, Senator Patterson, for this very interesting and excellent question. I know you are one of those in this place who have been looking seriously at this qualification criteria of senators and the necessity to have property in specific provinces, a phenomenon which in Quebec has been increased significantly by this provision of the Constitution Act that says any senator from Quebec must reside or own property within the limits of the electoral divisions. It's called electoral divisions, not even senatorial divisions. The 24 electoral divisions have existed since 1856.

You're absolutely right that the 24 senators from Quebec must own property, but we must own property in a specific part of the province or reside in that specific part, which is not the case for most of us because we reside most likely in another part of the province.

Also, as you pointed out very rightly, it leads to a kind of absurdity. The province of Lower Canada, in 1856, was located on both sides of the St. Lawrence River going up to the gulf. After that, federal territories were ceded to the province of Quebec, including the whole northern part of Quebec. So you have about two thirds of provincial superficies with no senators. That map and these divisions correspond to a province that does not exist anymore.

I certainly support your attempt and your motion to try to initiate a constitutional amendment to change that, and certainly — unfortunately for Quebec — this is part of the historical compromise and will require not only that this Parliament modify the Constitution, but also that the Quebec National Assembly agrees to abolish these 24 divisions, which represent only about one third of the surface of Quebec and exclude all of the First Nations that are located in the rest of that province.

Fortunately, we can still have representatives of the First Nations in this house, but they are appointed for a division which is not necessarily the natural fit for their belonging. That's something that should be corrected. Certainly, I agree with you.

Senator Patterson: Thank you.

[*Translation*]

Hon. Michèle Audette: Thank you, Senator Dalphond, for your speech and for sponsoring this bill.

Knowing that this territory has been and continues to be inhabited by the Kanien'kehá:ka, the Mohawk people, were the nation and its members consulted in this process of exchange and consultation, so as to include the richness of the Indigenous languages that are still alive?

• (1710)

Senator Dalphond: Thank you, Senator Audette, for that excellent question. From what I understand, even though I am neither a historian nor an expert, and forgive me if I am wrong, but of the three ridings in my division, the Salaberry—Suroît riding is the one that corresponds most closely to the Mohawk territory in relation to Châteauguay—Lacolle. While Châteauguay is in the top part, the rest of the territory is located further down, towards the Saint-Jean River.

Senator Audette: Does that mean we can invite all these important voices to the table, to see how we can change or improve the name of the riding? As I am new to the Senate, I would like to ask the question.

Senator Dalphond: I wasn't directly involved in the consultations held with officials from the Jardins-de-Napierville RCM. I don't know exactly who was consulted, other than the mayors and all the other interested parties. I couldn't tell you any more than that, and I apologize, but I will put this question to Ms. Shanahan.

Hon. Jean-Guy Dagenais: Further to Senator Patterson's question and regarding the situation of senators who have senatorial districts in Quebec, don't you find this situation discriminatory, because it requires us to own property? It's the only province in Canada where this is required. Not only that, but the property must be worth more than $4,000. Couldn't we use the opportunity of your bill being introduced to study that? I realize that it can be quite complicated to amend the Constitution. I just think this situation is discriminatory toward Quebec senators.

Senator Dalphond: My bill is quite modest and simple. It seeks to remove one word and replace it with three others. It does not seek to amend the Constitution or settle historical debates and historical injustices. I am sorry. It is a modest bill that I am introducing here on behalf of Ms. Shanahan, the member of Parliament. I am pleased that we are taking this opportunity to discuss more important aspects that deserve to be studied and considered in due course.

The answer should come from Senator Patterson. His bill would do this by abolishing the real property qualification, which is essentially obsolete, but I must add that Quebec needs to participate in this exercise.

I know that we may be called upon to amend the 1867 Constitution in response to a request from the National Assembly if Bill 96 passes. Maybe then we could talk more about the Constitution and take the opportunity to talk about other things, but for now, that goes beyond my bill, Senator Dagenais, and I would not want us to get into all that with my bill.

(On motion of Senator Martin, debate adjourned.)

[*English*]

PROTECTING YOUNG PERSONS FROM EXPOSURE TO PORNOGRAPHY BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Miville-Dechêne, seconded by the Honourable Senator McCallum, for the second reading of Bill S-210, An Act to restrict young persons' online access to sexually explicit material.

Hon. Mary Jane McCallum: Honourable senators, I rise today to speak to Bill S-210, An Act to restrict young persons' online access to sexually explicit material. I want to thank Senator Miville-Dechêne as this bill's sponsor for her important work on this matter.

This is a timely and much needed piece of legislation as there is an insidious relationship that exists between pornography and human trafficking. The catalyst of this relationship is the dangerous consumption of pornography by males/females that can lead those individuals to seek to fulfill their own desires through unsavoury means. These unsavoury means include human trafficking, a horrific activity that captures countless Indigenous girls and women in its clutches.

We must address the issue of pornography through an upstream form of intervention, such as Bill S-210. If we fail to do so, the supply-and-demand relationship of sex trafficking wherein porn is one root cause will continue to drive this process of violence and abuse. When the previous Bill C-45 on marijuana legalization was passed, one of our senators asked a gang member what the gangs would do now that this would decrease their revenue. Their response was: We're not worried. Sex trafficking does not require the upkeep that marijuana does. One trafficker will bring in $250,000 per year with very little upkeep.

Honourable senators, I want to acknowledge our colleague Dr. Yvonne Boyer and Peggy Kampouris who published a May 2014 report entitled Trafficking of Aboriginal Women and Girls. Most of the material I will bring forth comes from that research report.

The United Nations Office on Drugs and Crime defines human trafficking as any situation in which:

> . . . force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control . . .

— are used to exploit another person. If any of these qualifiers are present, it's human trafficking.

In the article Unequal Communities: Exploring the Relationship between Colonialism, Patriarchy and the Marginalization of Aboriginal Women by Jessica Stark, she states:

> Since the entrenchment of the Indian Act, the Canadian state has subjected First Nation communities to a lifestyle of dependency where they have been forced to accept and internalize its colonial and patriarchal components. . . . Studies have found women to be particularly vulnerable to this oppression.

Honourable senators, the Indian Act constructed areas of marginalization and vulnerability for First Nations, and these have become the breeding ground for further abuse, including trafficking.

In her 2016 article, Red Intersectionality and Violence-informed Witnessing Praxis, author Natalie Clark speaks on the "emergent diversity of Indigenous girlhood" and the "construction of Indigenous girls through the Indian Act." She states:

> Red intersectionality . . . helps us to understand and address violence against Indigenous girls since it foregrounds context, which in Canada's case has to include gendered forms of colonialism, and the dispossession of Indigenous lands.

She continues:

> Applying a Red intersectional analysis to trauma and girls requires us to consider how the so-called trauma industry —

— including residential school —

> — has continued a colonial legacy of labeling and pathologizing Indigenous girls that manages their behaviour through criminalization, medication, and talk therapy programs which ultimately serve "to reinforce a sense of powerlessness and undermine women's ability-to-to resist."

In relation to this, Senator Dr. Yvonne Boyer and Peggy Kampouris state:

> This study found that sexual exploitation and human trafficking does not occur in isolation but does occur through a number of pathways due to a myriad of related socialeconomic determinants. Family members, gangs and friends recruit through different types of financial and psychological coercion, as well as physical violence. It is because Aboriginal women and girls are subject to poverty, low self-esteem, addictions, mental health issues and poor health, that they are particularly vulnerable to becoming the victims of human trafficking for the purposes of sexual exploitation.

• (1720)

Honourable senators, one of the consequences of pornography addiction is that it creates the demand that leads people to perpetuate sex trafficking. How have we ended up in a world where certain people can connect to make a pathway from the world of porn addiction to sex trafficking? This linkage sees the vulnerable child, girl or woman as a possible source of money and exploitation. Why has society created and sustained this world of vulnerability and abuse? Simply put, sex trafficking is one of the most unjust and horrific consequences of porn consumption.

How does this process of trafficking start? Who is targeted and how are they groomed, whether they are seekers of porn on the internet or vulnerable young people who have no stability, security or protection, such as children in care or Indigenous women and girls?

Just as dehumanizing behaviours in domestic violence normalizes dominance, violence, abuse and objectification, there is also a connection to these acts to love, relationship and intimacy. The intertwining of such varied emotions sets the stage for eventual acceptance of violence and aggression in relationships as normal. The presence of domestic violence causes women, children and men to live under threat.

Honourable senators, when is porn no longer enough, and how do trafficked women and girls get involved with traffickers? In the study noted above, a law enforcement participant clarified that:

> . . . the pimps are "street level pimps" who subject Aboriginal women and girls to a systemic process of "baiting, grooming, conning and exploitation that often turns into violence and brutality."

The study goes on to say pimps often provide drugs and alcohol and:

> . . . get the victim hooked on opiates so the victim is more easily controlled and then dependent upon the drug and the pimp.

The study also states:

> . . . there is always a connection to residential schools in the past . . . This subject matter expert considers the fact that girls and women have had a relative in residential schools as an indicator of vulnerability and a marker of high risk of being trafficked. . . . the recruitment of victims of trafficking in Aboriginal communities is often done by girls who have previously been recruited. For instance, the Children's Aid Society, young offender centres and group homes, often provide venues for older girls to recruit younger girls connected to them in a family or kinship sense.

Honourable senators, what are the compounding effects and consequences of porn and human trafficking? This activity causes destruction to the lives of those exploited and their families, the costs of which can be linked to the inadequate resources of police enforcement to deal with trafficking as well as the inability of prosecutors and judges to adequately address those issues related to porn and trafficking.

A support agency in Alberta observed that very few of the Aboriginal human trafficking cases that have come to their attention have gone to the court or entered the legal system, stating:

> The needs of Aboriginal women and girls who have been, or are being, sexually exploited, go beyond what most support agencies can provide. . . . In addition to immediate medical care, trauma and/or addictions counselling, victimized women and girls often require safe housing, education, additional life skills, sustainable work, mental health supports, culturally-appropriate and safe health care and a coordinated and complete approach to service delivery.

There was exposure to violence from pimps:

> . . . who, over the years, had burned their feet, broken their nose, beaten them with an untwisted coat hanger, broken their fingers and jumped on their pregnant abdomen to cause miscarriages. . . . They also noted that one way the pimp had control over them was by controlling their menstrual cycle by directing them to use of birth control pills so they could continue working.

Further:

> Physical and mental abuse are routine occurrences . . . Vivid descriptions were provided by one subject matter expert, "Men want to act out what they have seen in the porn industry. The women and girls are tortured, drugged, mentally abused, tied up, pregnant, forced to have abortions, electrocuted, starved, and live in bad conditions. They are cut, raped and raped with objects, they are suffocated and forced to watch violence."

According to the research:

> A number of participants believed that the trafficking of Aboriginal women and girls was part of a wider "Canadian crisis."

Honourable senators, another troubling piece of research on the reality of human trafficking of Indigenous girls and women surrounds the Aboriginal Custom Adoption Recognition Act in Nunavut. This law recognizes the custom of adoption where children move between families and extended families more fluidly.

According to one subject matter expert:

> . . . there are a large number of Inuit babies and children being adopted out of Nunavut, stating that "babies are a valuable commodity." . . . This subject matter expert also recalled that they believe that, "at last count, 100 babies have been sent out of the territories to non-Inuit families."

It was cautioned, though:

> that once predators (pedophiles, johns, or pimps) become (if they are not already) aware of easy access to children, this could pose a potential problem. . . . A support organization in Nunavut also identified a potential link between adoptions in Nunavut and the vulnerability for children —

— including infants —

> — to be trafficked.

This adoption out of community resembles the Sixties Scoop where Indigenous children were adopted out to White families. In the United States and Canada, many of these children were sexually abused.

Honourable senators, participants in this aforementioned study identified human trafficking as a ghost crime, adding that people do not report this type of crime.

A police officer in B.C. was quoted as saying:

> "A number of years ago, when I did investigate files, in hindsight, I should have been laying human trafficking charges, but I wasn't aware of the subject at the time."

A southern Ontario officer stated "Human trafficking is far more prevalent than people realize. . . . It will become more prevalent because of social media."

An officer from a western province noted "As Police, we're standing on the tracks and can see it coming for many years."

Honourable senators, every young child has the right to live a life unmarred by violence. Indigenous children, through residential school, day schools and the Sixties Scoop which are all forms of human extraction from their natural habitat and consequent institutionalization and based on the same concepts of human trafficking: assimilation, grooming and economic benefit.

These young children had lost their right to a life unmarred by violence, and that loss must never be forgotten. It should also be enough of a catalyst to prompt an immediate resolution before more Indigenous women and girls fall prey to this unspeakable activity.

As Senator Miville-Dechêne stated in her November 24 media release:

> Parents and pediatricians are asking for help and it is high time parliamentarians supported them. It is about the protection and safety of our young people.

• (1730)

Colleagues, we, as parliamentarians, should do all we can in working towards a resolution of the issue of sex trafficking. A first step to this is beginning to break the link that exists between pornography and human trafficking, which Bill S-210 will do.

The Hon. the Speaker: I'm sorry for interrupting you, Senator McCallum, but your time has expired. Are you asking for five more minutes to finish?

Senator McCallum: Yes, please.

The Hon. the Speaker: If anyone is opposed to leave, please say "no." Leave is granted.

Senator McCallum: Honourable senators, I urge you to stand with me in support of this critical legislation. Thank you.

(On motion of Senator Martin, debate adjourned.)

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Forest, for the second reading of Bill S-213, An Act to amend the Criminal Code (independence of the judiciary).

Hon. Rosemary Moodie: Honourable senators, I rise today to speak to Bill S-213, An Act to amend the Criminal Code (independence of the judiciary), a bill that amends the Criminal Code to give judges more discretion not to impose minimum sentences when they consider it just and reasonable.

I would like to begin by thanking my honourable colleague Senator Mobina Jaffer for reintroducing this bill in our new parliamentary session. This bill has been a long-term project of the office of the Honourable Kim Pate since the Forty-second Parliament, and I know Senator Jaffer is the perfect champion to continue this initiative. We owe a debt of gratitude to both of these experienced and dedicated leaders who continue to push for a more just, equitable and inclusive Canada.

Bill S-213 is an essential step forward for our justice system because it addresses the need to restore judicial discretion to our legal system after years of regressive reform. I support the bill because it addresses the human and social costs of imposing mandatory minimum sentences.

Colleagues, as I have said before, we have available to us the results of decades of research, and the evidence is clear: Mandatory minimum sentences do not deter crime, do not reduce recidivism rates, and do not make our communities safer.

Honourable senators, let us discuss and consider this evidence. We can recall that the Supreme Court of Canada, as well as numerous judicial bodies, commissions, parliamentary committees and organizations, have all concluded that mandatory minimum sentences do not deter crime.

We must consider that Canadians are broadly supportive of judicial independence in sentencing. The Department of Justice found in 2018 that Canadians are not supportive of mandatory minimums and prefer a more individualized approach to sentencing. Seventy-seven per cent of Canadians believe, in principle, that applying the same minimum sentence to all offenders convicted of the same crime is not fair or appropriate, and only 16% of Canadians believe that mandatory minimums lead to fair sentencing. Moreover, 90% of Canadians believe that judges should have the flexibility to impose a sentence less than mandatory minimum penalties where reasonable and appropriate, and that they make the best decisions based on the individual elements of a case. Simply put, the plurality of Canadians think that flexibility in sentencing would better address the root causes of crime and make our communities safer by deterring future crime.

Honourable senators, Bill S-213 addresses a significant concern in our judicial system because it brings back into our focus the person, their circumstances and their perspective. In our current system, judges cannot develop a fair sentence based on the individual's specific circumstances and must impose minimum penalties. However, this system is blind to the implications of the constraint because it is blind to the human, social and financial costs of imposing mandatory minimum sentences.

So, colleagues, what are these costs?

First, we must consider the well-documented systemic racism that is pervasive within our institutions and how Bill S-213 would help address some of the institutional racial inequities in our justice system.

We know that Black and Indigenous offenders are overrepresented in admissions to federal custody. According to data provided by Justice Canada, in 2017, 2.9% of the total Canadian population identified as Black, 4.3% as Indigenous, and 16.2% as other visible minorities. Over a 10-year study period between the fiscal years 2007 and 2017, Indigenous offenders comprised 23% of the federal offender population at admission, while Blacks and other visible minorities comprised about 9% each.

Honourable senators, let us dig deeper into the statistics. Over the 10-year period that Justice Canada considered, the department found that Black and other visible minority offenders were more likely to be admitted to federal custody for an offence punishable by a mandatory minimum penalty. Almost 39% of Black offenders were admitted with a conviction for an offence punishable by a mandatory minimum penalty. For other visible minorities, the rate was about 48%. Not only are visible minorities overrepresented in federal custody, but they are also more likely to be there under a mandatory minimum penalty.

In a statement by the Parliamentary Black Caucus in 2020, BIPOC parliamentarians and civil society came together to speak to this well-documented over-policing and over-incarceration of Black and Indigenous Canadians. Through careful consultation and research, this caucus called for reforms to the justice systems that perpetuate anti-Black racism and systemic bias, specifically through measures like eliminating mandatory minimum sentencing measures.

Beyond the impact on sentencing, mandatory minimum penalties hurt Canadian families, and specifically our children and youth.

A new report published by Campaign 2000 confirmed that one in five children, or 17.7%, lived in poverty in 2019. They note that at this pace, it would take 54 years, or more, to end child poverty. This rate is even higher among racialized and immigrant communities. Even more alarming is that we do not yet have the data to understand the impact of the pandemic, and we continue to observe the widening gaps that have characterized systemic inequities during COVID.

This high poverty rate is of concern, as research demonstrates that poverty has a lifelong impact on educational and occupational opportunities, as well as on the chances for meaningful engagement in society. Moreover, the inequities that arise from poverty can propel vulnerable youth into increased involvement in the criminal justice system as they transition into adulthood. While research is ongoing on how this correlation may contribute to incarceration statistics down the line, it is clear that continuing to rely on mandatory minimum sentencing will continually fail to consider the context and individual circumstances that have led to these offences and perhaps higher rates of future crime.

• (1740)

In fact, in another study conducted by the Department of Justice in 2018, young people noted themselves that two of the essential factors judges should be considering in fair and equitable sentencing are personal circumstances and the history of the accused person. Those who believed in providing flexibility for judges to offer sentencing less than the stated mandatory minimum penalty thought that there are too many personal and contextual circumstances that mandatory minimums do not take into account and could further criminalize vulnerable people. They argued that the criminal justice system should be searching for ways to heal people. This, senators, shows us that the younger generation is searching for a more just, fair and equitable justice system that is responsive to the circumstances of both youth and adults.

Honourable senators, the effects of mandatory minimum sentencing are undeniable and tell a narrative of a system failing to provide justice to Canadians. Our research shows a story of a justice system where racial and ethnic minorities, children and youth are disproportionately represented and affected.

It paints a disturbing picture of systemic inequities that may contribute to increased chances of future crime. It showcases a justice system relying on outdated practices that do not make us safer, do not deter crime and do not decrease recidivism. While criminal reform is a longer and more complex process, we can move it one step forward by passing Bill S-213 and giving our judiciary the ability to exercise discretion in mandatory sentencing to address some of the system's challenges.

Judicial discretion would allow for the consideration of the impact of incarceration on dependent children and other sectors of our society. Judicial discretion would also give room for the review of reduced or delayed sentencing, where appropriate, and in situations where significant harm could result, such as for dependent children. For this reason, today I stand in support of Bill S-213, which allows our judiciary to move away from mandatory minimum sentencing, where appropriate.

To conclude, I would like to again thank Senator Pate for your leadership and tireless work in starting this journey of reform, and to Senator Jaffer for sponsoring this bill and marching us onward. I would also encourage you, senators, to give serious consideration to the disproportionate impact of mandatory minimum sentences on children and youth in your communities as you consider how to vote on Bill S-213.

Thank you.

Some Hon. Senators: Hear, hear.

The Hon. the Speaker: Senator Moodie, would you take a question? You have two minutes.

Senator Moodie: I would, yes.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: Senator, if I understood you correctly, you stated in your speech that most of the population wants minimum sentences to be abolished and wants to let judges have full discretion when sentencing persons convicted of assaulting children, abusing minors or spousal abuse. What studies are you referring to when making this statement?

[*English*]

Senator Moodie: Senator Boisvenu, I'm referring to past studies — and I'm not going to be specific because I don't have it in front of me but I can get back to you — that have been done polling Canadians on this matter and that have gathered this information. I can find out that information and send it to you. It's not here on my sheet of paper.

[*Translation*]

Senator Boisvenu: Senator, to lend credibility to your arguments and to this bill, when stating that the majority of Canadians are in favour of a given measure, should you not be citing the study, author and page where these facts are found?

[*English*]

Senator Moodie: Certainly, Senator Boisvenu, that would be the case. But in really heavily evidence-driven conversation like I just presented, I would spend a lot of my time, more than half of my speech, referring to sources. I can provide that to you and the clerks if that is useful, but I don't think it was valuable to our time here to be referring back to bibliographies.

(On motion of Senator Martin, debate adjourned.)

FROZEN ASSETS REPURPOSING BILL

SECOND READING—DEBATE

Hon. Ratna Omidvar moved second reading of Bill S-217, An Act respecting the repurposing of certain seized, frozen or sequestrated assets.

She said: Honourable senators, I rise today to speak to Bill S-217, An Act respecting the repurposing of certain seized, frozen or sequestrated assets, which I will refer to as FARA. I have tabled this bill twice and I hope the third time works like a charm. I find myself again battling the dinner clock and I will try my best to bring it in under.

Before I begin to share the details of this bill with you, I would like to thank the institution that has come up with this proposal and it is the World Refugee & Migration Council, which has tasked itself to be a catalyst, catalytic, to think of out-of-the-box solutions and face some of the most significant crises in the world today, which is the crisis of the forcibly displaced people of the world, those who flee their countries for safety and those who are internally displaced because they cannot flee their country. I am a very proud member of this council along with noted academics, former heads of state, former ministers, Nobel Peace Prize winners and activists.

I would also like to take a moment to thank our colleague, former senator Raynell Andreychuk. As we all know, she was the one who shepherded the Magnitsky Act through this chamber, through the House of Commons and it was called into law. This bill rests on her shoulders and builds on it.

In addition, in the last election this proposal was included in the policy platform of the Conservative Party, as they recognized that it is one key way of dealing with corruption. The Liberal Party platform of 2018 also included it in their platform and, in fact, this was in the mandate letter of then foreign minister, global affairs Minister Champagne. If FARA is called into law, Canada will be able to seize the frozen assets of corrupt foreign officials held in Canada through court order and repurpose them back to alleviate the suffering of the people who have been harmed most by their action. In this way, it squares the circle.

Why is this important? For one, the world is facing a forced displacement calamity; there are over 82 million people affected around the world. Half of them, colleagues, are children who have fled their homes because of armed conflict, violence, persecution and human rights abuses. This is the second-highest number of the forcibly displaced since the Second World War and the numbers continue to rise daily. This has created a significant strain, especially on those jurisdictions that border the places they came from, and they themselves are challenged to meet the needs of their own citizens, let alone thousands of arriving refugees.

• (1750)

Colleagues, I speak to this partly from personal experience. As someone who had to make the decision to leave a country and a home in the middle of the night, a decision to flee is never an easy one. It is fraught with peril and, frankly, it paralyzes you with fear. I can still remember what it was like to cross the border from Iran into Turkey in 1981. I can still smell the fear that was pervasive in the room that we were being processed through. It was our fear, of course, but there was also the fear that I sensed in the Revolutionary Guards who were surrounding us. Here is the difference, however: They were barely 14 or 15 years old, but they had weapons and bayonets. I think we all recognized what a toxic combination fear and weapons can be.

I shared this story with you once again, colleagues, because I want you — I need you — to walk in the shoes of those people and feel their fear, loss and helplessness.

Of course, I'm one of the lucky ones. I was able to come to Canada, and I have had a productive life with my family. That is not always the case for the people who are forced to flee. The displaced people of the day live in squalor. There is little food. Fresh water is scarce. Disease and danger lurks everywhere. Sex and human trafficking are growth industries in such settlements.

Resettlement, an option that Canada is rightfully proud of, only applies to a slim 10% of the world's refugee population. It is countries like Bangladesh, with the Rohingya refugees; Uganda, with the South Sudanese; or Colombia, with the Venezuelans that are most at risk. Now it is true for Pakistan, with the Afghan refugees. All have opened their doors to let people in, some more than others, but let's not forget that it has put an enormous strain on them, their communities, their economies and their social fabric.

In addition, let me note that forced displacement is no longer a temporary phenomenon; on average, it lasts 20 years — whole generations of human beings knowing nothing more than living a protracted existence on the margins.

Clearly, we need more money, but money for refugees is hard to come by. There is simply not enough money in the system. The UNHCR, as one example, is only ever able to reach 60% of its annual budget. These are not just numbers but lives at risk.

Yet there's a whole lot of corrupt money floating around. Anyone who has read the news about the Paradise Papers, the Pandora Papers and the Panama Papers know that corruption is a growth industry. The World Bank estimates that $20 billion to $40 billion in development assistance money is stolen by public officials every year. According to the United Nations Secretary-General, embezzlement, tax-dodging, bribes and payoffs worldwide cost roughly $3.6 trillion every year.

Even more pertinently, it is estimated that corrupt leaders of countries with large populations of refugees have deposited billions of dollars in cash and assets in foreign jurisdictions. It is reasonable to assume — in fact, it is reasonable to be certain — that some of this money is parked right here in Canada because of our reputation as a country with good financial governance.

So how would this bill work? As I noted, Canada already has a number of sanction regimes that permit us to freeze the assets of corrupt foreign officials. The decision on whether to take the next step and seek a court order for confiscation, which would repurpose the assets back to the victims, would be made exclusively by the Attorney General of Canada. Only the Attorney General or someone with the AG's consent could make an application to a provincial superior court.

How would the AG come to this decision? The AG would act on behalf of the government as a whole. They would no doubt confer with their colleagues, including the Minister of Global Affairs. They would be informed by reports and documents, and by lists of frozen assets that are already there from other reputable sources, such as journalists, academics, fact-finding missions, et cetera.

The AG would then make an application to the court. The court would then decide, based on evidence, if the confiscation should proceed. The court would give notice, hear witnesses and weigh evidence, including from representatives of foreign officials. The court would make a decision based on the balance of evidence.

If the court decides that confiscation should proceed, then it would also, in the ruling, set out the criteria and the plan for the distribution of the assets. The court would decide to whom and how the assets should be distributed. Should they go back to the country of origin? Should they go to the UNHCR, Doctors Without Borders or the World Bank? Should they go to the neighbouring country that is dealing with the massive influx of refugees?

The court would also decide on the means to monitor the implementation of the order, thus providing accountability and transparency.

Let me play this out in real life. Canada has already frozen the assets of military generals in Myanmar who have committed genocide against the Rohingya and forced a million people to flee to Bangladesh. Canada, through the court, would be able to confiscate their assets and repurpose them back to help the Rohingya, who are currently in really dire and miserable situations in the refugee camps in Bangladesh. It would be the court's decision whether to repurpose the money to an NGO, to Bangladesh or any other institution.

There are other examples, but I will skip them. I want to speak briefly to the principles of the bill.

The first principle relates to accountability. Dictators, human rights abusers and kleptocrats have acted with impunity for far too long. They need to be held to account. They have purloined the wealth of their nations, leaving a trail of victims in their wakes.

The second principle is justice by seizing the ill-gotten gains and repurposing them back in support of those whose lives have been destroyed. I hope you will see moral symmetry at play here. Actions have reactions, and there must be consequences. Without consequences, we are left with words full of sound and fury signifying, possibly, nothing.

The third principle is due process. The bill proposes that the seizure of assets of corrupt foreign officials take place through court order. Only a judge will decide, based on the balance of evidence provided to them whether to proceed on the matter. Only a judge will decide whether the seized assets are returned to the source country or to another jurisdiction. That requirement adds transparency, because the application and evidence will be public, the hearing will be open and the results, with reasons, will be published. In addition, a court hearing will ensure that anyone who has a potential interest in the frozen assets can come before the court and make their case.

The fourth principle — and an important one — is openness and transparency. Canadians and the public will know, through a public registry, not just the names of the corrupt officials but also the value of their frozen assets.

The fifth principle is compassion, but with an edge. With a heavy dose of pragmatism, we can empathize and sympathize, and use lofty words for all the plight, but the displaced of the world need housing, safety, education, health care, food and water. All of that comes with a cost, and the UNHCR, we know, is not able to meet the growing demand, with the growing numbers of displaced people. By repurposing stolen money back to those who have suffered the most, this bill will create a new source of financing to provide urgently needed resources for the victims of the unfortunate phenomenon of displacement. This is compassion linked to action.

Finally, this bill is about good governance. Canada should not and must not be a safe haven for ill-gotten gains. In this chamber, we are looking at other avenues of hidden corrupt money. This bill sends a strong message to corrupt leaders that, "You and your money are not welcome in this country. This is not a place where you can hide it or grow it."

Honourable senators, some of you have asked whether the courts are, in fact, the right vehicle for this bill. To that, I offer two responses. First, the courts have the expertise to deal with such matters. The courts are regularly called upon to deal with issues of asset confiscation, albeit in different circumstances. Currently, the courts oversee the confiscation and distribution of proceeds of crime from drug cartels, gangs or other criminals.

• (1800)

My second observation is that the involvement of the courts will guarantee openness, impartiality and fairness. The courts are well positioned to be the principal actors in this bill.

Some of you will be thinking of the million-dollar question that we are always faced with: Does this legislation conform to the Canadian Charter of Rights and Freedoms?

The Hon. the Speaker: I'm sorry to interrupt you, Senator Omidvar. Lately, you've been in conflict with the six o'clock rule. You will be given the balance of your time. My apologies.

Honourable senators, pursuant to rule 3-3(1) and the order adopted on November 25, 2021, I'm obliged to leave the chair unless there is leave that we continue.

There being no request for leave, the sitting is suspended until 7 p.m.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

• (1900)

SECOND READING—DEBATE ADJOURNED

On the Order:

> Resuming debate on the motion of the Honourable Senator Omidvar, seconded by the Honourable Senator Audette, for the second reading of Bill S-217, An Act respecting the repurposing of certain seized, frozen or sequestrated assets.

Hon. Ratna Omidvar: Honourable senators, I sadly lost the challenge to the dinner clock, but I hope I have moved your hearts and minds. We were at the spot where I was talking about Charter challenges and constitutionality. Let me pick it up from there to briefly reconfirm what I have said, because my memory is frail, and if you're like me, your memory is frail too.

My bill will seek to seize frozen assets and repurpose them back through court order to victims of corruption, in particular, victims of mass human rights violations and forced displacement. So the question really is: Is this Charter-proof?

Let me quote from a policy paper published on this particular question by the World Refugee & Migration Council, which was prepared by a noted lawyer, no less than former Attorney General of Canada and former Canadian ambassador to the United Nations Allan Rock. He says:

> The section of the Charter that could potentially be invoked to attack asset freezes and confiscation is section 7 — the right to life, liberty and security of the person. . . . Although this section has been held by the courts to be very broad, the jurisprudence has also made clear that section 7 generally does not protect and apply to the economic rights of the applicant.

This is further underlined by Justice Gagné, who ruled in the case involving the freezing of the assets of former President Ben-Ali of Tunisia. She noted, ". . . generally, neither the right to hold employment nor the economic interests of the applicants are protected by the Charter."

The paper concludes on this point:

> . . . it is unlikely that an applicant would be successful in challenging Canadian legislation providing for the freezing and confiscation of the assets of corrupt foreign officials on the ground that it contravenes the Charter.

I would like to point out another very important aspect of this bill. Currently, we do not know the value of the assets that have been frozen in Canada. We know the names of the individuals, but we actually do not know whether they have any assets in Canada. There is no public transparency, since the government is not yet obliged to provide this information. This bill will raise the curtain, make it less opaque and compel the government to list not only corrupt foreign officials but also provide the value of their assets. In the absence of this information, Canadians are not able to advocate for confiscation and opportunities to achieve the benefits that I'm talking about.

Finally — and I'm glad I have the time to talk about this a little bit more — this legislation is not unique. We are following best practice from where? Switzerland, the original home of all assets held by all kinds of people in secrecy forever.

In 2015, Switzerland, to clean up its reputation, enacted the Foreign Illicit Assets Act. Under that law, the Swiss government can apply to their federal court to confiscate foreign assets. If granted, Switzerland can send the assets to the country of origin or another entity for the purpose of improving the lives and conditions of the inhabitants of the country and supporting the rule of law in the country, thus contributing to the fight against corruption.

In fact, I think they repurposed stolen assets back to Kazakhstan by court order and used a foundation to provide education for children in Kazakhstan. Both the United Kingdom and France are currently looking at similar legislation. The EU, which recently enacted Magnitsky, is also looking at this legislation as the next step in their fight against corruption.

This brings me to the final reason I believe this legislation is important. If Canada succeeds in passing it, I believe that others will follow. We followed the example of the U.S. in calling the Magnitsky Act into life, and former Senator Andreychuk improved on the U.S. version once it came to Canada.

The same narrative may well follow this act. This bill, I believe, will ignite the imagination of other jurisdictions by providing a concrete example of how individual jurisdictions can act. Others will pick it up and improve on it, and Canada will be the transformative leader.

In conclusion, colleagues, for far too along corrupt foreign officials have acted with impunity. They have not only stolen mass wealth but have created significant hardship for their people. Their actions have contributed to the displacement and misery of millions of people. Calling them out is simply not enough. We have to make them pay, and FARA will accomplish precisely that.

Thank you, honourable senators.

Some Hon. Senators: Hear, hear.

Hon. Pierre J. Dalphond: Honourable senator, will you take a question?

Senator Omidvar: Of course.

Senator Dalphond: If I understood what you said, you proposed we deal with these assets the same way we deal with what we call the Proceeds of Crime Act in Canada, not in a criminal proceeding but in a civil proceeding where it's the balance of probability and not the higher level of evidence that is required, and where we confiscate, and the judiciary will give an opportunity to everybody to speak. Then the assets will be handed over to an organization that the court will decide based on whatever the Crown or the Attorney General will propose.

As a judge, I've been involved in cases where we had seized money. It's often more effective than criminal actions, because we take the money; we take the property; we take the gold, the jewellery and so on, and that hurts.

I certainly support your bill. It's a great opportunity to go after criminals who are living beyond our jurisdiction but have assets here. As you said, if it's corruption, it's a crime. If a crime was committed, it's the proceeds of a crime.

If I understand well, you will propose civil proceedings similar to what we have for criminal money. I certainly support that. Thank you.

Senator Omidvar: Thank you, Senator Dalphond. I always dread questions from the lawyers in the room, because I'm not a lawyer. This one I'm grateful for, because you got it completely right. It is not a criminal court proceeding but an administrative court proceeding.

Thank you for your support. I hope you will help me pass this and get it to the Foreign Affairs Committee so we can very quickly get witnesses, discuss this and bring it back to the chamber. Thank you.

(On motion of Senator Duncan, debate adjourned.)

• (1910)

CRIMINAL CODE
IMMIGRATION AND REFUGEE PROTECTION ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Salma Ataullahjan moved second reading of Bill S-223, 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 for the second reading of Bill S-223, An Act to amend the Criminal Code and the Immigration and Refugee Protection Act (trafficking in human organs). For those of you keeping count, this is my fourth introduction of this bill, and hopefully it will be my last.

Less than six months ago during the last parliamentary session, Bill S-204, an exact copy of this bill, unanimously passed in this chamber. It also received all-party support in the other place, but sadly fell off the Order Paper for reasons out of our control.

Honourable senators, Canadians are desperately asking us to pass this piece of legislation — a culmination of 13 years of parliamentary work — without further delay. For those of you who are not familiar with this bill, I will gladly provide a summary.

Bill S-223 proposes to strengthen Canada's response to organ trafficking by creating additional Criminal Code offences in relation to such conduct and extends extraterritorial jurisdiction over the new offences. It also seeks to amend the Immigration and Refugee Protection Act to provide that a permanent resident or foreign national is inadmissible to Canada if the Minister of Citizenship and Immigration finds that they have engaged in trafficking of human organs.

Currently, there are no laws in Canada banning Canadians from travelling abroad, purchasing organs for transplantation and returning to Canada. That is shameful, especially when we have joined most of the world in condemning the sale of organs and transplant tourism.

Over 100 countries have passed legislation banning the trade of organs. Additionally, several countries have responded with legislation strengthening existing laws that ban organ trafficking and sales. There are a number of governmental and professional bodies with initiatives to regulate domestic and international organ transplantation and tackle organ trafficking, including, for example, the Council of Europe Convention against Trafficking in Human Organs.

Until we pass this bill, we will have to rely solely on people's ethical and moral conscience to deter Canadians from seeking and obtaining organs abroad. Unfortunately, we know that these deterrents alone are not enough.

In 2012, the World Health Organization claimed that an illegal organ was sold every hour. Overall, the number of illegal transplants worldwide is believed to be around 10,000 a year. This would mean that in the past 13 years that we have dedicated to putting an end to organ harvesting and trafficking, over 130,000 illegal transplants have occurred.

The international character of this problem, which often sees vulnerable people exploited to meet the demand for organ transplantation in places like Canada, requires more than just a condemnation. We need legislation now. When this legislation is passed, perpetrators will know that they can be prosecuted in Canada and banned from entry.

Despite our inability to eradicate human rights violations around the world, we can enact change at home. It is entirely within our power to avoid complicity of transplant tourism within our own borders. This bill is a welcome effort in that complicity avoidance.

It is up to us to give domestic reality to the international aspirations embodied by international law. We, as parliamentarians, whether in government or in opposition, can and must do our part. This globally pervasive practice needs to be stopped without any further delay. Thank you.

Hon. David Richards: My thanks to Senator Ataullahjan. Honourable senators, this is the third time I have stood and spoken in support of Senator Ataullahjan's bill. There's very little new that I can say. Organ transplant tourism for profit preys upon the vulnerable and impoverished, many of whom are coerced because of desperation. The practice itself is filled with a horrid first-world elitism.

There are too many stories of children being blinded, or poverty-stricken men and women coerced into giving up their organs for pay they never receive or left with debilitating consequences. Too many prisoners have organs taken to supply those who might afford it as if they were living in a Frankensteinian gulag. In fact, this makes Mary Shelley pale by comparison.

This bill aims at preventing illegal organ transplant tourism for profit and making such transactions liable and criminal in Canada and by Canadians. I can't think of a reason that this would not be passed by acclamation as it was in this chamber during the last Parliament. Thank you.

Some Hon. Senators: Hear, hear.

(On motion of Senator Duncan, debate adjourned.)

CORRECTIONS AND CONDITIONAL RELEASE ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Kim Pate moved second reading of Bill S-230, An Act to amend the Corrections and Conditional Release Act.

She said: Honourable senators, in 2019 the Senate sent the substance of this bill to the other place as amendments to Bill C-83. Our collective goal was to safeguard and uphold Charter and human rights and prevent torture and cruel and unusual punishment in Canadian prisons. Despite the well-founded concerns of the Senate and countless others, as well as disturbing evidence that the human rights abuses we sought to prevent would continue unabated, the government rejected the Senate's work.

The government committed to ending segregation in federal prisons. The government has not kept that promise. People have continued to experience horrendous and irreversible physical, psychological and neurological damage from being held in conditions of segregation and isolation. What is more, those responsible for the implementation of Bill C-83 have not been transparent. We still do not know the full extent of the human, social and financial costs of Bill C-83's failures.

Honourable senators, we have a constitutional duty to uphold the Charter rights of Canadians, particularly those of minority and marginalized groups. The rule of law and constitutionally protected human rights of all Canadians are threatened when those in federal prisons are treated with cruelty and inhumanity and subjected to unlawful conditions.

• (1920)

Bill C-83 was introduced in the wake of a series of court decisions that ruled the Canadian prison system's use of segregation unconstitutional.

In particular, the Ontario Court of Appeal recognized that harmful and irreversible effects can begin within 48 hours of isolation. By seven days, brain function can be altered. Canadian courts ruled that segregation of 15 days or more violated the Charter prohibition against cruel and unusual punishment.

According to an analysis of Corrections' own data by Dr. Anthony Doob, the former chair and current member of the Minister of Public Safety's advisory panel on the implementation of Bill C-83, more than one out of three prisoners put into isolation have experienced the conditions of segregation and solitary confinement that the government promised to eliminate since Bill C-83 came into force.

What is worse, 1 out of 10 people are still experiencing conditions amounting to torture under international human rights standards. Of prisoners in isolation, 40% are Indigenous and 16% are African Canadian. Once isolated, racialized prisoners are more likely to be kept there longer.

Despite international prohibitions on subjecting people with disabling mental health issues to segregation, Corrections disproportionately isolates people with mental health needs, often characterizing it as "for their own safety" instead of transferring them to appropriate health care settings.

The Parliamentary Budget Office indicates that the price tag for these horrific outcomes due to the implementation of Bill C-83 is more than $2.8 million per prison, per year. Even the PBO could not obtain all the information necessary to accurately ascertain how much putting people in isolation costs taxpayers per prisoner, per day.

Corrections did share, however, that they are planning to increase the number of SIUs — structured intervention units — Bill C-83's pseudonym for isolation. The plan in 2019 was to have SIUs in 15 of Canada's 53 federal prisons. Corrections now wants to put an SIU in virtually every prison.

Honourable colleagues, faced with this unrelenting expansion of a system that we know has failed, we have a duty to act. When the Senate debated Bill C-83, we identified three issues at the heart of the constitutional rights violations we are witnessing today.

First, despite 15 days in segregation being recognized as torture internationally, Bill C-83 allows people to be left in conditions of isolation for upwards of 90 days.

Second, despite the new name, SIUs retain conditions of unconstitutional segregation, also known as solitary confinement. Solitary confinement is defined internationally as confinement of 22 hours per day without meaningful human contact. Even if properly implemented, Bill C-83 only guarantees two hours per day of meaningful human contact and four hours per day out of cell. This meagre contact is also subject to a whole list of exceptions.

Third, in the case of unlawful and unconstitutional segregation, the lack of any effective external oversight system means that it is left up to the prison authorities to recognize and correct their own harmful behaviour. They have routinely failed to do so.

During the consideration of Bill C-83, committee witnesses described a culture of disrespect for legal and human rights within Corrections. More than 25 years ago, former Supreme Court Justice Louise Arbour observed, "The Rule of Law is absent, although rules are everywhere." Judges have likewise found the rules on segregation ". . . are more honoured in the breach than in the observance . . ."

The Ontario Court of Appeal took the unusual step of commenting on the legislation while it was still before Parliament. It asserted that the government had failed to ". . . adequately explain how Bill C-83 would address the constitutional infirmity . . ." associated with segregation, and that ". . . it remains unclear how Bill C-83 will remedy . . ." the constitutional breach.

The Senate amendments, and now Bill S-230, aim to address these issues. Each proposed measure is informed by the testimony before the Social Affairs Committee, bolstered by letters from 100-plus academics and experts, and supported by reports that have emerged since the implementation of Bill C-83.

The two measures introduced for judicial oversight of Corrections are based on Justice Louise Arbour's recommendations following the *Commission of Inquiry into Certain Events at the Prison for Women in Kingston*, when she concluded that there is:

> . . . no alternative to the current overuse of prolonged segregation but to recommend that it be placed under the control and supervision of the courts.

Canada's Correctional Investigator, Dr. Ivan Zinger, identified the same problem with Bill C-83, naming judicial oversight as the best hope to shift the oppressive culture at CSC and the single most important amendment the committee could make to uphold human rights.

Bill S-230 requires Corrections to obtain permission from a court to keep a person in a structured intervention unit for more than 48 hours — a time frame after which segregation can begin to cause irreparable physical, psychological and neurological harm.

It also provides that:

> If illegalities, gross mismanagement or unfairness in the administration of a sentence renders the sentence harsher than that imposed by the court, a reduction of the period of imprisonment may be granted, such as to reflect the fact that the punishment administered was more punitive than the one intended.

This would allow prisoners to seek remedies and accountability if they are subject to unlawful conditions, including extended isolation and segregation.

Similar to the jurisdiction that sentencing courts have to provide credit for time served in pre-sentence custody, in recognition of the manner in which punitive conditions like isolation render a sentence unduly harsh, this remedy would provide a reviewing court with discretion to reduce a sentence or parole ineligibility.

After studying the human rights of prisoners, concerns regarding human rights abuses with respect to segregation led our Senate Human Rights Committee to likewise recommend judicial oversight.

Dr. Doob and Dr. Jane Sprott researched the effectiveness of the oversight by "independent external decision makers" — IEDMs for short — that Bill C-83 implemented instead of judicial oversight. They concluded that meaningful oversight is not occurring.

IEDMs are appointed by the minister and must rely on Corrections to provide most of the information they use to review Corrections' decisions to place people in SIUs. It isn't mandatory for them to visit or speak with prisoners as part of their review, and there is no clear mechanism for a prisoner with a complaint to contact them.

Along with prison law expert Dr. Adelina Iftene, Dr. Doob and Dr. Sprott questioned the lack of transparency around the information about prisoners that is provided by Corrections to IEDMs, that Corrections fails to adhere to all IEDM decisions, and that decisions do not address systemic inequities, as evidenced by the lack of timely desegregation of Black and Indigenous peoples and those with mental health issues.

Indeed, the earliest point at which a person is guaranteed to have a review of their placement in isolation is after they have already been isolated for 90 days — six times longer in isolation than what is recognized internationally as torture.

Corrections has failed to respect even this wholly inadequate timeline. Since December 2019, at least 49 people were held in SIUs for more than 120 days without Corrections referring their cases to an IEDM for review.

The conclusion of the researchers is:

> It is hard to have confidence in a process that is supposed to provide "independent oversight" when that process itself, and the logic behind each decision, is not open to scrutiny.

Similarly, the minister's SIU Implementation Advisory Panel was prevented from doing its oversight work through its initial mandate because Corrections failed to disclose the data it required to analyze the implementation of Bill C-83. Meanwhile, Corrections had the audacity to make public statements indicating that the SIUs were "closely monitored" by the panel.

When Dr. Doob was finally able to access data and issue reports, Corrections then tried to discredit the reports, first asserting that the pandemic was to blame and then that the data CSC provided was invalid because it contained errors. Dr. Doob and Dr. Sprott then produced an analysis that demonstrated that CSC's claims were spurious.

While judicial oversight would not create a prohibition or time cap on segregation, it would ensure more robust and independent oversight by putting courts in charge of upholding Charter rights. As they have done in constitutional challenges to segregation, courts could safeguard the establishment of meaningful remedies and correctional accountability. By broadening the definition of "Structured Intervention Unit" to include any time that prisoners are being kept separate from the general population in conditions amounting to isolation, Bill S-230 responds to observations from our own senators' visits to federal penitentiaries; that prisoners are also experiencing the conditions of isolation and segregation outside of SIUs. When this happens, not even the weak rules set out in Bill C-83 apply.

• (1930)

Segregation by other names has long existed — medical observation and dry cells are two well- known examples — but its use has increased since the passage of Bill C-83.

As it rolled out SIUs, Corrections developed new forms of isolation to which SIU rules do not apply, including voluntary limited association and temporary detention ranges and other forms of restricted movement regimes and isolation units.

In addition, the Office of the Correctional Investigator has reported that during the COVID-19 pandemic, entire prisons were subjected to:

> . . . near total cellular isolation, fresh air exercise once every two or three days, 20 minutes of out of cell time every other day to shower or use the telephone. . . .

Corrections employed unlawful and unconstitutional practices, in some cases keeping those who were ill in segregation cells, at a time when many provincial jails were working proactively to limit such draconian measures, particularly by releasing elderly and ill prisoners and those near their release dates.

Bill S-230 would ensure that judicial oversight applies to all these spaces and practices, and that prohibitions on segregation and requirements for oversight cannot be avoided simply by calling segregation another name. This is a crucial measure because the Constitution requires that the actual conditions of confinement must comply with the Charter, no matter what name is given to the form of isolation.

Bill S-230 also incorporates measures from the Senate's Bill C-83 amendments to prevent segregation of those with disabling mental health issues. The amendments reflect international human rights obligations to prevent segregation of this vulnerable group. Countless reports and inquests, including the Ashley Smith inquest jury, have made clear that those with disabling mental health issues belong in healthcare settings, not prisons, and most certainly not in segregation.

In response to the Senate's amendments to Bill C-83, the government added a requirement that everyone admitted to a prison or transferred into a SIU would receive a mental health assessment from a mental health professional, such as a psychologist or a psychiatrist. Despite this legislative requirement, some prisons have no psychologists on staff. None. Worse yet, our visits have confirmed that this is too often now a tick-box exercise performed by correctional staff, including some known as "behavioural counsellors."

Moreover, courts have documented that, contrary to the Nelson Mandela Rules and their professional obligations, psychologists employed by CSC are too often "there to sign off on . . . continued segregation rather than to help [prisoners] . . . ."

According to Drs. Doob and Sprott, more than one in four prisoners sent to SIUs are identified by Corrections itself as having a mental health flag. They are likely to spend longer times in SIUs and be sent there not because they are a risk to public safety but because the prison is failing to meet their needs. It is easier to manage them in segregation.

The actual numbers of those in SIUs with mental health issues is likely much higher. Within the prison system, behaviour symptomatic of psychiatric or mental health issues is too often characterized by guards and even medical staff within prisons as attention-seeking, defiant or criminal.

This was the case for 19-year-old Ashley Smith, who was described as dangerous and violent in spite of contrary videotaped evidence and was only recognized as having mental health issues at the inquest after her death. While Ashley's story is now well-known, many more live similar travesties.

"M" is an Indigenous woman abandoned at birth and sexually abused as an infant and child. She first attempted suicide at 13. She has a history of substance use and has spent most of her life in prison. She remains in custody, even though no longer under sentence, as a result of behaviour for which she was found not criminally responsible due to disabling mental health issues.

In segregation, her headbanging has left "M" with permanent physical, psychological and neurological damage. Her efforts to resist being restrained by staff resulted in Corrections' effort to declare her a "dangerous offender." After an extensive review of the circumstances, the presiding judge refused that application.

Corrections puts prisoners in isolation to manage challenging behaviour, yet this setting is the worst place for them. It generates and exacerbates mental health issues, with horrifying and sometimes fatal results.

Bill S-230 would restore the original intent of the Senate's proposed amendments to Bill C-83. It would allow for mental health assessments by qualified, independent mental health professionals.

Bill S-230 would also require that where a person's mental health assessment reveals a disabling mental health issue, Corrections must transfer that person to a provincial health setting for appropriate psychiatric care. According to the Parliamentary Budget Officer, in addition to being a more safe, productive and humane response to mental health issues, such approaches would cost a fraction of the cost of isolating individuals in SIUs.

The Senate Human Rights Committee supports these measures, calling for a prohibition on the isolation of people with disabling mental health issues and their transfer to provincial healthcare settings. Bill S-230 would thus help prevent people with complex mental health needs from being abandoned to some of the most harsh conditions of confinement while redirecting them to healthcare settings.

Bill S-230 also amends sections 81 and 84 of the Corrections and Conditional Release Act, which permit transfers of Indigenous and non-Indigenous prisoners to Indigenous communities to serve the custodial and conditional release portions of their sentences respectively. These chronically underused sections seek to remedy the over-representation and over-classification of Indigenous peoples in prisons that is part of an ongoing legacy of racism and colonialism.

Bill S-230 seeks to try to remedy current systemic discrimination by encouraging the use of sections 81 and 84 not only for Indigenous governing bodies and organizations, but also by community groups serving Indigenous and other marginalized communities, including African Canadians and members of 2SLGBTQ+ communities.

Bill S-230 also requires Corrections to take active steps to seek out community groups with whom they can contract agreements for care and custody of Indigenous peoples and other marginalized prisoners.

Drs. Doob and Sprott found that Indigenous peoples and African Canadians continue to be overrepresented in SIUs. Corrections and Parole Board of Canada research also reveals that women are most likely to end up in segregation, particularly Indigenous and other racialized women who have experienced lifetimes of abuse, and those with mental health issues, yet they pose minimal risk to public safety.

Rather, those who most need community and cultural supports are too often characterized by the prison system as dangerous or difficult to manage. This label often begins, as it did for a woman named "L," with a negative reaction to being strip searched or any other unreasonable stress.

As noted by the Senate Human Rights Committee, discriminatory labelling is exacerbated by systemic racism and sexism in risk assessment tools that use histories of abuse to justify classifying Indigenous women, in particular, as high security risks rather than providing treatment, community connection and healing.

"L" is a member of the stolen generation scooped from Indigenous communities. She was one of a few women labelled a dangerous offender in Canada. The Alberta Court of Appeal struck down the designation and indeterminate sentence after concluding that she was so designated on the basis of what she said and what she wrote, not on the basis of what she did.

It took six and a half years to overturn her designation as a dangerous offender. She spent all but six months of that time segregated. She has now been living in the community for more than 20 years, yet the hundreds of interlaced scars on her body document the self-injury and suicide attempts that her horrific experience of segregation generated.

• (1940)

Bill S-230 echoes both the Senate's Bill C-83 amendments and breathes life into the Standing Senate Committee on Human Rights recommendations to increase access to sections 81 and 84 transfers as meaningful alternatives to isolating those most marginalized and in need of community support. Serving a sentence in a community is less expensive, supports integration and helps redress cycles of colonialism and discrimination by tackling the mass incarceration of Black and Indigenous peoples. To be clear, honourable senators, Bill S-230 is not everything we need to end solitary confinement — by whatever name — but the bill provides meaningful progress towards that goal. It sets conditions by which, under the careful eye of the courts, a culture of human rights may finally be encouraged within corrections.

Over four decades, I have spent countless hours kneeling on cement floors outside segregation cells, pleading through meal slots with someone's loved one, child, sibling, parent or partner to stop smashing their heads against cement walls or floors, slashing their bodies, tying ligatures around their necks, trying to gouge out their own eyes, mutilating themselves or smearing blood and feces on their bodies, windows and walls.

I don't know about you, but I cannot imagine what it is to crave human contact to the point where I might do things that could lead to death in order to trigger a human intervention. The sounds of torment and despair are indescribable. The memories reverberate and always haunt me. How can we adequately describe the horror of trapping a human being in a concrete cell the size of a small parking space or bathroom? From hallucinations and paranoia to crippling anxiety and dissociation, the damage caused by isolation is writ in the minds, bodies and actions of those who survive and evidenced by the subsequent inability of too many to thrive.

Bill S-230 reflects years of work by the Senate on the issues of prisoners' human rights, and I want to acknowledge and express my appreciation for the vital role that so many of you, Senate colleagues, have played in monitoring the implementation of Bill C-83 and pushing for the legislative changes that I bring forward today.

Bill C-83 effectively shielded corrections from the already minimal safeguards and oversights that previously applied to segregation by changing its name to structured intervention units, or SIUs. Senators' statutory right of access to prisons under section 72 of the Corrections and Conditional Release Act became one of the few remaining ways to seek to hold correctional actors accountable. Some of you will recall that minutes after Bill C-83 passed without the Senate amendments, senators, including Senator Colin Deacon and our so dearly missed Senator Forest-Niesing, proposed a plan to visit federal penitentiaries to monitor the implementation of Bill C-83 and overall conditions of confinement. To date, many of us have visited federal prisons to meet with prisoners and staff and to learn from those affected first-hand by the laws we pass. Though temporarily halted by the pandemic, when the public health situation allowed us to resume visits this fall, what we heard only underscored the urgent need to bring this legislation forward. Although her own health precluded her from joining us, Senator Forest-Niesing followed our visits, and our final phone

conversations included discussions regarding the tabling of this bill — one that, but for her passing, she might herself have presented or, at the very least, co-sponsored.

In closing, I want to propose a short title for this bill, and that's "Tona's law." Tona is a woman with whom members of the Standing Senate Committee on Human Rights met during our visit to a forensic psychiatric hospital in the Atlantic region. Tona spent 10 years in federal custody, all in segregation. The result: A diagnosis of isolation-induced schizophrenia. Her psychosis is directly linked to her extended periods in prison segregation cells and the post-traumatic stress associated with the tortures of that isolation. Tona implored us to take legislative action to end segregation and get women and people with mental health issues out of prisons and into appropriate mental health services. She suggested we might call it "Tona's law." Those who know Tona's story will be pleased to learn that, with the support of our mental health team, she is now back in the community. But for current health restrictions, she might well have been here today to meet all of you.

Honourable senators, we did incredible work together in 2019 to bring these provisions forward. Since then, too many have experienced conditions of confinement so awful that we regularly receive prisoner requests for assistance to access medical assistance in dying. Others have tried and some have succeeded in escaping their situations by suicide. This is happening despite our Charter and the rhetoric of bureaucrats. These are real people, most of whom went to prison fully expecting to work on the issues that brought them there so that they might ultimately rejoin society. In the names of those who have had their lives taken by segregation and solitary confinement, in the names of the many more like Tona who have survived and are fighting to ensure no one else experiences these tortuous conditions, let us join together to finish what we started. I look forward to your support for the passage of Bill S-230.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: Senator, you used the word "torture" several times. Do you have an idea of the number of complaints the Correctional Investigator has received about torture in prisons, in federal penitentiaries, and do you know how many of these complaints were founded?

[*English*]

Senator Pate: The use of "torture" comes from the international UN rules on the treatment of prisoners and from the special rapporteur on torture and detention. That definition is one that the courts have then used — the 15-day limit, as anything beyond that can amount to torture. Yes, there have been complaints put in through the Correctional Service of Canada. I do not have the exact number at my fingertips. I do know that the Correctional Investigator of Canada has investigated many. I do know that when Dr. Doob — who was actually the chair of the minister's advisory committee to review these structured intervention units — couldn't even get the data himself nor could other members of the committee, and when they did finally get data and saw just how many times — and I mentioned the number of times, I think it was 49 or more — people were held for six times the 15-day limit that was put in place, even then corrections tried to say that in fact their documentation was problematic. So part of the challenge — and I think it's something that all of us would be interested in seeing — is how to actually hold accountable the Correctional Service of Canada to do the job it's supposed to do. With almost one-to-one employees per prisoner, presumably we'd see a lot more of that information being made available in a more transparent and accountable way.

[*Translation*]

Senator Boisvenu: I visited penitentiaries in Quebec — not in the other provinces — and it is understood that when someone mentions the word "torture" over and over, they are referring to situations in third-world countries or totalitarian states. However, if we are using the word "torture" in Canada, we need to provide some scientific data to give it substance. When I talk about the number of women who are assaulted in Canada, I use data to back up my claim and to say that there was a specific number of women who were murdered or a given number of instances of attempted murder. If you are using a strong word like "torture" in the context of federal penitentiaries — we are not in Mexico here — don't you think that you should back up these claims with real, meaningful data to give your bill some credibility and to make sure that the use of this word will not be challenged?

[*English*]

Senator Pate: I absolutely agree, and if you believe that any of what I have said or any of the documentation is inaccurate, I would welcome you to show me that evidence.

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

• (1950)

COMMITTEE OF SELECTION

SECOND REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the second report (interim) of the Committee of Selection, entitled *Duration of membership on committees*, presented in the Senate on December 2, 2021.

Hon. Michael L. MacDonald moved the adoption of the report.

He said: Honourable senators, you will recall that in the last two sessions the Senate adopted a provision that specified that if a senator becomes a member of a different party or group from the time they were first appointed to a committee, their committee seat will be returned to the original party or group that nominated them.

For the current session, the Selection Committee was given an order of reference to make recommendation to the Senate on the duration of committee membership. This report is the result of discussions and consultations that occurred on this subject between the leaders and facilitators and was the subject of much discussion by the committee. The committee's report is now before all senators for further discussion and debate, and I look forward to your questions and comments.

Hon. Terry M. Mercer: Honourable senators, I would like to begin by acknowledging that I am joining you from the ancestral and unceded territory of the Mi'kmaq people.

As a member of the Selection Committee, I rise today to offer some commentary on where we are now in the Senate as it pertains to committees. We adopted the first report of Selection which provides the list of senators nominated to serve on committees. The Senate, by adopting the report, has appointed senators to the committees.

The next step is in dispute. My comments here may be repetitive from the committee's second report, but I feel it is important to reiterate the arguments for all here in the Senate.

Generally speaking, the practice that "senators appointed to the standing committees and the standing joint committees shall serve for the duration of the session" has existed since Confederation. This is indeed rule 12-2(3), "Term of appointment of members of committees."

We have followed this rule up until previous sessional orders that were adopted during the first and second sessions of the Forty-third Parliament. These orders introduced the same provisions we are considering in this second report — provisions that:

> . . . . preserve the number of committee seats agreed to for each recognized party or recognized parliamentary group, after members were named, even if a senator's affiliation changed for any reason.

I, and many other senators, have said before: a senator is a senator is a senator. Once a senator has a committee seat, it is their seat. If they decide to change groups, they should be able to keep their seat. This is how our rules work, and this is what we should follow.

However, this report allows us to subvert this rule again. If it is the will of the Senate to continue to do this, why are we not studying these changes in the Rules Committee? Isn't that the job of the Rules Committee?

The second report of Selection states that:

> If a senator ceases to be a member of a particular recognized party or recognized parliamentary group for any reason, he or she simultaneously ceases to be a member of any committee of which he or she is then a member, with the resulting vacancy to be filled by the leader or facilitator of the party or group to which the senator had belonged . . .

I do not agree with these changes which is why, honourable senators, the second report contains a dissenting opinion, and I will review that in short here now.

> Whether a senator changes their group affiliation, or a non-affiliated senator joins a group, the Rule ensures the independence of each senator to conduct their committee work, entrusted to them by the Senate itself.

The population of committees is based on negotiations amongst the groups and respects proportionality, but the Senate is the ultimate arbiter of committee seats.

The recent sessional orders have infringed on the independence of individual senators by setting aside rule 12-2(3). Placing the authority over committee seats directly with the leadership of parliamentary groups and political parties, as this report does, is a continuation of that misguided practice.

It continues to be my view, and that of others, that the allocation of committee seats to parliamentary groups and political parties is a step backward in Senate modernization, and removing committee portability entrenches the authority of group and party leadership. That doesn't sound like reform or independence to me.

For some historical context on the existence of our rule, it should be noted, honourable senators, that other Westminster parliaments have similar rules and practices. The United Kingdom's House of Lords complies with its Standing Order 63, established in 1975, which states:

> The orders of appointment of the following committees, and any of their sub-committees, shall remain in force and effect, notwithstanding the prorogation of Parliament, until such time as the House or committee makes further orders of appointment in the next succeeding session.

In the Australian Senate, members of standing committees are appointed at the beginning of each Parliament. Membership may only be changed by motion which discharges the former member and appoints a new one.

In the other place, Standing Order 114(1) also ensures that members appointed to a standing committee remain members throughout the Parliament. So then why is the Senate of Canada becoming a stand-alone body that is subverting similar rules?

Some of my honourable colleagues continue to argue that this is a proportionality problem. If we do the math, as was done with the negotiations, senators are recommended to the committees based on proportionality. If a senator leaves a group and joins another, does not that group's proportionality of the total go up? That's the math. Therefore, the move, with the senator keeping the seat, ultimately continues to respect the principle of proportionality.

Think about that, honourable colleagues.

Lastly, the dissenting opinion concludes:

> . . . if the goal is a Senate made up of more independent senators, it is contrary to that goal to remove the right of individual senators to be appointed to committees for the duration of the session, regardless of affiliation. By removing that right and placing committee seats solely in the hands of facilitators, leaders, whips and liaisons, we would be undermining individual independence and limiting the freedom of affiliation of us all.

I challenge all senators to take control of their own destiny and vote against this report. This is your chance, perhaps your only chance, to exercise your independence. Thank you, honourable senators.

Hon. Jane Cordy: Honourable senators, I would like to repeat one of the comments that Senator Mercer made in his speech, and that is that section 12-2(3) of the Rules allows for a more independent Senate. Remember that, because that's what we're trying to take away with this report.

Honourable senators, if you have not done so yet, I strongly encourage you to read Senator Mercer's dissenting opinion included in the report of the Selection Committee. This report lays out the long-standing history of committee portability as a principle of independence since the very beginning of the Senate.

• (2000)

Colleagues, I would like to express how disappointed I am that this issue has come up again, flying in the face of our progress in making the Senate more independent and more equitable. Many of you will know that the last time the notion of portability was brought forward, members of the Progressive Senate Group spoke against that sessional motion. I did at that time as well.

Our colleague Senator Bellemare attempted to amend it. Her amendment proposed a compromise that would have helped to reinforce the equality of all senators, regardless of their affiliation, by only requiring a senator who changes affiliation to vacate a committee chair or deputy chair position, thus maintaining the negotiated committee chair balances.

Honourable senators, the Senate is made up of individuals who have come to this place from across the country to serve Canadians. We do not serve our respective groups. We work within our groups, but we do not serve our respective groups. If anything, honourable senators, groups should serve their members and be a platform for each of us to excel, supported by other like-minded senators.

Senator Bellemare's amendment at the time was a reasonable compromise, and I am disappointed that we find ourselves here yet again in 2021.

Colleagues, at the Selection Committee meeting last week, we heard a number of arguments against the portability of committee seats, none of which I considered persuasive. Proportionality was the justification that was brought up most often. Let me ask you a question. If a senator were to leave a group and join another, would that not mean the group left behind would be entitled to fewer committee seats than before? And wouldn't it also mean that the group with increasing membership would be entitled to more committee seats? I would argue that portability is, at the very least, more consistent with the principle of true proportionality, even if the numbers are not as precise as a complete overhaul of all committee allocations.

Like everyone here, I believe proportionality should be taken into account when populating the committees at the beginning of a session. Ultimately, proportionality is only valid on the day the committees are populated. We all know the composition of the Senate can change at any time, just as we all know senators retire and new senators are appointed throughout each parliamentary session. Currently, there are 13 vacancies and four more senators who will reach the mandatory retirement age of 75 before we rise in June. Proportionality holds true when committees are populated, but the balance can quickly change.

The reality of how the composition of this place can change during a session was never more evident than the Forty-second Parliament, which was one continuous four-year session. No one knows what the future will bring.

Even Senator Woo has acknowledged the ever-changing nature of the Senate. In an appearance before the Special Senate Committee on Senate Modernization on April 25, 2018, Senator Woo was asked about the issue of proportionality and the membership of the Standing Senate Committee on Ethics and Conflict of Interest for Senators. He said:

> All I'm trying to say here is that if we were to cement the current proportions into that committee in the rules, that would almost certainly be out of skew within a short period of time when the composition of the Senate as a whole changes.

As he said, proportionality quickly becomes out of date. But we do not routinely readjust the committee memberships to reflect those changes, nor do we change or circumvent the Senate Rules to accommodate them.

Another argument brought forward against committee seat portability has been that it is somehow contradictory to the Westminster system. However, as Senator Mercer detailed in his dissenting opinion within this report, the suggestion that committee seats belong to groups is, in fact, a break with practice in other Westminster-style legislatures.

Canada's House of Commons protects members' ownership of their committee seats in its Standing Orders. The House of Lords in the United Kingdom, which is the model for the Senate of Canada, and the Australian Senate also appoint committee members for at least the duration of a parliamentary session. Indeed, in the case of the House of Lords, committee seats are, in practice, effectively permanent.

Some have suggested that our old way of doing things is a product of the bicameral system when we only had two parties, the government and the opposition. I would point out that the House of Lords manages to uphold committee portability within its reality of six groups with 25 or more members. The Australian Senate has three groups of nine or more members and does the same. We all know that our own House of Commons accommodates four recognized political parties.

Another argument brought up during the Committee of Selection meeting was to whom do senators "owe their committee seats." The answer, colleagues, is simple: The Senate. We owe our committee seats to the Senate of Canada.

Everyone who was present on Thursday voted to adopt without amendment the Committee of Selection's first report to populate committees. Without that vote, our committees would not be currently undertaking their organizational meetings or preparing to study upcoming legislation. Whether by voice or standing vote, whether we engage in debate or not, each and every one of us, honourable senators, plays a role in determining how this place deals with every item that comes before us.

When we debated the sessional motion in the fall of 2020, I was surprised by Senator Woo's implication that we could ignore the Senate's role in considering and adopting the Selection Committee's report because:

> . . . the Senate as a whole played zero role in brokering the allocation of seats or in coming up with the precise configuration of committee memberships. . . .

That statement belies a fundamental misunderstanding of the way this place conducts business. Using this logic, one could also argue that the Senate as a whole doesn't play a role in amendments to legislation made by committees or in adopting a comprehensive report that a committee presents. However, we all know that this is not our approach in the Senate. We debate all of these things. Each and every senator has the right to vote on each and every item that is called. Each and every senator from all sides in the Senate, from every seat in the Senate that's occupied, considers their choice when making it. Each of us chooses to allow leave on motions, chooses to call the question, chooses how to vote, all of it with an understanding of the item before us, to the best of our abilities.

We are not rubber stamps. No outcome is ever guaranteed. If that were the case, we would not be debating the report from the Selection Committee here today.

To suggest for one moment that what we do here, particularly the process of voting, does not matter to the outcome should be offensive to all of us because we each take our responsibilities seriously, and because, in the end, it is the Senate that appoints senators to serve on committees, not leaders or groups. The groups are simply administrative tools, a way of managing the complexities of populating almost 20 committees with 105 senators. The two ideas, of negotiations and of the Senate's final vote, can and should easily coexist.

And, honourable senators, they do.

Colleagues, if we are to continue on the road to modernizing the Senate, and if we adhere to the ideal that all senators are independent and equal, we should do so with a view to the future. We are trying to make this place less partisan and to make room for people outside of the government and opposition sides. Some of our current rules, like rule 12-2(3), are already in place specifically to protect the rights of individual senators. Despite the suggestion at committee and in this chamber today, just because a rule is old does not mean that it conflicts with true reform.

• (2010)

Indeed, if you would like to read the fourth report of the Special Committee on the Rules of the Senate, tabled in November 1968 — a long time ago — and led to the principle of committee seats being for the duration of a Parliament — yes, not a session but a Parliament — being formalized for the first time in our rules, I encourage you to do so. That report speaks at length about the independence of senators, including criticism of the appointments process at the time. It includes a suggestion that no senators outside of government and official leadership positions participate in their respective national caucuses.

Honourable senators, I have been asking myself about the motivation behind this motion. Is it really only about proportionality? I'm not convinced it is, by the arguments presented. Or is it solely about preventing senators from being more independent? I truly believe that passing this motion is an erosion of our independence as individual senators. This flies in the face of everything that many of us have been trying to achieve as we move away from the centralized power structure of the partisan political party influences of the past. This motion is a step backwards toward those old ideals of leaderships maintaining control over their members through the threat of losing committee seats if a member makes a personal decision to leave a group that is no longer the best fit for them.

This is not a principle that I can or will support. I do not believe that groups own committee seats; individual senators do.

As Senator Dalphond and I stated in a recent article in *The Hill Times*, "A more independent Senate should uphold the historical independence of committee members and its committees."

Honourable senators, for these reasons, I cannot support this report. Thank you.

Some Hon. Senators: Hear, hear.

The Hon. the Speaker: Senator Cordy, would you take some questions?

Senator Cordy: Certainly.

Hon. Lucie Moncion: Senator Cordy, you mentioned rule 12-2(3). I would like you to explain how this rule applies to the Senate the way it is today, as opposed to the way the Senate was when only two parties were represented in the Senate.

Senator Cordy: Honourable senators, rule 12-2(3) says:

> Except as otherwise provided, once the report is adopted by the Senate, Senators appointed to the standing committees and the standing joint committees shall serve for the duration of the session.

Senator Moncion, this rule was followed when there were just two political parties in the Senate. It has only been very recently that people have suggested that this would not follow, that there would be an exception notwithstanding this rule, and that senators would lose their seats on a committee once they left the group.

Senator Moncion: This rule has not been changed at all; it hasn't been looked at. I go back to the original question about when there were only two groups in the Senate, and now we have more than two. I understand the rule is in place, but how can we maintain the way we are doing things now, considering the Senate has changed but the rules have not?

Senator Cordy: Absolutely, the Senate has changed, and that's a positive thing. Thank you for bringing that forward. But, as I said in my speech, just because a rule is old doesn't mean that it is not applicable. This rule is probably worded differently in other areas, but we know that there are senators who have left their groups before what I will call this "notwithstanding" or this motion was brought forward so that people would lose their committee seats when they changed groups. We know — and I don't want to mention names — that there are senators sitting here in this chamber, whether virtually or in person, who have changed from one group to another and did not lose their committee seats at that time. That was the way it was prior to the past few years, and this was the case prior to bringing in the "notwithstanding" change for a sessional order, that people who switch groups would lose their seats.

Hon. Scott Tannas: Senator Cordy, you mentioned rule 12-2(3) and the other rules above that; Senator Dalphond and Senator Mercer obviously did as well. But nobody has mentioned rule 12-5, which basically says that the leaders, on a signature, can remove any member of any committee and appoint somebody else.

So what we're really talking about is, up until one minute before the person resigns, the leader could remove their seat. It is only in the moment after they have resigned that they can keep their seat or that the leader can't take it back. The group can't take it back.

That has always been there. Is that not right? That's been there for the same amount of time as all of the other rules that you quoted and the traditions and so on. Are we really just talking about the moment that a senator decides to leave a group? In doing so, some senators, when they left their group, gave the leader notice, knowing what that meant, and then left. Others gave no notice and left their leader to read about it in a Speaker's notice and, as a result, they were able to keep their seats.

But rule 12-5, can you tell me how this all plays in and where the tradition of that has been in your time here in the Senate with respect to discipline, with respect to other areas where a leader might, without the consent of the senator, change their position?

Senator Cordy: You're absolutely right. It's interesting, because I looked at that section and I think it's something that we should be looking at very closely and examining. I would certainly be open to exploring a need to change this rule. Sometimes what happens, Senator Tannas, is people are taken off a committee for no other reason than they're tied up with two committees meeting at the same time, which sometimes happens in December and in June. Then the Senate is not sitting; they come back and they discover that they're still on it.

I think we ran into that, where people were replaced, and then Parliament had been prorogued. They were called back to sit, the person who had taken the place of the original member was still on the committee, and the practice with prorogation was that you couldn't switch. It had to be the people who sat at the last meeting while Parliament was in session.

So you've raised a really good point. I have my notes from when I was looking over rule 12-5, and the comment I jotted down was that I would certainly be open to exploring a change to this rule. I think the Rules Committee should be looking at it because research shows that there are ways to facilitate needed replacements and require the consent of senators.

I haven't looked at what they do in London in the House of Lords. I haven't looked at what they do in Australia. I was simply looking at the rule that we have, but I hope that you would be open to it. I certainly would be open to having the Rules Committee examine rule 12-5. Thank you for raising that.

• (2020)

[*Translation*]

Hon. Diane Bellemare: Esteemed colleagues, this is the second time I am rising to speak about the duration of membership on committees, now known as "committee portability." This is an issue that I'm passionate about, so please excuse me if that passion sometimes comes through.

I decided that this year, I would speak out again against the proposal that was initially made by the Independent Senators Group and that would invalidate the existing rule stating that a senator is appointed to a committee for the duration of the session.

Just 36 of us senators were here under the former duopoly that had existed in the Senate since 1867 and that ended when the new appointment process was implemented in 2016. Fifty-six of you, the majority, were not around under the previous system. There are a lot of new senators here who are not familiar with the challenges of modernizing the Senate. Some have not had the time to wonder why certain rules exist.

Changing the rules is dangerous when the majority thinks that everything from the old system is automatically bad. Some rules, like the one this report would subvert, have existed since Confederation and exist elsewhere in the world.

Why did the former partisan Senate accept that a senator who switched affiliations would keep their seat for the duration of the session? That does not seem to make sense in a Senate where the party line was predominant. The reason is simpler than it appears. Despite all the faults of the former system, the partisan caucus leaders were nonetheless pragmatic and knew that it was wrong to prohibit the official participation of a senator in a committee simply because they switched affiliations. This prohibition is in fact a direct attack on a senator's right to independence and to their privilege.

Senators will recall that we pledge allegiance to Her Majesty Queen Elizabeth II and not to a political party, caucus or group of independent senators. If a senator believes that they can best carry out their constitutional mandate by switching affiliations, that is their right. The group or caucus to which that senator

belonged cannot take away their committee seat, because it is the Senate that assigns seats. The group or the caucus only has an instrumental role to play in this operation.

[*English*]

The group or caucus doesn't own seats in committee; it helps to allocate them to senators.

[*Translation*]

Under the Rules of the Senate, the real power to decide the composition of committees rests essentially with the Senate. It is the Senate that allocates committee seats to senators, and it is the Senate that can take a seat away from a senator.

The proposal before us is an affront to the power of the Senate and, if we adopt it, we would once again set a dangerous precedent.

The reality is that this proposal seeks to empower groups or caucuses — one might even say the leaders of groups or caucuses — at the expense of a senator's independence. However, the group or caucus does not have that power, and that is completely contrary to the spirit of the Senate modernization we have undertaken.

[*English*]

The current rule that ensures portability of committee seats within a session is a rule that enables a senator to fully accomplish their constitutional duty in the Senate and in committees. This rule protects the independence of a senator. If adopted, the sessional proposition before us could lead to a potential breach of privilege.

The fact is that a group cannot keep a committee seat that it does not have. The group helps in the allocation of seats, but at the end of the day, it is the Senate that appoints members in committees, and it is the Senate that can change the composition of committee membership for good.

[*Translation*]

Portability of committee seats protects the independence of senators and also helps ensure that tasks are divided equally between all senators, with each senator receiving an equivalent or nearly equivalent workload.

If that rule is circumvented, some senators could see their workload increase because they will have to take on the tasks of senators who may have left their seats, and others will have less work because the groups that may welcome new senators will have to give up responsibilities to them.

In my experience, to accomplish their role correctly, no senator can really sit long-term on more than two average-sized committees. If a senator decides to change affiliation, they will have to give up their seat on the committee, and it will have to be filled by other members of the group. Some will have to sit on three or four committees, as the case may be, and the group that welcomes a new member will have to give them a spot. Some may end up with just one committee. That is neither fair, effective nor proportional.

The leaders of the Independent Senators Group often say that the principle of proportionality is the most important principle and needs to be protected at all costs, but what does that principle really entail?

[*English*]

Let us discuss the principle of proportionality for a minute. Indeed, this is an important principle, but it is an operational principle that permits us to treat each senator equally. It is a tool to get the job of distribution of seats done.

Portability of committee seats helps to protect proportionality at all times. If a group loses members, its proportion within the Senate will diminish. It is common sense that its proportion of committee seats will diminish accordingly.

A group cannot maintain the importance of the principle of proportionality at the beginning of a session but then choose to disregard it when members decide to leave their group. The principle should always be applied and in both ways.

[*Translation*]

The reasons the Independent Senators Group put forward in committee in support of adopting this proposal lack substance. One might actually wonder if the ISG wants to secure an absolute majority in the Senate so it can impose its views.

Esteemed colleagues, don't let yourselves be fooled by unfounded theory, and don't forget that, in a less partisan, more independent Senate, the group is at the senator's service, not the other way around. The group is the senators' facilitator, but senators who are at the service of the group or caucus lose their independence.

Moreover, the current Rules protect the caucus or group if a senator's affiliation changes. Rule 12-2(4)(b) states that, during the session, the Committee of Selection can "propose to the Senate . . . changes in the membership of a committee."

This rule allows the Committee of Selection to propose to the Senate that a senator be relieved of their duties. It protects any group or caucus that feels harmed by a senator's change in affiliation. The rule works very well in my experience.

I became an independent senator at the beginning of the Forty-second Parliament, when I realized that we had a very real opportunity to modernize the Senate. I wanted to fully participate. I left the Conservative caucus and kept my seat on various committees. However, the Conservative caucus wanted to take back my seat on the Special Committee on Senate Modernization because it wanted to have its voice and vote heard there instead of mine. You may understand why.

A motion was moved at the Committee of Selection to replace me with former Senator Tkachuk. That proposal was approved by the Senate following debates in which former Senator Pratte strongly defended me.

[*English*]

This example clearly shows that the existing rules enable a group or caucus to act if it feels significantly impacted by the change in affiliation of one of its members while it respects, at the same time, the independence of an individual senator. It is well balanced, but a group must make their case first in front of the Selection Committee and then in the Senate. The rules respect the fact that the Senate is sovereign.

• (2030)

[*Translation*]

The proposal by the ISG is clearly a step backwards in the modernization of the Senate. I will also add that it is prejudicial to newly appointed senators.

New senators may feel overwhelmed when arriving in the Senate and don't know exactly what to expect. They receive many invitations to join one group rather than another. There is considerable pressure on new senators to join a dominant group. In fact, it is a matter of numbers. A new senator will most likely receive more invitations from the largest group.

If all new senators become members of the largest group, the Senate will quickly return to a system where an absolute majority dominates. It is the majority rule, and I do not believe in it. The modernization of the Senate seeks to prevent this very situation. The rule that has existed since Confederation will not create chaos.

[*English*]

Senator Woo said in committee:

> The senator got the seat at the expense of a colleague. Taking the seat away from the group would be an affront to procedural fairness and an insult to colleagues who played by the group's rules.

This is false. It is consequential to the method chosen by the ISG to allocate seats.

Let me explain. Having been a senator since September 2012, I have had the chance to experience the process of committee membership selection many times and with different groups.

As explained last Thursday by Senator Woo in committee, the method of selection in the ISG works as follows: First, the group accepts a set of criteria for allocation of committee seats. So far so good. Second, each senator sends their preferences to the leadership. That's common. Then the leadership allocates committee membership to each senator and negotiates individually when there is a problem. At first glance this sounds great and it sounds normal.

But there is a problem with this method. It lacks transparency. Twice I have experienced a much more transparent process — once with the first generation of the ISG, when late senator Elaine McCoy was the leader, and recently with the PSG. In both cases, preferences of individual senators were known to everyone at one point or another in the process.

The truth is that senators don't have the same preferences. They don't all want to be on the same committees. In most cases, senators can get their first and second choice. When demand for committee seats is higher than the supply of seats, transparency, common sense and mutual respect help to resolve exceptional cases that may happen 10% of the time, at most.

If I may suggest, allocating seats with more transparency solves many problems. The argument that a senator is getting a seat at the expense of another colleague disappears; it vanishes.

Senators, I invite you to vote against this second report, which circumvents a wise, equitable, pragmatic and long-standing rule. Rule 12-2(3), I reiterate, is fundamental to preserving a senator's independence from a caucus or group. Do not let some leaders — or this report — do indirectly what the Rules do not permit us to do directly. I invite you to vote with your conscience. Thank you.

Hon. Marilou McPhedran: Honourable senators, I acknowledge that the Parliament of Canada is situated on the unsurrendered territory of the Algonquin and Anishinabek First Nations, and as an independent senator from Manitoba, I am from Treaty 1 territory and the homeland of the Métis Nation.

I rise to add my own thoughts on this topic. I do so from the rather unique position I now hold within the Senate; that of sitting as a non-affiliated senator. A very small minority of senators sit as non-affiliated. Some do so by choice, others by virtue of their particular duties — by which I refer to those who serve in the GRO — and there are others who do so as circumstance dictates. Non-affiliation is to look through the window with an acute awareness of the banquet of privileges and comforts afforded to those who are group members.

There are barriers and procedural obstacles to full Senate participation — invisible when you are part of a group. This is a chosen and new experience for me. As most of you have never experienced non-affiliation, perhaps what I can share will add to the present debate.

For example, as a non-affiliated senator, I currently hold zero committee assignments. These are allocated according to group and caucus proportionality. Of the membership lists proposed in the recently tabled SELE first report — which nominates membership to 18 standing and select Senate committees, and which included 193 committee nominations for seats — I am named to not even one. Hopefully, that may change, but clearly I do not have equality with you, colleagues.

Honourable senators, we have a rare opportunity today — an opportunity to decline groupthink and to pay close attention to the proposed further erosion of our individual independence as senators. We can do this without impinging on your group benefits, and by adding to your individuality and agency as a senator.

I'm referring to the rule provision changes proposed in the present report from the Senate Selection Committee that would remove ownership of committee seats from individual senators and give additional whip-like powers to leaders who would control the seats instead.

This is not the first time this rule change has been moved. When I was a member of the Independent Senators Group in the previous Parliament, I recall that this provision was heavily supported by the then leadership of the ISG and of another group. I found this puzzling when I was a member of the ISG. You may recall that I stood with my esteemed colleague Senator Bellemare on the vote on her very reasonable proposal. Yes, I appreciated and understood the lure of committee membership as a reward for being a compliant group member, but I had to ask how such a rule would actually make the Senate more modern, accountable, transparent and independent.

It is those goals that brought me here, and I do not think I am alone in sharing those goals. Shall I just say that, from this side of the chamber, I can see more clearly now, and concern about true independence of senators leads to the inescapable conclusion that senators should not have to sacrifice their committee contributions if they choose to be truly independent and decide they no longer wish to remain in a particular group. Having more groups than, in effect, a duopoly defined by two political parties is a good innovation that we've seen grow over the past five years.

• (2040)

A better future for our democracy and for the Senate means that groupings of senators coalesce around shared values about what is best for their province and for our country. With independence, senators choose to align themselves accordingly, and in keeping their independence, senators should be able to choose when it's time to leave a group, and certainly without the implied threat of forced removal from their committee responsibilities. It should be a warning to us all that some leaders hold the view that independence should not extend to the right of senators to hold a committee seat.

As I understand the concern of those who support the SELE report proposal, senators must serve and please their group or caucus leaders if they hope to keep a committee seat that they obtain through the combination of group and Senate as a whole process.

The logic for this proposed new rule seems to be that every senator who belongs to a group or who has obtained their committee seat by being sheltered or sponsored by a particular group or party must remain obedient and beholden to the leadership of that group in order to hold on to their committee seat. But as we've heard repeatedly this evening, that's not what our Rules say. The truth is that each Senate committee membership is a result of being named to a committee by the Senate, not by group leaders, and that what's confirmed in their committee seat. Our Rules promise that a senator "shall serve for the duration of the session." The exception to this is that group leaders can authorize temporary replacements in accordance with our Rules as an exception, and it is important to note that though these changes are technically permanent, there is a strong tradition of reinstating the original member. But consider this: It is a tradition that leaders can ignore if they have notice of a member's desire to leave the group.

We have just had a tragic reminder of how fluid Senate membership is in fact — through death, retirements, new appointments. Committee membership does not change for senators in place unless they so choose. A number of us gave up our seats on committees when new senators arrived in order to give them an opportunity. If I understand the argument presented in this report, it suggests that senators are not entitled to committee seats but in effect the seats belong to the group process that assigned that spot. Yes, the established practice is that senators are subject to their group's negotiations as then played out amongst the leaders of all groups.

Honourable senators, please remember this. In the end, now it is the Senate that appoints senators to serve on committees, not leaders or groups. Why would we want to take that away from our institution in order to increase the control and power of a few group leaders? Why would we want to elevate the power of a few individual senators to such a degree? It is illogical to suggest that there is somehow a violation if a senator decides to leave a group and holds on to their committee seat. The Rules are clear that a seat belongs to a senator.

Senator Tannas raised an interesting point this evening, referencing rule 12-5. A Speaker's ruling on May 9, 2007, noted that:

> . . . independent senators can indicate, in writing, that they agree to accept the authority of either the government or the opposition whip for the purposes of membership changes.
>
> This arrangement is entirely voluntary. If an independent senator does not write such a letter, or withdraws it, the rule respecting changes does not apply.

Similarly, if a senator withdraws from a caucus, rule 12-5 would cease to apply. In the latter case, that senator would retain any then current committee memberships unless removed either through a report of the Committee of Selection or a substantive motion adopted by the Senate. This is at page 1510 in the *Journals of the Senate*.

To quote Senator Cordy in *The Hill Times*:

> It has been suggested that not agreeing to this change has resulted in the Senate being held hostage. But if this change proceeds, it would be senators themselves who would be held hostage. Their leaders would effectively own committee seats.

Honourable senators, this is a pivotal moment for us in our self-government.

Does this proposed rule give you the Senate you really want? Do you really want to limit your independence in this way? Do you really want to diminish your rights as an individual senator in this way? Have you asked yourself what harm may come to the independence of this home for sober second and often innovative first thought?

Please think ahead; please think carefully about what happens when a power that is held collectively is divvied up and handed to a tiny minority within the collective. If you accept this change to existing practice, you will undoubtedly please your leader and will establish a new way of doing business that will become difficult, if not impossible, to reverse.

But I ask you this: Is your leader's pleased approval of your potential compliance worth the price of diminishing the rights of all senators in the process? Is that truly in the spirit of a more modern and independent Senate? Do you truly believe that group and leadership interests should override individual independence and committee work?

Consider this: The House of Lords has 6 groups with 25 or more members yet still entrusts its members to maintain their committee roles throughout a parliamentary session. The Australian Senate has three groups of nine or more members and does the same. These equivalent parliamentary bodies are not proponents of group control over senators' independence.

Since 1867, individual senators received their committee seats by motion and decision of the Senate, facilitated by a few leaders, yes, but the decision was made by us as a collective, and so for 154 years individual senators have been entrusted to serve honourably using their own judgment. At the core of that trust is that Senate committees, not Senate groups, have been given the responsibility of studying legislation and issues referred to them. A modern, more transparent, more accountable Senate should uphold this historic independence of individual senators and their best possible contributions to committees.

I want to close by casting to an even more modern and democratic Senate by adopting a point made by Senator Woo, quoted as saying:

> Indeed, if Senators were assigned their seats through an all-Senate process rather than by group negotiations, a case can be made that the seats "belong" to individual Senators.
>
> In that scenario, there would be no violation of the seat-assignment process if Senators change groups. But good luck to anyone trying to come up with a Senate-wide system of assigning committee seats by individual member.

In fact, dear colleagues, we already have such a system. We are already using a Senate-wide system whereby individual senators are assigned committee seats and all we have to do is make it clear that we — as senators — integrate the tradition and affirm our independence and dedication to the integrity of this institution, that we reject the introduction of expanding and entrenching unequal power held by a small number of senators who happen to be called "leader." Thank you, *meegwetch*.

Some Hon. Senators: Hear, hear.

Hon. Yuen Pau Woo: Your Honour, given the late hour and the heightened passions around this debate, I think it might be wise for me to take the adjournment for the balance of my time. I will be happy to expound the case in favour of the report and rebut many of the points that have been raised tonight.

(On motion of Senator Woo, debate adjourned.)

• (2050)

THIRD REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the third report (interim) of the Committee of Selection, entitled *Committee Meeting Schedule*, presented in the Senate on December 2, 2021.

Hon. Michael L. MacDonald moved the adoption of the report.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

THE SENATE

MOTION TO RECOGNIZE THAT CLIMATE CHANGE IS AN URGENT CRISIS—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Galvez, seconded by the Honourable Senator Forest:
>
> That the Senate of Canada recognize that:
>
> (a) climate change is an urgent crisis that requires an immediate and ambitious response;
>
> (b) human activity is unequivocally warming the atmosphere, ocean and land at an unprecedented pace, and is provoking weather and climate extremes in every region across the globe, including in the Arctic, which is warming at more than twice the global rate;
>
> (c) failure to address climate change is resulting in catastrophic consequences especially for Canadian youth, Indigenous Peoples and future generations; and
>
> (d) climate change is negatively impacting the health and safety of Canadians, and the financial stability of Canada;
>
> That the Senate declare that Canada is in a national climate emergency which requires that Canada uphold its international commitments with respect to climate change and increase its climate action in line with the Paris Agreement's objective of holding global warming well below two degrees Celsius and pursuing efforts to keep global warming below 1.5 degrees Celsius; and
>
> That the Senate commit to action on mitigation and adaptation in response to the climate emergency and that it consider this urgency for action while undertaking its parliamentary business.

Hon. Diane F. Griffin: Honourable senators, I rise today to speak to Senator Galvez's motion that calls on the Senate of Canada to declare that Canada is in a national climate emergency and to commit to action on mitigation and adaptation in response to the climate emergency.

I thank Senator Galvez for moving the motion and for her speech. I am also indebted to Senator Forest and Senator Miville-Dechêne for their remarks.

In Prince Edward Island, climate change is top of mind. The latest scenarios from the P.E.I. Intergovernmental Panel on Climate Change Assessment and the UPEI Climate Lab say that over the next 40 years we can expect warmer temperatures, more rain and less snow, rising sea levels and less sea ice. In the past, Prince Edward Island's coastline eroded at a rate of approximately 30 centimetres a year but, as sea levels rise, strong storms occur more frequently and the sea ice becomes less prevalent in winter. The Government of Prince Edward Island expects that erosion will worsen; so, too, will coastal flooding which happens then sea water floods normally dry land near the coast.

Senator Forest noted in his speech that environmentalists did very well in Quebec's recent municipal elections. We have seen similar results in Prince Edward Island. In our 2019 provincial election, the Green Party formed the official opposition, garnering much media attention from across Canada. Premier Dennis King and opposition leader Peter Bevan-Baker have worked collaboratively in the years since. In my view, having the climate lens applied to all legislation that passes through the legislature has been productive.

I agree with Senator Forest that looking to local governments offers hope in our fight against climate change. For example, in Prince Edward Island the city of Summerside has its own electrical utility. The utility generates power from a wind farm and is currently building a new 21-megawatt solar farm and a battery storage facility. When the solar farm comes online next year, it is estimated that 62% of the city's electricity will come from renewable resources. Municipalities can do great things.

I also agree with Senator Forest's point that municipalities are both vulnerable to the effects of climate change and well positioned to respond to the challenges it poses, but that local governments need money and flexibility from the federal government.

We need our federal government to be innovative, flexible and in touch with the reality on the ground in our regions. On November 25 the Commissioner of the Environment and Sustainable Development tabled five reports in the House of Commons. The report entitled Lessons Learned from Canada's Record on Climate Change identifies eight lessons learned from Canadian accomplishments and mistakes. "Lesson 7: Enhanced collaboration among all actors is needed to fund climate solutions." That report says:

> Governments cannot meet climate objectives alone. Without broad, collaborative action, Canada's emission reduction goals are out of reach. At the 21st Conference of the Parties in Paris in 2015, participants agreed to mobilize action from non-government partners, including civil society, the private sector, financial institutions, local communities, and Indigenous peoples.

Colleagues, I support Senator Galvez's motion. We are in an emergency and now, more than ever, we need to identify and support the partners who can help us mitigate and adapt to climate change.

Thank you.

Some Hon. Senators: Hear, hear.

(*At 8:57 p.m., the Senate was continued until tomorrow at 2 p.m.*)

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