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(HANSARD)

Wednesday, June 22, 2022

The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Wednesday, June 22, 2022

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

Prayers.

SENATORS' STATEMENTS

THE HOSPITAL FOR SICK CHILDREN

Hon. Sabi Marwah: Honourable senators, it is not often that a Canadian institution is ranked as best in the world, yet that just happened when *Newsweek* magazine named the Hospital for Sick Children, or SickKids, as it is commonly referred to, as the top pediatric health centre globally.

The Hospital for Sick Children is Canada's most research-intensive hospital and the largest centre dedicated to improving children's health in this country. It is also a hospital of firsts — first in discoveries, first-of-its-kind treatments and first in innovations.

About 18 months ago, SickKids performed another first. A young girl named Ellie with a rare genetic condition had persistent self-injurious behaviour that was causing her significant harm. Her doctors at SickKids used deep brain stimulation to almost eliminate those behaviours, and today, Ellie is thriving.

The past two years of COVID have tested the hospital in new and profound ways. SickKids played a key role in COVID child vaccination efforts in Ontario. It supported adult-care hospital partners by accepting adult patients for the first time in its history. It implemented PCR school-testing programs, advised governments and assisted community on COVID matters and accelerated its virtual care offerings to ensure its children continued to receive the care they needed.

Despite COVID, SickKids continued its pioneering work on precision child health, which will shift it from a one-size-fits-all approach to medicine to health care that is individualized to each patient's unique needs.

A mental health strategy was developed that will help SickKids achieve unprecedented outcomes in children and youth mental health through collaborations, innovations and partnerships. It could not have come at a better time, given the mental health impacts on children and youth. An organization-wide equity, diversity and inclusion strategy, or EDI strategy, was launched that provides a path of critical inclusion of diverse people and communities across SickKids care, research and education initiatives so that everyone can feel acknowledged, valued and respected.

Colleagues, the *Newsweek* ranking is a testament to the extraordinary nurses, doctors, researchers and staff of SickKids who have shown continual resilience, innovation, commitment and a willingness to go above and beyond to carry out their mission while keeping patients, families and staff safe.

I know this first-hand because I had the privilege to serve on their board of trustees for a decade.

Congratulations to SickKids on being named the top children's hospital in the world, and thank you for all you do for children and families across Canada and around the world. Thank you.

Hon. Senators: Hear, hear!

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Danielle and Michael Allen. They are the guests of the Honourable Senator Plett.

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

Hon. Senators: Hear, hear!

CANADA DAY

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, as we approach Canada Day and the end of the parliamentary session, I want to take the opportunity to say a few words about our great country.

As Canadians, we are blessed to live in one of the freest and safest nations on Earth. We have much to be proud of and grateful for. As a beacon of hope, democracy, opportunity and liberty, Canada has attracted millions of people from around the world, who came here to make this country their home. Every year, hundreds of thousands of newcomers are welcome with open arms to join our growing Canadian family and way of life.

This Canadian way of life is one that is rooted in a distinct set of values: prosperity, security, hard work, opportunity, free enterprise, human rights, community and compassion, to just name a few. But the most foundational principle of this great country is, without a doubt, freedom, for without freedom, none of the other things I just mentioned would be possible.

The last few years have been difficult for everyone. Faced with challenging times brought on by a pandemic, Canadians have been divided, isolated and often pushed to the limit. Governments have repeatedly tried to restrict our freedom, yet I believe the adversity we have faced will only strengthen our resilience and make us an even better country. In spite of governments' best efforts to divide us and turn us against each other, I believe Canadians will emerge more united than ever — with one another, their families, their friends and fellow Canadians.

Our governments have also tried to use the pandemic as a means of getting rid of proper accountability and diminishing the role of parliamentary oversight. That needs to end. The hybrid Parliament needs to end. Canadians expect us to ensure proper parliamentary oversight, which is our role and our duty to them.

As Canadians, we must never forget that the freedoms we enjoy every day cannot be taken for granted nor are they free; our freedoms came at a very costly price, paid for by men and women far braver than any of us, who sacrificed themselves in the fight against tyranny so that future generations could be free. It now falls upon us to guard that freedom and protect it for those who will follow us.

Canada is a great country worth celebrating, and it is my hope that we will do just that, not just this upcoming Canada Day but every day. Thank you.

Hon. Senators: Hear, hear.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Sierra Quinn Mckinney and Jodee Mckinney. They are the guests of the Honourable Senator Simons.

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

Hon. Senators: Hear, hear!

NEW ARTS INITIATIVES

Hon. Patricia Bovey: Honourable senators, before we rise for the summer, and our work in the regions begins, I want to update you on several initiatives from over the past year. They are exciting and empowering. One provides Inuit art and artists with new opportunities. Another will give Canada's Black artists new exposure to audiences and profile at home and abroad.

• (1410)

Yesterday, on Indigenous Peoples Day, the Inuit Art Foundation and the Canada Council for the Arts made a groundbreaking announcement. Together, after years of Inuit artists' lacking equal access to the funding opportunities of southern artists, a much-needed, national, Inuit-specific, multidisciplinary granting pilot program has been developed in the spirit of self-determination.

Launching next winter, 2022-23, it will support the Inuit Art Foundation's work with Inuit communities throughout Inuit Nunangat and in the south. Distributing over $100,000 in its first year, it will assist Inuit artists in every aspect of their careers, self-expression and self-determination across disciplines. It will increase access to and awareness of artists' work in both private and public milieus. It will give greater access to art markets at home and abroad. The project also offers capacity-building opportunities for Inuit program officers and assessment juries. Inuit community feedback will ensure artists' needs will be met. Inuit art was Canada's face abroad for years. I am delighted it will be again.

Simon Brault, Director and CEO of the Canada Council for the Arts, said:

> . . . Inuit artists, we intend to enable the pursuit of sustainable careers in arts and culture and to contribute to capacity building within communities across Canada.

Another major initiative grew from the work of Canada's Black content steering committee for Canada's participation in the Pan African Heritage Museum, opening in Ghana next year. A newly formed collective, Canadian Black Artists United, is launching its inaugural event at the Canadian Museum for Human Rights in Winnipeg this Sunday.

Artist Yisa Akinbolaji, whose work was in the Senate's first Honouring Canada's Black Artists presentation, is their inspiration. I am honoured to be their guest speaker. The leadership of Black artists from across this country who work in all disciplines and with whom I have been working closely these past several years has been stellar. Canada's contributions to the virtual and actual exhibitions of the Pan African Heritage Museum will be exciting, honest, challenging and innovative, as they look to the past, present and future.

Colleagues, I thank all involved in both these initiatives for their dedication, tenacity and vision as they ensure these empowering steps to more equitable and sustainable careers.

JULIE BOISVENU

TWENTIETH ANNIVERSARY OF DEATH

Hon. Pierre-Hugues Boisvenu: Honourable senators, I would like to thank you all for the messages so full of sympathy and human warmth that I have received since yesterday.

[*Translation*]

Tomorrow night, June 23, marks 20 years since my daughter Julie was abducted while walking to her car after celebrating her promotion to manager at a Sherbrooke company. She was held captive, raped and murdered by a repeat offender. Her body was found 10 days later in a ditch outside the city.

Twenty years ago, this tragedy forever scarred an entire community. Since then, I have dedicated my life to victims of crime, to their families, and to defending their hard-won rights. This tragedy was the reason I was appointed to the upper chamber.

I have always believed that parents do not choose their children, but that children choose their parents. From the first night she disappeared, I knew deep down that Julie was gone. I knew she would never come back, and I believe that she was steering my life towards something other than a quiet retirement, as I used to say at home.

Julie would be 47 years old today. She would probably be an accomplished wife and mother. I often imagine what my life would have been like if I had not lost my daughters, but I can't imagine my life without the mission that their tragic and untimely departures instilled in me, that is, a need to reach out to families who have had a loved one brutally stolen from them.

Julie taught me so much, in life and in death. She possessed strength of character and never looked back despite facing the kind of tremendous challenges that can prevent us from putting our lives, our dreams and ourselves back together. Her strength inspires me to keep working for victims involved in our justice system and to support victims' families. I am driven by hope and by love for life itself. We can offer them serenity only if we are not inhabited by anger, rage and a desire to take revenge on the offender.

Julie, my dear child, you left us 20 years ago, but it still feels like yesterday. To me, your face has not changed. Your strength of character and your love of life are always with me. Our father-daughter conversations in the backyard over an after-dinner glass of wine are forever etched in my memory.

Julie, I am proud of what we have accomplished for victims by creating the Association des familles de personnes assassinées ou disparues, supporting families and making changes to justice systems. We adopted the Canadian Victims Bill of Rights to give victims rights and a voice.

With these few words, I want to say a big thank you for being part of my life and the lives of your family and your many friends, although our time together was far too short. Thank you on behalf of the families I have supported after they experienced their own tragedies. There are so many such families that I have lost count.

I have another 20 months of work ahead of me in the Senate, and I still have things I want to accomplish with my honourable colleagues. Our commitment to do more to protect women who are victims of domestic violence will be a full-time endeavour. So many women are in need of help, protection and support. Together, we will do our best to support them and save lives.

Julie, thank you for joining me on this mission, our mission, and for guiding me towards the victims and their families to ensure that their voices are heard, as well as yours, so they are never forgotten. I am proud of you and your sister Isabelle, and I always will be. Julie, 20 years have passed since you left this earth, but time has no meaning for a father, and you will always be my little darling.

Thank you for everything, my dear. I love you.

Hon. Senators: Hear, hear!

[*English*]

NATIONAL INDIGENOUS HISTORY MONTH

Hon. Nancy J. Hartling: Honourable senators, I am proud to share a musical initiative from my home community in Greater Moncton, New Brunswick, called "The Gathering Chant." It honours National Indigenous History Month in Canada, as well as the Mi'kmaq people who have lived in New Brunswick and the Atlantic region since time immemorial.

I learned about "The Gathering Chant" from a friend of mine, singer-songwriter Michel Goguen, who performs under the name Open Strum. Michel supports various causes by writing and performing music that he gives freely to charities, who then distribute the songs to donors and volunteers. This time, he teamed up with Unama'ki Institute of Natural Resources, a non-profit organization based in Nova Scotia that unites traditional Mi'kmaq knowledge with science and applies this lens to conservation and environmental stewardship initiatives. The funds raised for the institute will go toward supporting their summer youth program called Nikani Awtiken.

"The Gathering Chant" is actually a traditional song in Mi'kmaq culture about getting together as a community. In the spirit of the song, Michel teamed up with Hubert Francis from the Elsipogtog First Nation in New Brunswick, who is a well-known singer-song writer. In 2019, Hubert received the prestigious East Coast Music Awards' lifetime achievement award.

In the spirit of community, Michel and Hubert gathered a truly international choir of 73 people from 22 different countries across the world to perform for the recording. Colleagues, I was delighted to be one of those 73 singers who contributed to "The Gathering Chant." We sang in the Mi'kmaq language, which was a new challenge for most of us.

We all learned so much, and so, too, will the youth who participate in the Nikani Awtiken program. This annual eight-day summer camp is an opportunity for Mi'kmaq youth to learn about their relationship with and responsibility toward the natural world and to develop skills based on traditional Mi'kmaq knowledge that will foster a closer relationship with their culture and the land. They will grow into a generation of Mi'kmaq youth empowered with leadership and environmental stewardship skills deeply informed by Indigenous knowledge.

I can't think of a better way to celebrate Indigenous History Month than through the sharing of music, culture and language. "The Gathering Chant" brought so many people together, and I hope that it will inspire those who listen to it. It was released on June 21, on National Indigenous Peoples Day in Canada. Thanks to those who made it possible, especially Michel and Hubert. *Wela'lioq*.

• (1420)

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Dr. Vlastimil Dlab, Fellow of the Royal Society of Canada, Helena Dlab, and Nancy Cruz. They are the guests of the Honourable Senator Deacon (*Nova Scotia*).

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

Hon. Senators: Hear, hear!

[*Translation*]

TRIBUTE TO ACADIA

Hon. René Cormier: Honourable colleagues, as we prepare to return to our home regions to be with our families and friends, I want to share a few thoughts with you on our national celebrations, which bring us together and give us an opportunity to recognize and celebrate the diversity of our Canadian culture.

Yesterday, we celebrated National Indigenous Peoples Day. In a few days, we will be celebrating the national holiday of Quebec and the Canadian francophonie, and then we will have Canada Day on July 1.

I would like to add an important holiday to that list, National Acadian Day, which is August 15. It is a day to recognize, affirm and celebrate the place that the Acadian people occupy in our country, while reminding everyone of the role this francophone nation has played in shaping Canada and its international diplomacy.

The president of the Société nationale de l'Acadie, an organization that represents the Acadian people on the national and international stages, noted the following in a brief submitted to the Standing Senate Committee on Official Languages, and I quote:

> The international success of the Acadian people shows the way forward for the renewal of cultural diplomacy policy in Canada. . . .
>
> Cultural diplomacy has been central to the Acadian national project for a century and a half. It is by forging links with the francophonie, including Quebec, France and the international Francophonie, that we have asserted ourselves as a people within the Canadian federation. . . .

In fact, with its Acadian World Congresses, its partnerships with Louisiana, Quebec, Saint-Pierre and Miquelon, and Belgium, its membership in the Organisation internationale de la Francophonie, or OIF, the creation of SPAASI, the strategy for the promotion of Acadian artists on the international stage, and the creation of OMIA, the office for international mobility in Acadia, the Société nationale de l'Acadie is an active and effective leader in Canada's civil and cultural diplomacy.

According to her December 2021 mandate letter, the Minister of Foreign Affairs has the following responsibility, and I quote:

> Celebrate Canada's unique francophone cultures through the promotion of the French language across our diplomatic missions and in our work to transform the Organisation internationale de la Francophonie.

The Acadian people and the Société nationale de l'Acadie are essential partners in this important mission. I fervently hope that the Government of Canada will fully recognize the monumental work being done in this regard by the Acadian people.

In closing, dear colleagues, I want to wish each and every one of you a peaceful and relaxing summer. I hope that, when the bells ring out for the Grand Tintamarre on August 15 and Acadians peacefully take to the streets to celebrate their existence and their contribution to the world, when men, women and children from all walks of life, all genders and all identities merrily bang on pots and pans and play improvised instruments to show that they belong to this proud people, the whole country will vibrate with joy. I hope you will all take part and that your hearts will be filled with gratitude for this people, who have been helping to build our magnificent country since 1604, a country where, despite what some may say, we are free to be ourselves, no matter our identity, background or origins. Thank you.

Hon. Senators: Hear, hear!

[*English*]

ROUTINE PROCEEDINGS

STUDY ON THE FEDERAL GOVERNMENT'S RESPONSIBILITIES TO FIRST NATIONS, INUIT AND MÉTIS PEOPLES

SIXTH REPORT OF ABORIGINAL PEOPLES COMMITTEE TABLED

Hon. Brian Francis: Honourable senators, I have the honour to table, in both official languages, the sixth report (interim) of the Standing Senate Committee on Aboriginal Peoples entitled *Not Enough: All Words and No Action on MMIWG* and I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

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

MEDICAL ASSISTANCE IN DYING

FIRST REPORT OF SPECIAL JOINT COMMITTEE TABLED

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I have the honour to table, in both official languages, the first report (interim) of the Special Joint Committee on Medical Assistance in Dying, which deals with the

review of the provisions of the Criminal Code relating to medical assistance in dying and their application, including but not limited to issues relating to mature minors, advance requests, mental illness, the state of palliative care in Canada and the protection of Canadians with disabilities, entitled *Medical assistance in dying and mental disorder as the sole underlying condition: an interim report* and I move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

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

THE SENATE

NOTICE OF MOTION CONCERNING THE ELECTRONIC TABLING OF DOCUMENTS

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, until the end of the current session, any return, report or other paper deposited with the Clerk of the Senate pursuant to rule 14-1(6), may be deposited electronically.

NOTICE OF MOTION PERTAINING TO THE PROCEEDINGS OF BILL C-28

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 provision of the Rules, previous order or usual practice:

1. if the Senate receives a message from the House of Commons with Bill C-28, An Act to amend the Criminal Code (self-induced extreme intoxication), the bill be placed on the Orders of the Day for second reading on June 23, 2022;

2. if, before this order is adopted, the message on the bill had been received and the bill placed on the Orders of the Day for second reading at a date later than June 23, 2022, it be brought forward to June 23, 2022, and dealt with on that day;

3. all proceedings on the bill be completed on June 23, 2022, and, for greater certainty:

   (i) if the bill is adopted at second reading on that day it be taken up at third reading forthwith;

   (ii) the Senate not adjourn until the bill has been disposed of; and

   (iii) no debate on the bill be adjourned;

4. a senator may only speak once to the bill, whether this is at second or third reading, or on another proceeding, and during this speech all senators have a maximum of 10 minutes to speak, except for the leaders and facilitators, who have a maximum of 30 minutes each, and the sponsor and critic, who have a maximum of 45 minutes each;

5. at 9 p.m. on Thursday, June 23, 2022, if the bill has not been disposed of at third reading, the Speaker interrupt any proceedings then before the Senate to put all questions necessary to dispose of the bill at all remaining stages, without further debate or amendment, only recognizing, if necessary, the sponsor to move the motion for second or third reading, as the case may be; and

6. if a standing vote is requested in relation to any question necessary to dispose of the bill under this order, the vote not be deferred, and the bells ring for only 15 minutes; and

That:

1. the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the matter of self-induced intoxication, including self-induced extreme intoxication, in the context of criminal law, including in relation to section 33.1 of the *Criminal Code*;

2. the committee be authorized to take into consideration any report relating to this matter and to the subject matter of Bill C-28 made by the House of Commons' Standing Committee on Justice and Human Rights;

3. the committee submit its final report to the Senate no later than March 10, 2023; and

4. when the final report is submitted to the Senate, the Senate request that the government provide a complete and detailed response within 120 calendar days, with the response, or failure to provide a response, being dealt with pursuant to the provisions of rules 12-24(3) to (5).

• (1430)

[*Translation*]

PARLAMERICAS

PLENARY ASSEMBLY, NOVEMBER 26, 29
AND DECEMBER 10, 2021—
REPORT TABLED

Hon. Rosa Galvez: Honourable senators, I have the honour to table, in both official languages, the report of the ParlAmericas concerning the Eighteenth Plenary Assembly, held as virtual sessions on November 26, 29 and December 10, 2021.

[*English*]

QUESTION PERIOD

PUBLIC SAFETY

ROYAL CANADIAN MOUNTED POLICE

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, my question today is again for the Leader of the Government in the Senate. This is a follow-up to yesterday's question, leader, about pressure put on the RCMP commissioner by the Prime Minister and Minister Blair to release information on the investigation into the horrific April 2020 shootings in Nova Scotia.

Leader, these are the notes of Superintendent Darren Campbell of the Nova Scotia RCMP:

> The Commissioner said she had promised the Minister of Public Safety and the Prime Minister's Office that the RCMP (we) would release this information. I tried to explain there was no intent to disrespect anyone however we could not release this information at this time. The Commissioner then said that we didn't understand, that this was tied to pending gun control legislation. . . .

Leader, I know your government isn't good at providing answers, but, now that you have had time to get a response, did Commissioner Lucki promise to use the mass murders in Nova Scotia to advance the Liberal government policy? Who in the Prime Minister's Office or in the minister's office talked to Commissioner Lucki about releasing this information?

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

The independence of our law enforcement operations is a key principle of our democracy and one that the government deeply respects. I have been assured that at no point did the government pressure or interfere in the operational decisions of the RCMP. I direct all senators to the commissioner's statement from yesterday in which she makes very clear that there was no interference.

Canadians, including those directly impacted by the tragedy, have expressed concern about when and how the RCMP shared information with the public, and that is why the government specified in the order of reference that the Mass Casualty Commission examine the communications approach taken both during and after the event.

Finally, senators, the former Minister of Public Safety, Minister Blair, both during Question Period in the House and today to reporters, was unequivocal. I know Minister Blair is a man of integrity, and I quote him from Question Period:

> I can confirm for the House, as the commissioner has also confirmed, that no such direction or pressure was exerted by any member of this government to influence the commissioner's exercise of her authorities over her police service.

Senator Plett: Of course, leader, we are all aware of the denials that are coming fast and furious over there, and people are being thrown under the bus as fast as they can.

Senator Gold, you might not like our questions, but there is no excuse for the lack of information you are providing, and this is no information on this important issue. The types of answers the government gives makes a mockery of accountability.

This is the testimony, leader, of Lia Scanlan, communications director for the Nova Scotia RCMP:

> The commissioner releases a body count that we (Communications) don't even have. She went out and did that. It was all political pressure.

Leader, she continues, "That is 100% Minister Blair and the Prime Minister."

Again, these are not my words but Lia Scanlan's, "And we have a Commissioner that does not push back."

Leader, why did the Prime Minister and Minister Blair talk to the commissioner about releasing information on the number of victims during an active police investigation?

Senator Gold: Thank you for your question.

Respectfully, I answered your first question, and I'm going to answer the following. Minister Blair said today to reporters:

> . . . I made no effort to pressure the RCMP to interfere in any way with their investigation. I gave no direction as to what information they should communicate. Those are operational decisions of the RCMP and I respect that and I have respected that throughout.

I should add, as well, that Minister Blair also refuted the notes that were referred to in the newspaper article to which you referred, again saying these were the recollections, perhaps, of that person. Minister Blair stands by his statement, and I can do no better than stand behind his statement as well.

Hon. Leo Housakos: Honourable senators, my question is for the leader of the Liberal-NDP government.

Senator Gold, I need to get back to the question asked of you by Senator Plett. At the end of the day, with your talking points, you are essentially asking us to believe the word of this Trudeau government over the RCMP.

Senator Gold, it has been a few years now since we found out that your government wasn't above interfering in criminal court proceedings for political expediency, and more recently we found out that you are not above illegally suspending the rights of Canadians with an unjustified invocation of the Emergencies Act.

It should come as no surprise to any of us that your government thinks nothing of interfering in the police investigation of one of this country's most brutal mass murders and taking advantage of that tragedy in order to advance the Trudeau political agenda.

My question to you is simple: Is there any length to which the Trudeau government will not go for political expediency?

Senator Gold: Senator Housakos, thank you for your question. I stand by the answer. Your premises are not accepted or correct. The commissioner was clear in her statement. Minister Blair was clear in his statement, and that is the appropriate answer to that which you have asked.

Senator Housakos: Senator Gold, the RCMP has been very clear in their claims in this investigation. The only people refuting them are the government talking points that you are spewing here today.

If your government really wants us to believe that you are putting the interests of Canadians — in particular, the families of victims in Nova Scotia — ahead of the Trudeau government's political interests, you would have already agreed to the emergency debate on the accusations revealed yesterday regarding the RCMP commissioner. Instead, your government has moved to have Parliament remain at half efficiency for yet another year as a response.

Senator Gold, I know you came to this place in the spirit of independence. I know you have an open mind, and somehow now you have found yourself as a member of Privy Council representing a government that has proven to be hyperpartisan.

Don't you think the people of Nova Scotia deserve better? Don't you think the victims' families deserve answers to these important questions?

Senator Gold: I know all Canadians, this government and members of the opposition are heartbroken over the tragedy that happened in Nova Scotia. I stand by my answers to your question. I am saddened by the use of the tragedy that befell the victims in the way that you have presented your commentary and question.

• (1440)

The fact is the government respects the independence of the RCMP. The minister was clear that there was no interference. The commissioner was clear that there was no interference. That is the position of the government.

It is the position of the government that respects not only the RCMP, but respects the integrity of the inquiry that is going on and, most of all, respects and honours the memory of those who lost their lives in Nova Scotia.

CANADIAN HERITAGE

ENGLISH-SPEAKING LINGUISTIC MINORITY IN QUEBEC

Hon. Tony Loffreda: Honourable senators, my question is for the Government Representative in the Senate.

Once again, Senator Gold, my question is on minority rights. They are so important, not only in Quebec, but across Canada. Today, I want to address Bill 21 which infringes on the civil liberties of Quebecers. Many religious and ethnic communities in Quebec continue to feel their rights have been eroded. As you know, the law is currently being challenged before the provincial courts.

Last December, in an answer to a question from Senator Omidvar, you said:

> . . . The Government of Canada remains committed to following the litigation closely and will take whatever decisions are deemed appropriate at the appropriate time.

Senator Gold, some might argue the appropriate time was a long time ago. When will the government take a strong stand on this bill and start defending the rights of minorities in our province? What is your definition of the appropriate time?

Hon. Marc Gold (Government Representative in the Senate): The Government of Canada has always been clear that it is on the side of Quebecers who are shocked and disappointed that a young teacher can no longer practise her profession because of how she chooses to observe her religion.

This government is committed to defending the rights and freedoms that are protected in the Canadian Charter of Rights and Freedoms, including the right to freedom of religion and the right to equality, as this matter touches upon those fundamental freedoms and the interpretation of the Charter which underscore our liberal democracy.

This government fully expects that this case will be appealed to the Supreme Court of Canada. If that happens, the government is committed to contributing to the debate, giving the broad implications for all Canadians and the need to defend the Charter, including the way in which the "notwithstanding" clause was invoked. The government has stated clearly that it will intervene in this matter at the Supreme Court level.

Senator Loffreda: Thank you for your answer, Senator Gold.

I appreciate the government may not want to take a position on the bill until the Court of Appeal of Quebec renders a decision. But sometimes governments need to lead and protect the rights and freedoms of its citizens, whether they were born here or not. Like the rest of Canada, Quebec's economic prosperity will rely heavily on immigrants.

This bill makes our province increasingly less attractive to diverse communities from around the world. When will the Prime Minister start advocating for these minorities who are such an important part of our national fabric? When will the government denounce Premier Legault's use of the "notwithstanding" clause as a means to override individual Charter rights?

Senator Gold: Thank you for your question.

The government has been very clear from the outset that it does not support Bill 21, notwithstanding that Bill 21 appears to be within the jurisdiction of the province. It does not support it because of its infringement on fundamental rights. The government has been clear about that. The Prime Minister has been clear about that from the outset.

Indeed, the Prime Minister was the first to even discuss the possibility of intervening in court cases when leaders in all other parties were reluctant to say a word.

More recently, the Prime Minister has made it clear that he will intervene. In that regard, Senator Loffreda, I think the government can stand proudly on its record for defending minority rights in this country and doing its part within its jurisdiction and within the division of labour between our institutions to stand up for Canadians' rights.

ENVIRONMENT AND CLIMATE CHANGE

TESTING AND CLASSIFICATION OF TOXIC SUBSTANCES

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

Senator Gold, central to the control and management of chemical substances is the need to determine their toxicity and classify them according to their potential harm.

In most developed countries, and to avoid conflict of interest, arm's length or scientific institutions, such as the Centre d'expertise en analyse environnementale du Québec, do this work.

Several times during study of Bill S-5, I asked government officials who undertake the testing and assessment of substances for their toxicity. Are they actual tests or are they literature reviews conducted by the government or industry?

Hon. Marc Gold (Government Representative in the Senate): Thank you, Senator Galvez. I participated in many of those hearings, so I'm aware of the questions that you asked. I do believe that you received answers and they would be reflected in Hansard.

I don't have Hansard at hand. I can refer you back to those answers. I hope that they are satisfactory. On the assumption that they are not, thank you for raising the issue in the chamber. We look forward to the third reading debate on the bill later today.

Senator Galvez: I would appreciate it if you could provide me with the answers because the answers were not to my satisfaction.

Bill S-5, finally, clearly states that risk is the approach to managing toxic substances, but is it the risk to humans or the risk to the environment? What constitutes highest and acceptable risk?

Senator Gold: Thank you. I'm flattered and honoured to be in this position despite what some of my colleagues have said about the government that I represent.

But I'm neither the sponsor of the bill nor an expert, nor indeed even a member of the committee, even though I participated ex officio.

Senator Galvez, respectfully, I think that the question was asked — or should have been asked, if it wasn't — to the officials in the course of the protracted and extensive study on the bill. I'm afraid I'm not in a position to answer that question in this setting.

NATIONAL DEFENCE

INDEPENDENT EXTERNAL COMPREHENSIVE REVIEW

Hon. Jane Cordy: Senator Gold, on May 20, after nearly a year of study, former Supreme Court Justice Louise Arbour released her report on the external review into sexual harassment and misconduct in the Canadian military. Her report consisted of 48 recommendations.

As you mentioned in this chamber to a question from Senator Coyle, Minister Anand committed to implementing 17 of those recommendations immediately.

My question concerns recommendation number 5 — which is not one of those 17 — which states that Criminal Code sexual offences should be removed from the jurisdiction of the Canadian Armed Forces and they should be prosecuted exclusively in civilian criminal courts in all cases. Senator Gold, could you let us know what is the hesitation to committing to this recommendation?

A similar recommendation came out of a previous 2015 study of sexual harassment and misconduct in the Canadian military. I'm just wondering what are the barriers for the transfer of the cases to civilian investigation and prosecution?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question. As I may have answered on a previous occasion, senators may recall that the government, in fact, laid the foundation in this area, as in many others, by accepting an interim recommendation from former Supreme

Court Justice Louise Arbour to begin referring the investigation and prosecution of Criminal Code sexual offences from the military justice system to the civilian one.

Since Minister Anand received and accepted the recommendation to refer sexual offences from the military justice system to the civilian system in the fall, the government has made substantial and substantive progress in such referrals.

As Ms. Arbour outlines in a report — and this is my understanding of the facts on the ground — there have been some challenges with certain jurisdictions. To this end, Minister Anand is writing, again, to provincial and territorial partners about the path forward and to start the process of establishing a formal, intergovernmental table to build a durable transfer process that will better serve the Canadian Armed Forces now and in the future, and, of course, serve the interests of justice for those who are victims of alleged assault.

Senator Cordy: Thank you very much for that. I'm really pleased to hear about the interim steps that are taking place. I have never met Minister Anand, but, based on the things she has done, I have tremendous respect for her and am quite certain she will try to get things done.

• (1450)

The minister previously stated that she was acting on a recommendation from the previous External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces report from 2015 to allow victims of sexual assault to request, with the support of what was then to be called the center for accountability for sexual assault and harassment — now the Sexual Misconduct Response Centre, SMRC — transfer of the complaint to civilian authorities. According to the Office of the Canadian Forces Provost Marshal last November, roughly 145 cases of sexual misconduct allegations involving Canadian Armed Forces members could be transferred to civilian police to investigate.

To date, do you know how many cases of these have been tried or brought to civilian court? Are civilian police obligated to investigate cases of sexual misconduct allegations if requested by the Canadian military, or are they able to refuse such cases?

Senator Gold: Thank you for the question, senator. It's an important one. I don't know the number of cases. I do know the investigation into serious allegations of crime sometimes takes time. That may or may not be a factor underlying the statistics of which, unfortunately, I'm ignorant, nor do I know specifically, but I will inquire, as to what discretion, if any, there may be in the hands of civilian police officers faced with an allegation.

Again, procedurally and within normal practices, there are certain thresholds that may need to be reached before next steps are taken, from allegations to gathering of evidence, to the determination that a charge would be justified in being laid. I'll make those inquiries, senator, and hope to get back to you.

JUSTICE

CONSULTATION WITH INTERESTED ORGANIZATIONS

Hon. Dennis Glen Patterson: Honourable senators, my question is to the Leader of the Government in the Senate. Senator Gold, in the question and answer document you sent to all senators late last night on Bill C-28, the government pointed out that, in the absence of a preamble, the courts will lean on "the parliamentary record" to learn the purpose of the bill. I would take that one step further to say that parliamentary proceedings have also been used as courts weigh any challenges to a law.

Senator Gold, do you not then feel it would be prudent to ensure that we have someone on the record other than the government to assure us that this bill will properly address the very narrow gap left by the Supreme Court of Canada decision and does not, in fact, create more loopholes?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question, which I will answer briefly. No, I do not think that is necessary. As students of the law know, the purpose and intent of legislation are gleaned not only from the words and structure of the act or the act into which the particular bill is inserted, and not only by the record that may exist in parliamentary debates, but is also informed by what courts have said about the purpose of provisions in previous cases.

Honourable senators, when debate on this matter begins, I will have opportunities to set out more fully my views on the bill and why the bill is worthy of our support.

Senator Patterson: Senator Gold, let me get a little more particular on my concern. We have heard that groups such as the National Association of Women and the Law felt they were not meaningfully consulted on Bill C-28. In fact, the national association's meeting with justice officials occurred on a Tuesday and the bill was tabled that Friday. The association has now asked all senators for the opportunity to state their case. They complain that the process is rushed. However, it is possible, according to the motion you have given notice of today, that we will receive the bill either later tonight or tomorrow and be pushed into considering the bill at all stages in a single day without hearing — in this place or in the other place — from any women's organizations, not to mention the wider legal community.

Senator Gold — and I ask this as, I suppose, yet another man speaking on this issue — is your government content to entirely exclude the voices of women's organizations to provide their considered comments now that we know what's proposed in the text of the bill? Is your government, which prides itself on being feminist, really content to exclude women and women's organizations from commenting on this bill when they are telling us they have identified significant flaws in the legislation?

Senator Gold: I'm going to be careful in my response, senator. I would perhaps invite you to speak to your colleague to your left as to what the understanding was of the process that was agreed to as reflected in the motion. I would further encourage

you to listen to my speech with an open mind and to recognize that the government took into account the views of many stakeholders, only one of whom seems to have been mentioned at length here.

Senator Patterson: It's about hearing —

Senator Gold: I have not finished my answer, sir. I will take a cue from a colleague more experienced than I. To your question, "is the government content to ignore," the government is not ignoring, so the answer is no.

[*Translation*]

IMMIGRATION, REFUGEES AND CITIZENSHIP

PASSPORT SERVICES

Hon. Claude Carignan: My question is for the Leader of the Government in the Senate.

Leader, every minister's mandate letter contains the following statement:

> Canadians continue to rely on journalists and journalism for accurate and timely news. I expect you to maintain professional and respectful relationships with journalists to ensure that Canadians are well informed and have the information they need to keep themselves and their families safe.

Yesterday, however, journalists covering the infamous passport story on public property were told by security officers that they were on federal property and were asked to leave. Journalists were kicked out of passport offices at the Guy-Favreau Complex, which is a public space.

Is that the government's vision for freedom of the press and for Canadians' right to be fully informed?

Hon. Marc Gold (Government Representative in the Senate): No, not at all.

Senator Carignan: This government has found a new way to deal with lineups at passport offices.

This morning, at the Guy-Favreau Complex, they handed out 73 tickets to the first 73 people in line, so the lineup was reduced by simply kicking everyone else out of the line, which stretched to over 400 people. Consequently, Canadians, citizens who had been waiting for hours, and in some cases days, were kicked out.

This government does not take action and tends to make excuses or apologize. Now that it has made enough excuses, will it soon apologize to the people who are waiting and establish some way to offer compensation to those who missed their vacations or trips because they didn't get their passports on time?

Senator Gold: As for your questions, I will submit a request for information to the government and get back to you with an answer.

[*English*]

PUBLIC SAFETY

EXEMPTION FROM SECURITY SCREENING

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, my next question again is for the government leader. Leader, *La Presse* reported yesterday that Minister Sajjan, the Minister of International Development and Minister responsible for the Pacific Economic Development Agency of Canada, sought an exemption from having to go through security in our airports. This exemption, leader, is reserved for the Prime Minister of Canada and his immediate family, the Governor General of Canada and the Chief Justice of the Supreme Court of Canada.

• (1500)

Leader, after Transport Canada initially refused Minister Sajjan's request, he tried again and was successful. Your government has apparently given him a partial exemption from airport security measures that countless other Canadians — you and I — have to go through.

Could you tell us why? How many other Trudeau cabinet ministers are now going to ask for the same exemption?

Hon. Marc Gold (Government Representative in the Senate): I am advised that the minister is often required to travel with classified material and equipment between Ottawa and his residence in British Columbia. To ensure that classified materials and equipment are not viewed by officials without the appropriate security clearance, officials are granted this exemption — it's a partial exemption — to the search of security-sensitive materials and for those materials only. The minister and his personal belongings still go through security — which often includes secondary screening — on all domestic flights, like any other Canadian.

I have no other information with regard to any other requests for exemptions.

Senator Plett: Reportedly, Minister Sajjan requested this exemption because, as you say, he carries classified information.

I find it strange that the minister would request this exemption now, as prior to his demotion last year, Minister Sajjan had been the Minister of National Defence. In his old cabinet post, he would have carried much more sensitive documents than he does in his current position as Minister of International Development.

The press also reported that former finance minister Bill Morneau once sought an exemption and was denied. Clearly, that policy has changed.

Leader, your government has created chaos in our airports. Instead of dealing with this issue, it looks like ministers are giving themselves additional privileges so they don't have to suffer through security screenings like all other Canadians.

Is every Trudeau cabinet minister now entitled to bypass airport screening every time they travel with sensitive documents?

Senator Gold: The answer is no. To the best of my knowledge, this was the only request. I repeat that the exemption that was granted was partial only. The minister still has to go through regular security screening, save and except for the equipment and documents that are classified and not appropriate for review by the officials.

DELAYED ANSWERS TO ORAL QUESTIONS

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

THE SENATE

TRIBUTES TO DEPARTING PAGES

The Hon. the Speaker: Honourable senators, today we pay tribute to three more of our dedicated Senate pages who will be leaving us this summer.

Nonso Morah is honoured to have had the opportunity to represent the province of Alberta within the Senate Page Program this year. She is looking forward to starting her second year at the University of Ottawa, studying Conflict Studies and Human Rights in both official languages, with a minor in Creative Writing. Nonso looks forward to pursuing new challenges and working in the service of her community. She says she will forever cherish her time as a page and is grateful to all who contributed to making it such an incredible experience.

On behalf of all senators, thank you, Nonso, for your dedication.

Hon. Senators: Hear, hear.

The Hon. the Speaker: Simon Hopkins has just graduated from Carleton University with a Bachelor of Public Affairs and Policy Management, specializing in International Policy Studies, Security and Defence. In the fall, Simon will continue his studies at Carleton with a Master of Journalism. Simon says he is honoured to have served the last two years as a page working during many historic events. He would like to thank the Office of the Usher of the Black Rod, the page leadership team and his colleagues for their hard work and support over the last two years.

On behalf of all senators, thank you, Simon, for your dedication and hard work.

Hon. Senators: Hear, hear.

The Hon. the Speaker: John Shand, our Chief Page, will be continuing his studies next year at the University of Ottawa, studying Political Science with a minor in Psychology. Having now finished his third year as a page, John has been proud to represent the province of Manitoba and honoured to have served as Chief Page for this past year. He would like to thank the Office of the Usher of the Black Rod, the Senate page team and his friends and family who have made this unique and wonderful experience possible.

On behalf of all senators, thank you, John, for your service.

Hon. Senators: Hear, hear.

[*Translation*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate): Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that as we proceed with Government Business, the Senate will address the items in the following order: third reading of Bill C-19, followed by third reading of Bill S-5, followed by second reading of Bill C-5, followed by all remaining items in the order that they appear on the Order Paper.

[*English*]

BUDGET IMPLEMENTATION BILL, 2022, NO. 1

THIRD READING—DEBATE ADJOURNED

Hon. Lucie Moncion moved third reading of Bill C-19, An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures.

She said: Honourable senators, I am pleased to take part in today's third-reading debate on Bill C-19, An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures (the Budget Implementation Act, 2022, No. 1).

The measures in this bill include many recent budget measures that are fundamental to the government's plan to grow the economy and make life more affordable for Canadians as they continue to recover from the global COVID-19 pandemic.

[*Translation*]

In this is speech, I will touch briefly on important measures relating to housing, employment and tax fairness. I will also address other measures, such as the tax on vaping products and climate-related tax measures.

I will conclude with an overview of observations from reports by the committees that studied various parts of Bill C-19, specifically those in the report by the Standing Senate Committee on Aboriginal Peoples. I think it is important to read certain parts of that powerful report in this chamber.

First I will talk about housing access and availability.

Honourable senators, we know that Canadians need housing to thrive, but Canada simply doesn't have enough. To address the situation, the government's latest budget includes an ambitious housing construction plan. The plan would double the number of homes built in the country over the next 10 years.

Of course, a national effort will be required to make this project a reality. The government will work with its partners at all levels of government, and will provide significant payments to the provinces and territories under the proposals set out in Bill C-19. These include up to $750 million to help municipalities deal with the shortfall in public transit and housing caused by the pandemic. The funding would be conditional on provinces and territories matching the federal government's contribution and working with their municipalities to expedite the construction of more housing for Canadians.

Honourable senators, Bill C-19 will also make the housing market fairer. We know, for example, that foreign investors are actively buying residential real estate in Canada. The bill prohibits non-Canadians from purchasing residential property for two years. This measure will help ensure that housing is used as homes for Canadian families and not as speculative financial assets.

[*English*]

In addition, the bill would further promote fairness in the real estate market by removing the ambiguity that may arise from the existing rules regarding the application of the GST or HST to the assignment of a contract of sale by making all assignments of contracts of sale by individuals taxable and by standardizing the tax treatment for the purchase of a new home.

Currently, when a person makes a new home assignment sale, the GST or HST may or may not apply, depending on the reason for purchasing the home.

For example, the GST or HST does not apply if the buyer initially intended to live in the home. This creates an opportunity for speculators to be deceitful about their original intentions and create uncertainty for everyone involved in an assignment sale as to whether the GST or HST applies. The current rules also result in the uneven application of the GST or HST to the full and final price of a new home. To redress this, Bill C-19 would amend the Excise Tax Act to make assignment sales in respect to newly constructed or substantially renovated residential housing taxable for GST or HST purposes.

• (1510)

On the housing front, Bill C-19 would also make housing more affordable for the homes people already live in. Over recent years, the home accessibility tax credit has provided support to offset some of the costs of home renovations and upgrades that make a home safer for seniors and persons with disabilities. In order to better support independent living, Bill C-19 would double the credit's annual limit to $20,000, making additional significant alterations and renovations more affordable. These enhancements, which would apply to the 2022 and subsequent taxation years, would provide up to an additional $1,500 in tax support. Taken together, Bill C-19 offers Canadians a suite of measures that support housing availability and affordability.

[*Translation*]

Let's talk about the importance of investing in a strong workforce. The investments in Budget 2022 extend far beyond real estate. Bill C-19 provides for investments in a stronger and rapidly growing workforce.

It will make it easier for the skilled immigrants our economy needs to settle in Canada. It will improve the government's ability to select candidates from the Express Entry pool who meet the needs of Canadian businesses.

[*English*]

In addition, Bill C-19 would introduce a labour mobility deduction for tradespeople, which would allow workers to deduct up to $4,000 per year for travel and temporary location expenses. By making it more affordable for people working in the skilled trades to travel to where the jobs are, this deduction would help reduce labour shortages in some areas of our country.

Bill C-19 would also introduce 10 days of paid sick leave for workers in the federally regulated private sector, which will support 1 million workers and protect their families, their workplaces and their jobs.

Honourable senators, Bill C-19 would advance the government's efforts to ensure Canadians benefit from a sound tax system where everyone pays their fair taxes. Bill C-19 proposes to implement the government's tax on the sale of new luxury cars and aircraft with a retail sale price over $100,000 and on new boats over $250,000.

Bill C-19 will also help address complex financial crimes, including money laundering, corruption and tax evasion by providing authorities with access to accurate and up-to-date data on the people who own and control corporations. Anonymous Canadian shell companies can be used to conceal the true ownership of assets, including businesses and expensive properties. This change to legislation would accelerate the creation of a public registry of federally incorporated corporations before the end of 2023, two years earlier than planned, to help counter illegal activities.

This would also help to prevent shell companies from being used to avoid sanctions and the tracing and freezing of financial assets. This is particularly relevant as Canada works with its allies through the new Russian Elites, Proxies, and Oligarchs Task Force to target the global assets of Russia's elites and those who act on their behalf.

At the Standing Senate Committee on Foreign Affairs and International Trade, officials described the process that would be followed for the forfeiture and disposal of seized assets. The minister would be responsible for identifying which asset could be seized and for applying to a court to seek a forfeiture order and to provide notice to any parties with an interest in the seized property.

[*Translation*]

On the topic of economic recovery, some of the measures in Bill C-19 are part and parcel of an economic stimulus package designed to meet the needs of the various sectors that were hard hit during the pandemic.

Many Canadian film and video productions were delayed during this time. Bill C-19 would grant more time to incur eligible expenses and extend certain deadlines related to tax credits that were available in these circumstances.

In 2019, roughly 1,540 and 550 corporations claimed the Canadian Film or Video Production Tax Credit, or CPTC, and the Film or Video Production Services Tax Credit, or PSTC, respectively. A comparable number of businesses could potentially avail themselves of these extensions. Another change found in the first part of Bill C-19 would allow the Canada Revenue Agency to accept late applications for the Canada Emergency Wage Subsidy, the Canada Emergency Rent Subsidy and the Canada Recovery Hiring Program. Since their introduction, these programs have been subject to strict deadlines that are sometimes ill-suited to the reality Canadians are facing. This measure would allow the CRA to take into account exceptional circumstances, through a case-by-case analysis, when appropriate, in order to recognize a person's eligibility despite their late application.

[*English*]

Programs offered by the government in response to the pandemic, including the Canada Emergency Wage Subsidy, the Canada Emergency Rent Subsidy, Canada Worker Lockdown Benefit, and the Canada Emergency Business Account helped the Canadian economy immensely to stay afloat. As for the International Monetary Fund's recent Article IV report, the decisive actions and unprecedented fiscal support helped limit economic scarring and protected Canadian jobs.

In order to deliver these programs to support Canadians and the economy during the pandemic, the government had to make extraordinary borrowings. The total sum borrowed from March 23, 2021, to March 31, 2021, under section 46.1(c) of the Financial Administration Act was $6.3 billion. From April 1, 2021, to May 6, 2021, the total borrowed under that section was $2.1 billion. Amounts borrowed under section 46.1(c) do not count toward the government's borrowing limit under the Borrowing Authority Act and are therefore not subject to the same reporting and transparency obligations as amounts that are part of the ordinary borrowing.

Given that the period of extraordinary circumstances has ended, the government proposes that the extraordinary borrowings from spring of 2021 be treated as regular borrowings to provide greater transparency on the stock of the government's debt and accountability to Parliament for the total amount borrowed. The government followed a similar process in the fall of 2020 with respect to extraordinary borrowings that were undertaken between April 1, 2020, and September 30, 2020.

[Senator Moncion]

[*Translation*]

Let's now turn to the health of Canadians. Part 2 amends the Excise Tax Act to ensure that the eligibility rules for the expanded GST/HST rebate for hospitals recognize the growing role of nurses and nurse practitioners in providing health care services in all regions of Canada, including those that aren't remote. Hospitals, charities and non-profit organizations providing health care services with the active involvement of, or on the recommendation of, either a physician or a nurse will be eligible for this rebate.

Senators will also recall that Bill C-19 provides a one-time $2-billion payment to reduce backlogs in the health care system through the Canada Health Transfer. A proportional payment will be made to the provinces and territories on a per capita basis.

[*English*]

The Government of Canada is also proposing measures that will have the effect of preventing long-term negative health behaviours among youth through economic impediments. Part 3 of Bill C-19 proposes to amend the Excise Act, 2001 and related acts and regulations to implement a new excise duty framework for vaping products.

The new framework would require manufacturers of vaping products to obtain an excise licence for vaping products from the Canada Revenue Agency and require that an excise stamp be placed on all vaping products entering the Canadian market for retail sale.

The amendment also includes administrative and enforcement rules relating to the new framework and are intended to ensure that the framework applies to imported vaping products. Many stakeholders, including the Canadian Cancer Society, are urging senators to support Bill C-19 to ensure that vaping products are taxed as soon as possible. Indeed, some statistics, particularly among our youth, are very disturbing.

• (1520)

Colleagues, according to the result of the national survey on tobacco, alcohol and drugs among high school students, the rate of vaping has more than tripled over a four-year period from 9% to 16% to 29%. Recent studies in the U.S. and Canada show alarming upward trends. When you consider that some of the products can contain up to 50 milligrams of nicotine, it is disturbing to see that a new generation is developing an addiction to nicotine through vaping products.

Vaping products are particularly affordable, and young people are very sensitive to product costs. We know that tobacco taxes had an impact on reducing youth smoking, and the same logic applies to vaping products. A tax should help reduce youth consumption.

However, in the interest of public health, the government must consider a comprehensive strategy to address nicotine use among Canadians in general. Ideally, this tax would be accompanied by other measures such as regulating the maximum level of nicotine that these products can contain, as is the case, for example, with cannabis; restriction on advertising and the flavours available; and more education and prevention.

To this end, Part 3 of the bill also amends the Federal-Provincial Fiscal Arrangements Act to allow the federal government to enter into agreements on a coordinated approach to the taxation of vaping products with provincial and territorial governments. Provinces and territories may also play a role in this national strategy within their own jurisdictions, including regulating the legal age of consumption of these products and the licensing of establishments.

[*Translation*]

Bill C-19 will continue to help Canadians fight climate change. In 2019, the government established a national price on carbon pollution to ensure that it is no longer free to pollute anywhere in Canada. In provinces where the federal fuel charge applies, all proceeds are remitted to Canadians and communities. Approximately 90% of these proceeds directly benefit the population through the climate action incentive.

[*English*]

The majority of families receive more money back through the climate action incentive than they pay into the federal system. Bill C-19 would change the delivery of the climate action incentive payments from a refundable claim annually on personal income tax returns for those living in Ontario, Manitoba, Saskatchewan and Alberta, to quarterly payments starting in July of this year. Payments would start with a double-up payment to return proceeds from the first two quarters of 2022-23 fuel charge year.

To support the growth of clean technology manufacturing in Canada, Bill C-19 would also help Canadians and Canadian businesses benefit from the global transition to a clean economy by cutting tax rates in half for businesses that manufacture zero-emission technologies.

[*Translation*]

Bill C-19 also contains a measure to expand the scope of the capital cost allowance deduction to include new clean energy equipment. The measure would exclude equipment that mainly uses fossil fuels, for example, fossil-fuelled cogeneration systems and fossil-fuelled enhanced combined cycle systems. It would impose an efficiency requirement on waste-fuelled systems and limit the allowable proportion of fossil fuels that can be used by eligible equipment.

I will now talk about protection measures for Canada.

[*English*]

Bill C-19 would amend the Special Import Measures Act and the Canadian International Trade Tribunal Act to strengthen and improve access to Canada's trade remedy system. The trade remedy system allows for the imposition of anti-dumping and countervailing duties on imports to protect domestic producers from injury caused by dumped or subsidized goods, thereby ensuring better conditions of competition for Canadian businesses and workers.

The trade remedy system also provides for the application of safeguard measures to protect domestic producers from injury caused by surges of fairly traded goods. At this time in our history, these important measures are essential to our economy.

Division 20 of Bill C-19 would amend the Customs Act to enable the Canada Border Services Agency to administer and enforce the Customs Act by electronic means. The proposed changes would also define the term "importer of record" and make that importer liable to pay duties on imported goods alongside the importer or person authorized to account for the goods, as the case may be, and the goods' owner. This would provide for a fairer and more efficient system for Canada.

[*Translation*]

Under the Canada-United States-Mexico Agreement, or CUSMA, Canada agreed to amend the Copyright Act in order to change the general term of copyright protection from 50 to 70 years following the death of an author by the end of 2022. The general term of protection would apply to a wide variety of works. This will enable Canada to meet its obligations, level the playing field with its trade partners and create new export opportunities for Canada's creative industry and Canadian content, while continuing to protect authors.

[*English*]

Bill C-19 would amend the Competition Act to provide better protection of consumers and promotion of fair and equitable markets. The government has chosen to proceed with its modernization in two phases.

The targeted amendments proposed in Bill C-19 in the first phase will bring Canada more in line with international best practices and provide immediate and tangible benefits to consumers and businesses. In general, the government's proposed amendments will strengthen the Competition Bureau's investigation powers, prohibit wage-fixing and related agreements on criminal grounds, increase maximum fines and administrative monetary penalties, clarify that posting of partial prices is false or misleading representation, expand the scope of business practices that may constitute abuse of dominance, allow private access to the Competition Tribunal to remedy abuse of dominance and improve the effectiveness of major notifications and other provisions.

In the second phase, the government will organize broad consultation and undertake a thorough review to continue reform by considering even more transformative changes.

Now, I would like to speak of — and I am very proud of — the committee work that was done by all committees toward truth and reconciliation.

In my second-reading speech, I acknowledged and thanked the members and chairs of the six committees that conducted the pre-studies of Bill C-19, as well as the members and chair of the Finance Committee, for their work on the entirety of the bill — a lengthy and difficult undertaking. The reports from the various committees are important to provide context to the measures and sometimes a path forward to continue the work on certain issues. Not everything can be resolved through a budget bill, but the information contained in these reports is precious to continue our work.

Before I conclude this speech, I would, therefore, like to highlight one report in particular that I find very important and impactful, and I invite you all to read it. I'm referring to the report tabled by the Standing Senate Committee on Aboriginal Peoples. The committee made some observations on Division 3 of Part 5, which proposes to repeal the Safe Drinking Water for First Nations Act.

First Nations have repeatedly called for the repeal and replacement of the act, and the federal government is now required to do so under the safe drinking water class action litigation settlement agreement, jointly approved by the Federal Court and the Court of Queen's Bench of Manitoba on December 22, 2021. The repeal of the act in Bill C-19 is therefore not contentious. However, the observations from the committee regarding the access to safe drinking water for all communities in Canada are important to emphasize. The report says:

> The committee is alarmed about the unacceptable water crises that continues to plague First Nations across Canada causing serious illnesses, mental health issues and unnecessary suffering. . . .

It further reads:

> The committee underscores the urgency of ensuring access to clean, safe drinking water for all First Nations.

• (1530)

Since November 2015, 132 long-term drinking water advisories have been lifted. We have witnessed great progress over the last few years, but we need to do so much better as a country and work in partnership and collaboration with our Indigenous counterparts to find solutions to this crisis. There remain 34 long-term drinking water advisories in 29 communities.

To improve the situation, the committee suggests the following:

> The committee observes that there are innovative, First Nations-led solutions to drinking water and wastewater infrastructure. . . . The Government of Canada could contribute to these solutions, including by facilitating partnerships between the public and private sectors to deliver infrastructure to First Nations more broadly. Infrastructure builds create jobs and can drive economic and educational opportunities for local communities. Further, the Government of Canada could assess cost / benefits of infrastructure investments in terms of broader economic and social outcomes relative to their cost.

I take the opportunity to underline that June 21 was National Indigenous Peoples Day. The observation in this report reminds us of the relevance of this national day and how important it is to keep working toward the acknowledgement of the truth with respect to Canada's treatment of Indigenous peoples in the past and the present.

[*Translation*]

In closing, Bill C-19 contains a wide variety of measures that seek to invest in Canadians and support some of their top priorities.

By investing in Canadians, the bill will contribute to our economic growth, support job creation and strengthen our economic recovery in the wake of the COVID-19 pandemic and other global challenges.

I urge you to vote in favour of the budget implementation bill and I thank you for your attention.

Hon. Senators: Hear, hear!

[*English*]

Hon. Marty Deacon: Thank you for that great summary and that level of detail. I really appreciate that. I do want to ask a question, if I may.

As you know from sitting at the Finance table, this last part of your speech is something that we ask every year. We get reports every year on water bans and infrastructure challenges. Absolutely, there is no question that going from 132 to 34 advisories is movement in a good, solid direction.

However, I have read the report and I still struggle with those final 34 advisories and getting this done. It is something that plagues my thinking a bit, particularly when you visit Indigenous communities and they give you such strong statistics. When we talk about the money part, we absolutely need funding and financing.

At the end, you started to talk about stakeholders and partners. Candidly, how do you see us addressing those final 32 advisories?

Senator Moncion: Thank you for the question. The answer I will give is outside of Bill C-19, but, having participated in the Finance Committee and in some of the meetings of the Standing Senate Committee on Aboriginal Peoples, the government struggles. The final 32 water advisories that are still in place are challenging beyond what was expected. These are the last 32, but they are the most difficult to deal with. Sometimes that's just because of location or because of the industries that are around the First Nations.

The government is working very hard to bring solutions to these communities and to finally achieve zero water advisories in any communities.

Regarding the stakeholders, that's where I see the beauty of the work that is being done. The government is working with Indigenous peoples, and they are training these people to build, maintain and understand the water balances, to be aware of the environment where they are and to identify the risks that the environment in which they live can have an effect on water.

They have been working with all First Nations to resolve these water advisories. They are working with each of these groups and with members of communities to really get this going so they can take ownership of both the clean water and waste water to manage them in the long term. These solutions are long term. They are a long time in coming and they take a long time to fix, but once it is done, it will be done, we hope, for as long as these systems can support these changes.

There is also the maintenance of these systems through the years. Just because you have built a system doesn't mean you can leave it until you have to replace the whole thing. You must have upkeep and you have to put money into the system so that the technology, water sources and everything is kept up to date.

It is a large undertaking, but I would say the government has done a lot in the last 10 years. There is still a lot to do, but we are getting there.

Hon. Paula Simons: Would the senator take another question?

Senator Moncion: Of course I will.

Senator Simons: I almost feel I ought to give you a standing ovation, because I know how difficult it is to be the sponsor of the budget and carry it through.

However, there is still one part of the budget document that very much concerns me, and that is the insertion of amendments to the Criminal Code to criminalize denial and downplaying of the Holocaust. This was a question I didn't get to ask the Government Representative, so I'll ask it of you. Why was this placed in the budget bill, and should we be concerned that this Criminal Code amendment, that impinges upon constitutional freedom of expression rights, has been sort of tucked into the budget where it can't be pulled out and properly debated?

Senator Moncion: Thank you for the question; it is an important one.

First, the knowledge I have of this specific issue is that it was something that was asked for by the Jewish community. There are people who are saying we don't need this, and there are people who are saying this is important and needs to be in the bill. I can't speak for the government, but I believe that bringing the offence into the Criminal Code was a way to provide Canadians with the assurance that this is top of mind for the government.

When we are talking about freedom of the press, I think we have to look at the different views on this. This will probably be challenged on a constitutional basis. I think at some point we might bring change to this, but I really believe that when the government was looking at putting this into the Criminal Code, it was done to send a strong message to Canadians about Islamophobia. It is a problem in our country and a problem, I think, elsewhere in the world.

Senator Simons: Leaving aside the merits of the amendment, I have to say that since I spoke on this in the chamber last week, I have been overwhelmed with responses from people in the Jewish community across Canada — including the children and grandchildren of survivors — who agreed with me that this was an imprudent strategy.

I'm concerned about the presence of this change in a budget bill. I was privileged to sit in when the Standing Senate Committee on Legal and Constitutional Affairs discussed this and brought in Minister Lametti to ask him these questions. But I remain concerned that, by amending the Criminal Code within a budget bill, we have been robbed of an opportunity to have a more complete debate on this issue.

• (1540)

Senator Moncion: Thank you for the question. The budget bill is used to bring in measures that come from the budget. The budget was presented in April, and in the budget there was information on measures the government would bring forward. That's why you find it in the budget bill.

We might agree or disagree on the fact that the budget bill or the budget implementation act is not the best place for it, but that is how the government sees bringing forward what is in the budget — to bring it through the budget implementation act. If you look at the budget and see the number of measures there, they are not all in the budget implementation act, because they don't all need changes, but some do.

That would be my logical answer to your question.

Hon. Frances Lankin: Senator Moncion, would you accept another question?

Senator Moncion: With pleasure.

Senator Lankin: Thank you for all your work on this. I applaud anyone who takes on sponsoring the budget implementation act. I do share the opinion that was just offered about omnibus legislation, but I am also aware that in a minority Parliament time is always at a premium.

I want to come back to the question about clean drinking water in First Nations. I'm sure it was the way I heard this, and I was concerned when I heard you say that the government was working to help First Nations to, for example, learn about the environment and the connection with clean water — I know you agree with me that government has much to learn from First Nations on that point — but when you went on and talked about a few other things, I see that as capacity building. For some communities that is a requirement, and the resources to do that have to be there. For ongoing sustainability of the systems — maintenance upgrades, new technology et cetera — the resources have to be there.

Would you just deconstruct for me the budget provisions themselves and how they will enable these last 30-odd more difficult cases to be resolved in short order?

Senator Moncion: Thank you for the question. It's a good question. By repealing the Safe Drinking Water for First Nations Act, it gives more powers to the First Nations to take ownership and to have more freedom to work within their communities to resolve the water problems. I think it is more in that aspect, and the government keeps working with the communities to find solutions.

Being from the North, I will give you the example of the reserve in Kashechewan, which is in northern Ontario, and which has been a difficult situation to resolve because of the yearly debacle of the river and the water system that is not viable because of the location. When you are in Ottawa, you don't necessarily know all about what is going on in a community and when the government is working with the First Nation.

I understand when you talk about capacity building, and I think the water solution is a larger one than just putting in a system and hoping that the system is going to work. It is capacity and community building. It is working with First Nations, giving them the freedom to work and find solutions and working with government.

I want to apologize to my First Nations colleagues because I might not be answering this question in the best way, but I'm doing my best to try.

Hon. Elizabeth Marshall: Honourable senators, I rise to speak to third reading of Bill C-19, the budget implementation act.

Honourable senators, Canada is facing many challenges. Inflation is at its highest in 40 years and is expected to increase. Interest rates are rising. Canadians are one of the most highly indebted people in the world, and increasing interest rates will make their mortgages and other debts more expensive.

Government has also increased its debt, which is now $1.6 trillion. Interest on this debt will now cost more. There is no commitment to return to a balanced budget. Our debt of $1.6 trillion will be transferred to our children, grandchildren and even great-grandchildren. Our debt will be their problem.

Canada's GDP per capita grew by 0.8% annually from 2007 to 2020, ranking us in the third quartile among advanced economies. In other words, we were near the bottom of the rankings but not at the bottom.

As indicated in the government's own budget document this year, the Organisation for Economic Co-operation and Development, or OECD, projects that Canada will be the worst-performing advanced economy over the period 2020 to 2060. Our economy has waning competitiveness, weak private sector innovation and sluggish business investment. Our GDP per capita is 12% lower than the OECD's best performers. Our productivity is 18% lower than the OECD's best performers.

Our country needs a plan to address our economic problems and create the wealth we need to sustain our economic and social well-being.

Canadians and the Bank of Canada are coming to the realization that inflation, which remained at or below the Bank of Canada's annual target of 2%, has now become a major economic problem. The Bank of Canada remained convinced that the inflation experienced in 2021 was transitory despite some economists sounding the alarm over the escalating inflation. In fact, in his recent press conference in early June, the Governor of the Bank of Canada warns us that inflation will probably go even higher, and it has.

Inflation has had a devastating impact on Canadians, especially low-income Canadians and those on a fixed income. Inflation in May was 7.7%, the highest since 1983. Food prices increased 8.8%. Canadians paid more in May for food compared to May 2021. Fresh fruit, vegetables, meat, bread and pasta all increased. Even a cup of coffee costs 13.7% more compared to last year. And consumers paid 48% more for gasoline in May than they did a year ago.

In April, average hourly wages for employees rose 3.3%, meaning that, on average, prices rose faster than wages and Canadians experienced a decline in purchasing power.

When this government came to power in 2015, they were focused on the middle class and those working to join it. Remember Budget 2016: *Growing the Middle Class*; Budget 2017: *Building a Strong Middle Class*; and Budget 2018: *Equality and Growth for a Strong Middle Class*, and so on?

We even had a minister of middle class prosperity. I don't think anyone feels that "middle class prosperity" anymore with inflation now recorded at 7.7%.

Inflation is affecting many Canadians who have to choose between buying food, paying their bills and making their mortgage payments. There are numerous media reports of the dire circumstances of some Canadians and the increasing use of food banks.

To understand how inflation and rising prices are contributing to financial concerns or influencing the financial decisions of Canadians, Statistics Canada conducted the Portrait of Canadian Society survey from April 19 to May 1. The survey found that three in four Canadians report that increasing prices are affecting their ability to meet day-to-day expenses. Most Canadians are feeling the impact of inflation, but lower-income Canadians are more concerned about, and more affected by, rising prices. Canadians were most affected by rising food prices, which increased 9.7%.

• (1550)

When the finance minister was asked at our Finance Committee what initiatives were included in the budget to address the impact of inflation, she said inflation is very much a global phenomenon and referenced the recently announced items in the budget, including the dental program and the additional $500 payment for Canadians who are struggling with housing affordability.

While financial assistance provided to certain groups of Canadian society is certainly appreciated by those receiving the financial assistance, inflation affects almost all Canadians, and this is an issue which must be addressed by the government.

On June 8, the Bank of Canada released its *Financial System Review* focusing on inflation and rising interest rates, as well as existing and emerging vulnerabilities. In an effort to control inflation, the bank has increased interest rates and has indicated that they will continue to do so.

High household debt and high house prices are not new vulnerabilities. We have tracked household debt and house prices for years, and the Bank of Canada, the Canada Mortgage and Housing Corporation, and even the International Monetary Fund, have identified these as key vulnerabilities of the Canadian economy. However, households are now exposed to increasing interest rates, which will make their mortgages and other debts more expensive. For highly indebted Canadians, they may have difficulty servicing their debt. If the economy slows and unemployment increases, even more Canadians will have problems servicing their debt.

The Governor of the Bank of Canada has said that more Canadians have stretched their finances during the pandemic to buy a home, so they will be more sensitive to interest rate increases. In addition, Canadians who bought homes when prices were high may see the value of their homes decline. There is also the risk that the value of their homes may actually be less than their mortgage.

Last week, the Federal Reserve in the U.S. raised its benchmark interest rate by 75 basis points, its most aggressive hike in 25 years, as the U.S. central bank tries to rein in inflation in the United States.

The Bank of Canada is scheduled to make its next interest rate announcement on July 13, and some economists are predicting that the Bank of Canada will also move more aggressively to raise interest rates in Canada.

A recent debt survey by Manulife Bank of Canada found that 18% of homeowners polled are already at a stage where they can't afford their homes. The survey also found that one in five Canadians expect rising interest rates to have a significant negative impact on their overall mortgage debt and financial situation.

But it is not just Canadians who will be facing increasing debt costs. The government is also carrying significant debt — in excess of $1.6 trillion — so the cost of servicing that debt will increase. While the government reported debt servicing costs in 2021 at $20 billion, they are projecting it to increase to $42.9 billion in 2026-27, and recent reports by the Parliamentary Budget Officer expect that increase to rise further.

Last May, Bill C-14 raised the government's debt ceiling from $1.168 trillion to $1.831 trillion. While some parliamentarians were alarmed over this increase, the Minister of Finance told the House of Commons Finance Committee on March 11 last year:

> We are saying that this is the upper limit to which the government may borrow.
>
> We are not saying the government will undertake those borrowings. . . .

Now, just 15 months later, we are told that debt is now $1.6 trillion. We are well on our way to reaching that $1.8 trillion ceiling. In fact, it seems the government cannot reach that limit fast enough.

As the government takes on more and more debt, we have been assured by them that the cost of servicing this debt, or the "public debt charges," remain low. However, we now know that interest rates are rising quickly and so is the cost of servicing the government's debt. A review of the government's financial documents over the past two and a half years shows that debt servicing costs are increasing significantly. Projections included in the last two budgets and the last two fall fiscal updates point to a rising concern over increasing interest costs.

The 2020 fall fiscal update released in December 2020 estimated that public debt charges for this year would be $22.4 billion. Four months later, this was increased to $25.7 billion in Budget 2021, and further increased to $26.9 billion in this year's budget. Over a period of 18 months, the government's estimate of debt servicing costs for this year increased $4.5 billion, or by 20%.

A second issue has surfaced over public debt charges. We all know that the government borrowed heavily during the pandemic, and a significant portion of this debt was acquired by the Bank of Canada. In fact, the bank's purchases of government bonds were approaching half a trillion dollars before the bank ceased acquiring those bonds.

In 2021, the government reported debt servicing costs of $20.4 billion. However, the government also disclosed in the public accounts net losses totalling $19 billion in respect of the Bank of Canada's purchases of Government of Canada bonds on the secondary market.

Why the $19 billion loss on the purchase of those bonds is recorded as negative revenue I do not know, but it is clearly a debt servicing cost. The debt servicing cost for 2021 is not the $20.4 billion being reported by government, but actually $39 billion.

As of June 1, 2022, the Bank of Canada continues to hold $397 billion of Government of Canada bonds. The Bank of Canada has indicated that it will not purchase any additional bonds but, rather, let the existing bonds mature, and they will essentially fall off the bank's balance sheet. However, there are others who say that this passive shrinking of the bank's balance

sheet as the bonds mature strikes some observers as inadequate. Last month, the C.D. Howe Institute's Monetary Policy Council urged the bank to accelerate the process by selling the bonds.

However, in a recent meeting of the Standing Senate Committee on Banking, Trade and Commerce, the governor of the bank testified that if the bank sold the existing government bonds it is holding, there would be a loss of $20 billion, which will be paid by the Government of Canada in accordance with the indemnity agreement between the government and the bank. This $20 billion would increase the government's deficit by $20 billion.

Earlier this month, the World Bank said most countries are headed for a recession and warned of a possible return to stagflation: an economy characterized by high inflation and low growth. It said global economic growth is expected to slow down before the end of the year, and most countries should begin to prepare for a recession.

Earlier this month, the media reported that the United Kingdom's economy unexpectedly shrank in April, raising the risk that their economy will contract in the second quarter.

Canada is just emerging from the pandemic, which was a major financial shock to our economy. We should now get our spending under control and prepare for the next financial shock.

While no one can predict the future, the government supported our economy during the pandemic by borrowing and spending a substantial amount of money. It is time to get our fiscal house in order, yet the government continues to spend and borrow, seemingly unaware of the dark clouds forming.

Honourable senators, Bill C-19, similar to previous budget bills, proposes several amendments to the Income Tax Act, which is now over 3,000 pages long. The Income Tax Act is a complex and inefficient piece of legislation which has accumulated a patchwork of credits, incentives and narrow "fixes." Governments use the tax system to help meet certain policy goals by adding credits or deductions, or to provide benefits to specific groups, making the Income Tax Act more complicated with each amendment.

The last time the government carried out a review of our tax system was 1967. Yes, that is 55 years ago. Much has changed in the past 55 years. The world has become more global, technology has changed the way we live, people are living longer and the nature of work has changed. It is time to review our tax system — actually, it is past time.

Numerous national and international organizations have recommended many times that the government update its tax system, including committees of the House of Commons and the Senate. The current system is riddled with problems and has become unnecessarily burdensome to the Canadian taxpayer, businesses and tax professionals. Even the Canada Revenue Agency, which administers the Income Tax Act, is challenged to provide correct answers to public inquiries.

• (1600)

We need a tax system that is simple and easy for taxpayers and businesses, encourages investment and job creation and enhances Canada's global competitiveness. We need to be better positioned to compete for jobs, talent and investment with a fair, simple and efficient tax system.

Before I discuss certain sections of Bill C-19, I just want to make a comment on the omnibus nature of Bill C-19. First, Bill C-19 is an omnibus bill. It is 440 pages long. The proposed amendments to the Income Tax Act are highly technical and numerous. Given that these amendments will amend the very complicated Income Tax Act, which is itself 3,000 pages long, the study of Bill C-19 by any committee of the Senate is a very daunting task.

The "Select Luxury Items Tax Act" is a bill within a bill. It is 175 pages of the 440-page Bill C-19, and it should never have been included in this omnibus bill. The "Select Luxury Items Tax Act" should have been tabled in Parliament as a stand-alone bill to be properly studied and debated. It is shameful that the government has not studied the economic impacts of the proposed tax to determine how it will affect workers, businesses and the economy.

Part 5 of Bill C-19 proposes 32 measures and includes amendments to many other acts. Each of these 32 measures warrant detailed study. However, the breadth and depth of the measures contained in Part 5 of Bill C-19 alone required more time for study than the time provided.

While various parts of Bill C-19 were referred to a number of committees for study, the time provided was greatly limited. We are expected to make do with the time provided and rubber-stamp the bill.

Part 4 of the budget implementation act proposes to implement the "Select Luxury Items Tax Act," which will impose an additional tax on some vehicles, aircraft and boats. It is complex legislation. As I said before, it is 175 pages long and contains 157 clauses. It should not have been included in the 440-page omnibus budget implementation act. Rather, it should have been tabled as stand-alone legislation to be studied and debated separately by Parliament, as I indicated earlier.

The "Select Luxury Items Tax Act" imposes a tax on the retail, sale, lease or importation of certain luxury cars and personal aircraft priced over $100,000, as well as boats priced over $250,000. The tax will be calculated at the lesser of 10% of the full value of the item or 20% of the value above the established threshold, which is $100,000 for cars and personal aircraft and $250,000 for boats. The tax will come into effect September 1, 2022. The Parliamentary Budget Officer estimates that this tax will generate $87 million in revenue this year because there is only part of the year remaining, and $163 million next year.

Representatives of the aerospace industry do not support this "Select Luxury Items Tax Act," and estimate the loss of 1,000 Canadian jobs and up to $1 billion in lost revenues to companies across the country. They indicated that the tax will affect not only large companies but companies of all sizes, in all regions throughout the Canadian supply chain. Some manufacturers are already experiencing order cancellations due to the pending tax.

The tax comes at a time when the aerospace industry is still recovering from the pandemic. It is asking government to undertake an economic impact assessment to determine what effect the tax will have on the aerospace industry, its employees and the economy. The International Association of Machinists and Aerospace Workers also expressed concern over this luxury tax, indicating that the tax is misdirected toward manufacturing. The tax will adversely affect jobs, and the negative impact on jobs will far outweigh any benefits that would come from this tax. The association also took issue with the fact that there has been no assessment of the impact on jobs and stressed that such an assessment must be done.

In summary, witnesses testified that the luxury tax will put Canadian aerospace companies at a disadvantage globally compared to their competitors, and will cause a loss in sales that will translate into job losses. They said that other countries have implemented similar taxes but have had to repeal or modify them.

In its testimony on this luxury tax, the National Marine Manufacturers Association Canada indicated that an economic impact study carried out by Ernst & Young and economist Dr. Jack Mintz on the proposed tax would result in a minimum $90 million decrease in revenues for boat dealers and potential job losses of at least 900 full-time equivalent employees. The study concluded that the select luxury items tax act would largely fall on middle-income workers who would no longer service or manufacture high-end boats in Canada. The tax also threatens the survival of Canada's domestic boat manufacturing base, which has already been negatively affected by years of competition from other jurisdictions. The tax will also cause job losses at marinas and service shops.

In 1991, the U.S. Congress passed a 10% luxury tax on all new boats sold in the U.S. that cost more than $100,000. Within the first quarter of the year, sales of new boats over $100,000 plummeted 89%, resulting in massive job losses and multiple bankruptcies. The tax was eventually abandoned.

The select luxury items tax act was studied by the Standing Senate Committee on National Finance, and the committee report was tabled in the Senate yesterday. The following is an excerpt from the committee's report:

> After hearing from groups, notably the Aerospace Industries Association of Canada and the National Marine Manufacturers Association, our committee was surprised to learn that the government has not studied the economic impacts of the proposed tax, including on business activity and employment in these sectors.
>
> Our committee therefore recommends that, prior to implementing this tax, the Department of Finance conduct such a study and that it inform our committee of the results, including its consultations with the impacted sectors.
>
> In addition, should this tax be found to have a negative impact on business activity and/or employment in these sectors, we would urge the government to react quickly and take mitigating measures including, if necessary, doing away with the tax altogether.

Division 6 of Part 5 of Bill C-19 is proposing to amend the Federal-Provincial Fiscal Arrangements Act to authorize a $2-billion payment to the provinces and territories through the Canada Health Transfer, allocated on an equal per capita basis to help reduce the surgical and other medical procedure backlogs caused by the pandemic. In addition to the $2 billion proposed in this bill, an additional $500 million was provided in 2019-20 and another $4 billion in 2020-21 to address the pressures that COVID-19 have put on the health care system, including backlogs of medical procedures.

The Canada Health Transfer is the largest federal transfer to the provinces and territories, and helps pay for health care. It is expected to cost $45 billion this year, increasing to $56 billion in 2026-27. Provincial and territorial premiers are asking for another $28 billion increase, which is significantly more than the $11 billion increase projected over the next four years.

Provinces and territories are not required to report to the federal government on how the monies are disbursed, although the conditions of the Canada Health Act are to be respected.

In addition, our briefing note on this portion of the bill indicated that the Prime Minister has committed to discussing with the provinces and territories the long-term strength, sustainability — which is an interesting word — and resilience of the health care system after the pandemic. The cost and sustainability of our universal health care system is often raised.

• (1610)

Using data from the Organisation for Economic Co-operation and Development, or OECD, the Fraser Institute recently compared the performance of 28 high-income OECD countries with universal health care systems to determine how well Canada's system is performing relative to its peers. They used 40 indicators representing four broad categories: availability of resources, use of resources, access to resources, and quality and clinical performance.

The study concluded that Canada spends more on health care than the majority of high-income OECD countries with a universal health care system. After adjusting for age — those over age 65 — Canada ranked second highest of the 28 countries for health care expenditures as a percentage of GDP and eighth highest for health care expenditures per capita. Although Canada ranks among the most expensive universal health care systems in the OECD, its performance for two of the four categories — that

is, availability and access to resources — is generally below that of the average OECD country, while its performance for the other two categories — the use of resources and quality and clinical performance — is mixed.

The study concluded that there is an imbalance between the value of health care that Canadians receive and the relatively high amount of money they spend on their health care system. This is surely an issue that will be addressed by the Prime Minister and the premiers when they meet.

Division 7 of Part 5 of Bill C-19 is proposing to amend the Borrowing Authority Act and the Financial Administration Act to include the extraordinary borrowings of 2021 in the borrowing authority maximum amount and no longer treat this amount as extraordinary borrowings for reporting requirements.

Division 7 also proposes to amend the Financial Administration Act to change the reporting requirements for extraordinary borrowing amounts so that these amounts are no longer required to be tabled separately in the House of Commons within a 30-day time frame, but rather be reported in the annual Debt Management Report. Under current legislation, extraordinary borrowings must be reported within 30 sitting days of Governor-in-Council approval. There were extraordinary borrowings of $288 billion in 2020 and $8.4 billion in 2021. Both reports were tabled on a timely basis within the 30-day time frame stipulated by legislation.

The government is now proposing that extraordinary borrowings be reported in Finance Canada's Debt Management Report. This is the same report we waited one full year to see. The government pushed back the tabling of its March 2021 Debt Management Report to March 2022. In essence, the government has concluded that the tabling of extraordinary borrowings is too timely, and that this information should be included in a report that can be delayed for up to a year, as they did this year.

The government is proposing this amendment under the pretext of improving accountability. However, if the government were truly sincere in improving accountability, they should have amended the Financial Administration Act to require the Debt Management Report to be tabled earlier rather than the one-year time limit currently stipulated.

Bill C-19 also proposes to amend the Borrowing Authority Act. This act focuses on the consolidated borrowings of government and its Crown agencies. However, reporting is only required once every three years. It is a triennial report — I think it's the only triennial report required in government; all the other reports are annual. The consolidated borrowings of government is an amount not readily available, and I know because I went looking for it.

Since reporting is once every three years, to determine the consolidated borrowings, information is gleaned from the government's public accounts, the financial statements and other financial information of Crown agencies themselves. You have to look through a lot of information, which I did before Christmas, and come up with the dollar amount yourself, and usually, it's an estimate.

When we had the finance officials at the National Finance Committee, I asked them what the consolidated debt was, and they said $1.6 trillion. The $1.6 trillion I mentioned earlier in my speech, that came from finance officials. It was in a government document somewhere. I don't know where. I checked with the Parliamentary Budget Officer and the Library of Parliament, but I don't think that number is published anywhere.

If the government were truly interested in improving accountability, it should have amended the Borrowing Authority Act to require an annual report on consolidated debt rather than the triennial report currently required.

Division 12 of Part 5 of the budget implementation act enacts the prohibition on the purchase of residential property by non-Canadians act. It prohibits the purchase of residential property by non-Canadians for a period of two years, and there are some exceptions defined under the proposed section 4 of the act.

The cost of homes in Canada has increased significantly over the past number of years, supported by low interest rates, a shortage of residential dwellings and high inflation. Both the federal and provincial governments have struggled to keep housing prices at an affordable rate.

The bill defines prohibition in section 4 of the act, stating that, " . . . it is prohibited for a non-Canadian to purchase, directly or indirectly, any residential property." The penalty for doing so is a fine of not more than $10,000 and, on application by the minister, a court order for the property to be sold. If sold, the owners are not to receive more than the price they paid for the property.

There was insufficient time to thoroughly study the proposed bill and its implications. However, of concern to me is the discretion afforded to the minister to prescribe matters by regulation. For example, the minister can exempt certain classes of individuals from the ban and can change the definition of certain key terms. As a result, regulations can change how the ban will actually work in practice.

There is also concern that the ban on the purchase of residential properties infringes on provincial jurisdiction or discriminates based on nationality. It remains to be seen whether this ban will actually increase the residential properties available for Canadian occupancy or moderate housing prices. Inflation and increasing interest rates may be the biggest factor in moderating prices in the housing sector.

Division 3 of Part 5 of the bill proposes to repeal the Safe Drinking Water for First Nations Act. This part of the bill was referred to the Standing Senate Committee on Aboriginal Peoples for examination. The committee tabled its report in the Senate on June 10. Like Senator Moncion, I was very much struck by the report.

In its report, the committee expressed alarm about the unacceptable water crisis that continues to plague First Nations across Canada, causing serious illnesses, mental health issues and unnecessary suffering. It went on to say:

> Canadians would be shocked, and ashamed if they knew how the Government of Canada has treated First Nations on water issues.

The report outlines some specific examples of problems encountered by First Nations in accessing safe drinking water, including references to legal actions taken against the Government of Canada in relation to clean drinking water in First Nations communities. While the committee said it recognizes that the federal government is taking important steps to address long-term drinking water advisories, it said that it remains deeply concerned that First Nations had to resort to litigation to obtain federal funding for safe drinking water in some communities.

The committee concluded its examination of this part of the bill by saying it believes that:

> . . . with respect to First Nations water, the Government of Canada has breached the honour of the Crown and its treaty and nation to nation relationships.

It was the committee's view that the minister should report publicly on the solution to the First Nations water crisis, and further, "the implementation of any solution needs to be measured or the status quo is unlikely to change."

Honourable senators, Division 30 of Part 5 of the bill proposes to implement the first series of changes required to meet the government's commitment to create a publicly searchable corporate beneficial ownership registry by 2023. At the present time, anonymous Canadian shell companies can be used to conceal the true ownership of businesses. This makes them vulnerable to misuse for illegal activities such as money laundering and tax evasion. To counter this, authorities need access to timely and accurate information about the true ownership of these entities.

Specifically, the proposed amendments to the Canada Business Corporations Act will require private federal corporations to send information on their beneficial owners to Corporations Canada on an annual basis when a change in ownership occurs. This will allow Corporations Canada to provide that information to an investigative body or authorized entity.

• (1620)

Government has, for several years, been talking about a publicly accessible beneficial ownership registry. The information in such a registry would be invaluable in pursuing money laundering and tax evasion and would assist the government in collecting, according to some estimates, billions of dollars in tax revenues.

Last year's budget provided $2 million for the implementation of a publicly accessible corporate beneficial ownership registry by 2025. The Banking Committee at that time expressed concern that the changes being proposed and the $2 million being provided were insufficient to implement the registry by 2025. This year, government is accelerating its targeted implementation date of a beneficial ownership registry to the end of 2023, a mere 18 months away.

Government has also indicated that the registry will now be implemented using a two-phased approach in which phase one includes these amendments and phase two will include other amendments, which will be disclosed in a future budget implementation bill in the fall of this year.

Government has further indicated this two-phased approach will allow for necessary consultations with stakeholders. Although consultations were held in 2020, there are several unresolved issues surrounding the government's new commitment to implement the registry before the end of next year. Specifically, they have moved to what they call a two-phased approach without providing detailed information on the plans and the objectives of each phase, and no funding has been provided for the implementation of the registry. While $2 million was included in last year's budget, it was not enough to implement the registry and none of this money had been spent. While implementation of the registry by the end of next year is a laudable objective, this is only 18 months away. Government has many challenges to overcome before this deadline.

The Standing Senate Committee on Banking, Trade and Commerce was tasked with reviewing this part of the bill and also expressed concern over the two-phased approach. The committee also suggested that the government take complementary action to ensure the success of the registry by collaborating with provinces and territories, allocating adequate financial and human resources to ensure the success of the registry and continuing to examine the potential use of lawyers as nominee shareholders to shield the identity of beneficial owners.

Of particular interest was the release last week of the report of the Cullen Commission, which held a public inquiry into money laundering in British Columbia. The Cullen Commission said that the federal anti-money laundering regime is not effective and the Province of British Columbia needs to go its own way. Commissioner Cullen said that the agency tasked by the federal government to identify money threats, the Financial Transactions and Reports Analysis Centre, which we know as FINTRAC, is ineffective. He said that FINTRAC's results compare poorly to other nations with comparable systems. Given the deadline established by government to implement phase one, we will be able to assess progress of the system during our study of the 2023 budget.

This year's budget announced two spending reviews that are supposed to save the government and the taxpayer $9 billion over five years. The objective of the first review is to reduce planned spending in the context of a stronger recovery. Government estimates this review will save $750 million a year for four years, beginning next year, for a total savings of $3 billion. Government has said that the 2022 fall economic and fiscal update will inform us of the progress of this review.

The second initiative will be a strategic policy review led by the President of the Treasury Board. This initiative will assess program effectiveness in meeting government's key priorities. It is also supposed to identify opportunities to save and reallocate resources. This second review is estimated to save $6 billion over three years beginning in 2025. Next year's budget is supposed to provide an update on these savings. My primary concern relates to the $9 billion in potential savings since it is being used to reduce the five-year cost of new programs as disclosed in the budget. If the $9 billion in savings does not materialize in whole or in part, any shortfall will have to be funded by the government, thus increasing the projected deficit.

Given that previous expenditure reviews were unsuccessful, such as those in Budget 2017 and the 2019 fall fiscal update, government will be challenged to actually realize these savings. The initiative launched in 2017 actually resulted in increased spending while no information could be found on the 2019 initiative.

The Parliamentary Budget Officer has questioned these initiatives, indicating severe fiscal restraint will be required to achieve these savings. In addition, our review of departmental performance reports in the Finance Committee indicates that the quality of performance information provided by departments and agencies will make it much more difficult to carry out the review.

Given the invasion of Ukraine, government has signalled that there will be a significant increase in the budget for military spending. Budget 2022 allocates $6 billion over five years to reinforce our defence priorities with another $2 billion going toward supporting a culture change in the Canadian Armed Forces, enhancing cybersecurity and supporting Ukraine. The budget does not provide details on what the $6 billion over five years will provide, but the budget document frames it as funding that will strengthen Canada's contributions to our core alliances and bolster the capabilities of the Canadian Armed Forces.

In 2017, the government released its defence policy and earmarked $164 billion over the 20-year period from 2017 to 2037 for capital expenditures for the Department of National Defence. However, financial information indicates that, for its capital spending, there was a shortfall or underspending of $10 billion on capital projects between 2017 and 2021 between what the defence policy had projected and what was actually spent. Revised departmental plans show that this $10 billion shortfall will now be shifted to future years, notably 2023 to 2028. That's the background. This is my point.

Earlier this week, the government announced it would spend $4.9 billion over the next six years to modernize NORAD and upgrade our continental defence system, and there is a commitment by government to invest $40 billion over the next two decades on NORAD. Government must clarify whether the 2017 to 2021 spending shortfall of $10 billion, which is now shifted to future years, will be the source of funding for the NORAD initiative, or whether the NORAD initiative requires new funding. These issues are important because we need to know how post-budget initiatives will affect government-projected deficits as disclosed in Budget 2022.

It is not only NORAD which requires significant funding. The Canadian Armed Forces has old planes, old ships, second-hand submarines that are often not operational and a shortage of recruits. In addition, in order for Canada to reach NATO's 2% of GDP defence spending benchmark, government will need to spend between $13 billion and $18 billion more per year over the next five years. Suffice to say the Canadian Armed Forces and the Government of Canada have their challenges in protecting our country.

Each year, government launches new billion-dollar programs or significantly increases existing programs. These include multi-billion-dollar infrastructure programs, such as the $187 billion Investing in Canada Infrastructure Program and the $30 billion Federal Secretariat on Early Learning and Child Care launched last year, promising reduced child care fees, 250,000 new child care spaces and about 55,000 new early childhood educator positions by 2026.

Last year, $1.5 billion was allocated in the budget for the Rapid Housing Initiative, promising 4,500 new affordable units that would be constructed within 12 months. The program is extended this year to create at least 6,000 new affordable housing units at an estimated cost of $1.5 billion. This year government is also committing $10 billion for the making housing more affordable initiative, targeting the creation of 100,000 new housing units over the next five years. However, all these numbers are projections. They are estimates. And we never see the report cards which tell us what has actually happened. Did the infrastructure projects actually get built? And where are those projects actually located? In what communities? Were the housing units actually constructed? In what communities? Are those units occupied? How many child care spaces have been created so far?

• (1630)

Honourable senators, these are the questions we should be asking, and this is the information we should be looking for. This is accountability. The easiest part is saying that we plan to do something. The difficult part is delivering results.

Each year, government departments and organizations release their departmental results reports. However, the information provided in many of these reports do not provide sufficient information to indicate what results they actually achieved with the funding provided. Quite simply, the departmental results reports are not providing the information they are supposed to provide. Government, its departments and agencies should provide report cards on its programs and demonstrate that the money provided has actually achieved its purpose. The departmental results reports no longer demonstrate accountability.

Honourable senators, in closing, I would like to thank Senator Moncion for two speeches on the budget bill. I would also like to thank all of my colleagues on the National Finance Committee, the chair, the deputy chair and all the staff who supported us in our many meetings while we studied the budget. Thank you, honourable senators.

The Hon. the Speaker pro tempore: Senator Boehm, if you have a question, Senator Marshall will have to ask for additional time.

Hon. Peter M. Boehm: I do have a question, Your Honour.

The Hon. the Speaker pro tempore: Senator Marshall, are you asking for five minutes to answer questions?

Senator Marshall: Yes.

An Hon. Senator: No.

The Hon. the Speaker pro tempore: Leave is not granted.

[*Translation*]

Hon. Diane Bellemare: I want to congratulate Senators Moncion and Marshall, the sponsor and critic of Bill C-19. I want to speak briefly at third reading of this bill.

I have three points that I want to address.

Many of you have already spoken about the democratic deficits of omnibus budget implementation bills, but I'd like to say it in my own words.

The practice of introducing omnibus bills undermines the democratic process because, as you know, it limits debate and limits potentially worthwhile amendments that could be made to bills.

It is much more complicated for the Senate to amend the budget than to amend a specific bill, and we have much less time set aside to study a bill.

The Senate generally adopts the government's budget without amendment, but omnibus bills force us to vote in favour of the budget even if it contains provisions that are not directly connected to the government's budgetary and fiscal policy and to which we might be opposed, as Senator Simons previously pointed out.

A quick review of budget implementation bills introduced since the beginning of the 21st century shows that these mammoth bills are a relatively new phenomenon in Canada's parliamentary history.

[*English*]

As proof on this subject, let me quote from journalist Bill Curry's article in *The Globe and Mail* today entitled, "Senate reports express concern with large budget bills ahead of final vote on C-19" where he states:

> According to research compiled by the Library of Parliament, the first reference to a "budget implementation bill" occurred in 1991. Throughout the nineties, they were small bills of about a dozen pages each.
>
> Budget bills started to grow in size in the next decade, but their page count jumped dramatically to hundreds of pages in 2009 and 2010 as the government dealt with a global economic crisis.

[*Translation*]

It was during the Harper government that omnibus bills first made an appearance. At that time, as you may recall, the Department of Finance didn't announce the contents of budget implementation bills ahead of time. Parliamentarians were often surprised to see what was in them and the last-minute additions that were made. Let me give you a few examples. In the 2014 budget implementation bill, there were amendments to the Labour Code regarding health and safety that were developed without consulting the stakeholders.

The 2015 economic action plan bill included provisions that amended the Immigration and Refugee Act. It also included amendments to the Ending The Long-Gun Registry Act, which put an end to the debate with certain provinces, including Quebec, that wanted to keep the existing data in the registry.

Those are examples of legislation that shouldn't be part of budget implementation bills but rather should make their own way through the legislative process.

I believe it was in 2017 that the Liberal government adopted a very similar practice, essentially the same one as the previous Conservative government, the only difference being that parliamentarians are now informed ahead of time of the legislative provisions to be included in budget implementation bills. The budget speech includes a schedule listing all the legislative measures to be presented, which means we can prepare.

The process is now more transparent, but that doesn't make it more acceptable, as these bills contain a number of elements that don't really have anything to do with the budget. Examples I gave earlier are amendments to the Criminal Code with respect to the Holocaust, the amendment to the Judges Act and the amendment to the Parliament of Canada Act. Those are all well and good, but those kinds of amendments should not be in this bill.

Furthermore, these bills are often too big. In fact, many witnesses, including some who appeared before the Standing Senate Committee on Banking, Trade and Commerce, said that some divisions of Part 5 of the bill, such as the division on competition, should be in a bill of their own.

In short, just because a bill has financial implications doesn't mean it deserves to be incorporated into the budget, and it is poor practice to include so many issues in the budget that aren't directly related to the budget statement, even if that practice is more transparent than it was before.

One has to wonder how and why governments got to this point.

We know that the reason this practice exists is to make it easier to pass legislation that would otherwise be more difficult to pass.

Is another reason that we have a minority government? Is it because of the COVID-19 pandemic or the scope of the legislative agenda? I don't think those are valid excuses for broadening the scope of budget implementation bills.

In my opinion, one way to reduce the size of mammoth budget implementation bills is to spread out the introduction of government bills more evenly throughout the year.

I therefore invite academics and political science experts to tell us what they think about this and propose solutions.

One thing is certain, and that is why I rose to speak today: If this practice continues to grow, Canadians are going to become increasingly cynical about our institution.

That being said, I will obviously be voting in favour of Bill C-19, but I want to take this opportunity to ask the government not to include employment insurance reform in the next budget implementation bill. Which brings me to my next point.

[*English*]

In the budget speech, the government said it will release its long-term plan for the future of EI after the consultations conclude.

Let us be clear: It would be inappropriate to include this plan in a budget implementation bill. The reasons are obvious. It would be difficult for us to realize an in-depth study of this reform, which is central to the health of the labour market. We would not be able to look at regional consequences and make a value-added contribution.

However, I want to take this opportunity to insist on the necessity for an iterative consultation process with the labour market partners who finance entirely this social program. The proposition I made in Bill S-244, which I introduced recently, would make an important addition to the EI Commission that could make a difference in favour of better EI reform. It proposes to strengthen the social dialogue within the EI Commission. This constitutes the kind of iterative approach in the consultation process that can be extremely useful and innovative in this case. I will continue this file upon our return in September. As you might recall, this bill has been supported by the main labour market partners in Canada, such as the Canadian Labour Congress and the Canadian Chamber of Commerce.

• (1640)

I think the Senate can play an important role in the EI file because we have a cognizant group of senators who could invest themselves in this reform. We could have the time to do an in-depth analysis, especially if the government asks us to pre-study the bill.

[*Translation*]

As my third and final point, I want to emphasize that the Senate can make a difference in the quality of legislation. It has done so in the past. The Senate exerted its influence when examining Bill C-19, although it did not make any amendments.

[*English*]

Indeed, Bill C-19, when tabled in the House, contained 32 divisions in Part 5. It now contains 31 divisions.

We are grateful for the leadership of our colleague Senator Yussuff in persuading the government and Minister Qualtrough to remove Division 32 on the creation of a new EI board of appeal that would have replaced the EI appeal process under the Social Security Tribunal of Canada. The withdrawal of this division is consequential to the unanimous objection of labour and employers' associations.

[*Translation*]

The government was surely acting in good faith in proposing reform. It wanted the reform to respond to the grievances of workers and employers, but it missed the mark.

If the proposals to strengthen social dialogue at the Employment Insurance Commission included in Bill S-244 had been in effect, the government would not have missed the mark. Stakeholders could have pointed out the problematic situations from the outset and proposed reforms to the tribunal that would have really addressed the needs.

In closing, I want to acknowledge the tremendous amount of work done by all honourable senators on Bill C-19. I especially want to commend the sponsor of the bill, Senator Lucie Moncion, and its critic, Senator Elizabeth Marshall. Thank you. *Meegwetch*.

[*English*]

Hon. Donna Dasko: Honourable senators, I appreciated Senator Bellemare's discussion of omnibus bills, yet here is another interesting section of this bill.

Colleagues, I rise today to speak to Division 13 of Bill C-19, the budget implementation act, which advances the Senate modernization agenda initiated by this government in 2016 of moving toward a more independent Senate. It includes amendments to the Parliament of Canada Act and other changes.

Division 13 recognizes the steps that have been taken toward independence in our upper chamber and reinforces this direction by making key changes: changing the annual additional allowances for Senate leadership positions, and requiring that leaders of all recognized groups in the Senate are to be consulted on the appointment of certain officers and agents of Parliament.

Colleagues, as we know, these amendments are not new. They were initially introduced as Bill S-4 in the Senate last year; again as Bill S-2 after the 2021 election; then in the other place as Bill C-7; and then were incorporated by the government into this bill, the budget implementation act. They follow from significant rule changes within the Senate since 2016 to recognize groups other than the government and official opposition.

Many of our colleagues have worked hard to achieve these changes. I want to thank all Senate leaders — in particular, our leaders Senator Woo and Senator Saint-Germain — for the hard work they have done over the years, as well as Senator Harder and Senator Gold for taking us to this point.

My goal today is to speak briefly about the evolving Senate and about how Canadians view our upper chamber.

During my 30-year career in the public opinion business, I have had the opportunity to study, analyze and consult Canadians on the many proposals advanced over the years to achieve Senate reform.

In 1987, the Meech Lake Accord included in a short list of provisions a clause giving the provinces the ability to submit names to the Prime Minister to fill Senate spots. That accord died in 1990.

In 1992, the Charlottetown Accord included in its much longer list of provisions clauses to implement a "Triple-E" Senate — a Senate that would be elected, equal and effective. That accord died on the heels of a national referendum that failed that year.

In 2011, Prime Minister Harper introduced legislation with term limits for senators and proposals to allow the provinces to hold Senate elections. That reform also died when the Supreme Court ruled in the 2014 reference that such changes would require constitutional amendments.

Mr. Harper knew then, as we still know now, how difficult it is to change the Constitution. In fact, a recent Environics poll shows that only 35% of Canadians would be willing to reopen the Constitution for the purpose of making changes to the Senate. Much more public support than that would be needed before we would go down that road again.

Colleagues, in my lifetime, the only major Senate reform that has truly succeeded has been Prime Minister Trudeau's initiative toward creating an independent Senate.

I want to make a few observations about public opinion and speak a bit about what Canadians think of the Senate.

First, we still have challenges with the way the public views the Senate overall. In reviewing national public opinion research conducted by Nanos Research last year, I tried to dig into the weeds to understand what the remaining sources of public dissatisfaction with our chamber were.

Among the number of Canadians who hold a negative view of the Senate, here are the reasons they give for why they view us negatively. Some are critical because we are not elected, and they would prefer to have an elected Senate. Others are critical because they say the Senate is still too partisan, yet others still point to the scandals of many years past. But the single most important critique is that they do not see that we provide value for money. They don't know exactly what we do, they think maybe we cost too much. They are not quite sure, and that really emerges as the most important of all the critiques.

Colleagues, we have not told the story of our hard work, purpose and sober second thought very well, and we must continue to do a better job of that. When it comes to the independent Senate, however, we see a lot of positive feedback from Canadians.

In the Nanos survey from last year, there was widespread approval of the new Senate appointment process that has been in place since 2016. According to the data, 80% of Canadians think it's a good change and a good development that new senators sit as independent members and are not active in a political party. Furthermore, 67% think that the open application process to become a senator is a good change, and 79% say it's a good change that an independent board reviews applications for the Senate.

Most importantly, colleagues, Canadians want future governments to keep building an independent Senate. Three quarters of Canadians — 76% — want future governments to keep the changes to the appointment process that have been implemented, and only 3% of Canadians want to return to the previous ways of appointing senators.

Colleagues, we still have work to do. We must keep building awareness of the Senate's unique role in governance and of the move toward independence and non-partisanship. When awareness of the independent Senate increases, so do positive attitudes.

• (1650)

I will conclude by saying the reforms promoting independence are a very bright light for our institution. Division 13 of Bill C-19 is an important and vital step toward recognizing our independent Senate and recognizing it into the future. I will be voting yes. Thank you.

Hon. Tony Loffreda: Honourable senators, I rise today at third reading to speak to Bill C-19, the government's budget implementation act, 2022, no. 1. I thank all the senators who have spoken thus far for their insightful speeches.

As a member of the National Finance Committee and the Banking Committee, I had the pleasure of immersing myself in a top-to-bottom review of this almost 500-page bill. Combined, we held eight meetings and heard from more than 75 witnesses. We received several written briefs, and I also reviewed the reports from the six committees who conducted pre-studies of specific parts of the bill. And I will attempt to be as complementary as possible to the other speeches we have heard.

Studying a budget implementation act is always an exciting and daunting task that usually includes a review of a long list of policy initiatives, income tax amendments and various other measures. Bill C-19 is no different.

[*Translation*]

As we all know, sometimes you need to look around you to feel better about yourself. Indeed, the Canadian economy is doing well compared to our G7 allies. For example, the International Monetary Fund revised its growth projections in April downward slightly. Globally, growth is projected to hit 3.6%, while in Canada, the increase is 3.9%, which moves us ahead of the United States, Great Britain and the European Union. These projections are encouraging.

Although the Canadian economy is moving full steam ahead, many Canadians remain in tough, precarious situations. Inflation is mainly to blame for the many problems facing Canadians who are worried about making ends meet. Fortunately, there are some measures in Bill C-19 that will ease the financial burden for some of these Canadians.

[*English*]

There are a few measures in C-19 that I welcome and feel will help alleviate some of the financial pressure and economic hardships Canadians are dealing with these days due, in part, to the inflationary pressures we are experiencing. I'm optimistic that some of these measures will help create wealth and increase productivity in our country.

For instance, I think of the labour mobility deduction for tradespeople, which was well covered, to allow workers to deduct eligible expenses of up to $4,000 per year. I've spoken to many entrepreneurs who continue to struggle to find workers. This measure should help and, hopefully, will solve some of the delays. Labour shortages are not the only challenge, as supply chain delays also continue to have a negative impact, as we have all witnessed and experienced.

I also support the government's commitment to providing greater support to the disability community, namely through the home accessibility tax credit. This measure is expected to benefit 10,000 Canadian families and allow seniors and people with disabilities to live and age at home. I also support the expansion of the eligibility criteria for the disability tax credit, and I would welcome further expansion in the future to a refundable tax credit.

We all know housing supply and affordability in Canada are big issues. Let's not mince words: It's a crisis that needs our immediate attention. Thankfully, there are a few measures in Bill C-19 that focus on housing, namely Divisions 4 and 12 of Part 5. Division 4 authorizes the Minister of Finance to make payments to provinces and territories of up to $750 million out of the Consolidated Revenue Fund for the purpose of addressing municipal and other transit shortfalls and needs, and improving housing supply and affordability, which is so important.

Division 12 enacts the prohibition on the purchase of residential property by non-Canadians, a new statute that implements a ban on foreign investment in Canadian housing for two years. The prohibition would also apply to certain foreign corporations and entities and prevent non-eligible foreign persons from avoiding the ban by using corporate structures.

I also want to briefly acknowledge the government's commitment to fast-track by two years the implementation of a public and searchable beneficial ownership registry by bringing amendments to the Canada Business Corporations Act. Division 30 of Part 5 of the bill will require private federal corporations to proactively send information on their beneficial owners to Corporations Canada. The registry is being implemented in a two-phase approach, and we expect further amendments this fall in the government's second budget implementation act of 2022. In committee, officials from Innovation, Science and Economic Development Canada, or ISED, explained that the government will further consult with stakeholders, which is so important.

I think it will be important for our Banking Committee, when the time comes, to take a good look at the proposed changes in phase two to make sure that there are no loopholes that could, among other things, allow foreigners to create shell companies and bypass the measures in Division 12, which bans foreign investment in housing. I know our colleague Senator Downe shares this concern and has written to Minister Freeland about it.

Of course, these three measures are in addition to another housing-related measure we adopted in Bill C-8 last week: the Underused Housing Tax Act, which the government estimates will generate $735 million in revenue in the next five years. Officials who appeared before the National Finance Committee argued that Division 12 is one measure that is packaged within a number of measures put in place in Budget 2022 by the government to contribute to better affordable housing outcomes for Canadians and curb foreign demand.

I was reassured that these measures are only part of a larger package of initiatives because a lot of work still needs to be done on this file. Taxing foreign owners won't solve the housing shortage, and it is unlikely to address affordability challenges. With the recent and anticipated interest rate hikes, housing may become increasingly more inaccessible for Canadians. Approximately one in four Canadians are worried that increasing interest rates will force them to sell their homes.

It is my hope that our Banking Committee will take the time this fall to explore what opportunities, challenges and risks lie ahead in the sector and make recommendations to the government on how to make housing more affordable, available and accessible.

I appreciate that the federal government may be limited in what it can actually do to address the housing crisis since many of the responsibilities fall within provincial and municipal levels of government. Zoning issues and permitting come to mind. I respect jurisdictional authority, but I also believe that the Canadian federation works best and can achieve great things when all levels of government work together. The housing file is one such issue where collaboration is crucial. When funding transit provincially, a solution would be that this funding be linked to an increase in housing supply. This housing supply is currently being rationed by provinces and municipalities. This is too complicated to get into in a short period of time, but we will study this further, and I will comment on it at a later time.

One issue that has received a lot of media coverage and that I have some reservations about is the select luxury items tax act, Part 4 of the bill. On the surface, this seems like a good policy. As the government argued when it introduced the tax in Budget 2021, those who can afford to buy luxury goods can afford to pay a bit more. It is estimated that this measure would increase federal revenues by $749 million over five years.

At the National Finance Committee, we heard from the aerospace and marine industries, and both advanced that the measure would be harmful to the economy and would have a negative impact for thousands of Canadian families. It was suggested that this measure could result in lost jobs and lost revenues to companies across the country. I won't get into the numbers, but many supply chains will obviously be affected. We were reminded that the United States enacted a similar tax on boats in the early 1990s, only to repeal it a couple of years later. We can always learn from global jurisdictions and especially our largest trading partner.

• (1700)

Finance officials suggested that, within the context of the economy of the whole, it wouldn't really impede growth globally but recognized that specific sectors, like automotive, boating and planes, will experience a bigger impact. I think the government may have failed to look at the consequence of this measure on workers within these sectors, lost revenue from sales and the impact on our reputation globally.

I am not suggesting that this tax be repealed from Bill C-19 — and we've made a few observations in our National Finance Committee's report, to which you can refer — but I can't help but question what economic impact assessment the government conducted to justify it. I think it will be very important for senators on the National Finance Committee to monitor the implementation and impact of this tax and for the government to also track the impact of this tax and the impact it will have on employment, and to act very quickly if the impact is negative.

We've discussed the excise taxes and the "sin" taxes, but, rapidly, what can I add? I'll add this: as reported in the Public Accounts of Canada, revenues from tobacco between 2016 and 2021 amounted to nearly $16 billion, and just over $9 billion for alcohol. These are considerable sums of revenue for the treasury. With respect to vaping products now being taxed, the revenues from their taxation in the next five years will generate approximately $654 million. I just want to outline the importance of those taxes.

In relation to competition and growth, when Minister Freeland tabled her budget in the other place on April 7 she acknowledged that the Achilles heel of the Canadian economy is productivity and innovation. I completely agree with her, and I feel Bill C-19 could have done more to properly address this issue. The business community feels the same way. Sure there are some measures, like the changes to the Competition Act in Division 15 of Part 5, that could set the stage for a more competitive marketplace. According to the government, these changes could result in lower prices for goods and services, greater choices for consumers and better, good-paying jobs — we never have enough good-paying jobs — and an environment that fuels business, innovation and productivity.

This is good news, because we all know that competition will benefit the consumer, and the consumer, I often say, is the driver of every economic recovery and the motor of every economy. If we look south to the largest economy in the world, and our largest trading partner, the consumer is two thirds of that economy, and close to 60% of the economy in Canada. Seeing the importance of the consumer, any measure and/or amendment that benefits the consumer is always very welcome.

It is also important that the government increase engagement with stakeholders, the business community and others to see what else must be done to ensure that Canada keeps pace with our global competitors. We need to be an attractive destination, a place where we encourage businesses to innovate and give Canadian workers a chance to prosper. We must also establish very favourable conditions to promote domestic and foreign investment.

In conclusion, honourable senators, as we look to the future and consider how Canada can, should and must manage the recovery, we need to turn our attention to Canada's overall competitiveness. I've said it before and I'll say it again: It's much easier to distribute wealth than to attract and create wealth. It was the same in business. When you tell executives to cut expenses, they quickly go and do so. When you tell them to grow sales, it's a little tougher.

Canada needs a plan to address our lacklustre productivity and growth performance. Simultaneously, we must also find ways to raise revenues and start dealing with our debts and deficits. I won't get into the numbers. They've been mentioned enough by Senator Marshall, who is looking at me while smiling and nodding. I also want to thank Senator Moncion for doing a great job as the sponsor of the bill, and Senator Marshall as critic.

While I'm at it, I want to thank all my colleagues on the Finance and Banking Committees. It's always a learning experience, and I am really privileged. But the best way to raise revenues is to grow our economy.

Colleagues, I will vote in favour of Bill C-19. I feel most of these measures will have a positive impact on our economy, although I was hoping to see more measures to address Canada's productivity growth and competitiveness. Bill C-19 is, nonetheless, a good step forward and a reminder that much work lies ahead — and not just talk. It's easy to talk, but let's see action. Let's make action happen. I'm glad to contribute, and to join my colleagues on the Finance and Banking Committees in doing some great work. Thank you for all your work.

[*Translation*]

Hon. Chantal Petitclerc: Honourable senators, I want to thank Senator Moncion and Senator Marshall for their exceptional work during the study of this bill.

Honourable colleagues, as you know, I have called out the Government of Canada a few times on its priorities when it comes to the financial needs and rights of persons with disabilities, either by deploring how long it took to bring in assistance programs during the pandemic, or emphasizing the urgent need to kick-start a new Canada benefit for persons with disabilities. Our role as sentinel requires us to point out these shortcomings or any other broken promise. However, when appropriate, we also have a responsibility to commend any measure that eases the burden on Canadians with disabilities.

[*English*]

Bill C-19 gives us the opportunity to do so by proposing to expand the eligibility criteria for the disability tax credit, DTC, which is a gateway to being entitled to other supports, including the Registered Disability Savings Plan and the child disability benefit.

[*Translation*]

I want to take a few minutes today to talk about these changes and to share the relief of the Canadians who have long been pushing for this tax measure to be improved. The Library of Parliament reports that around 45,000 families and individuals will benefit from the DTC and will have better access to other associated benefits.

You may recall that the Standing Senate Committee on Social Affairs, Science and Technology examined this tax credit in 2018, in response to the work done by Senator Munson. The tax credit was known to be difficult to access, especially for applicants with intellectual disabilities. At the time, we learned that it was common for a medical certificate stating that an individual met all of the eligibility criteria to be rejected without explanation. We therefore based our recommendations on the need to eliminate barriers, make the eligibility criteria fairer and more consistent, and inject some compassion into the administration of the program.

[*English*]

Our requests have been partially met by the changes proposed in this budget implementation bill, which will not only facilitate assessment and reduce delays, but, above all, will improve access to this tax measure. In general, an individual is eligible for the DTC if he or she has one or more severe and prolonged impairments in their physical or mental function that seriously limits their ability to perform basic activities of daily living.

[*Translation*]

The first set of amendments in Bill C-19 actually updates the list of what are considered to be mental functions essential for daily living. This list was strongly criticized for its lack of clarity and consistency with respect to several regular life situations.

The other major change to be commended concerns what can be included when calculating the time spent weekly on essential therapy. At present, certain activities are not included. For example, consumption of food and activities related to the physical exercise required to administer medication and ensure the safe dosage of medical food or medical formula are not eligible.

This will no longer be the case once Bill C-19 is passed. Even better, the new category of activities will also include the time spent on appointments to receive treatment because of the impairment. It will also be possible to calculate the time spent by another person to assist the individual receiving therapy if that individual is unable to perform the activities themselves because of the effects of their disability. At present, any recipient must be receiving essential therapy at least three times a week, for a total of at least 14 hours a week. The frequency required for the administration of this will be reduced from three times a week to two.

• (1710)

Another bit of good news in this bill is that, thanks to an amendment passed unanimously by the other place's finance committee, people with type 1 diabetes will now automatically be eligible for the DTC.

[*English*]

Dr. Michèle Hébert, Chair of Buds in Bloom and family advocate at Children's Healthcare Canada, welcomes this progress in these terms:

> This amendment recognizes the extensive time spent to coordinate care, in large part due to issues related to application processes and administration such as missing forms, heavy paperwork, re-application requirements, rejections, securing a prescriber's approval or bureaucratic interpretations in meeting eligibility to secure this important tax credit.

Dr. Marc-André Dugas, Chief of Pediatrics at Centre mère-enfant Soleil du CHU and board member at Children's Healthcare Canada, states that:

> . . . this is a welcome change to reduce the associated administrative burden on families and providers alike, this reduces the challenges facing young families at a time when they are attempting to courageously manage this illness.

[*Translation*]

There are still barriers. The eligibility criteria will be less stringent. However, some Canadians who hire consultants to fill out the form so they can collect the benefit may turn over up to 30% of their tax refund once their application is approved. This is in spite of the Disability Tax Credit Promoters Restrictions Act that was passed in 2014 — yes, 2014 — and the publication of the regulations in 2021, which was nine years later. The regulations, which were supposed to cap fees that DTC

promoters could accept or charge for these services at $100, were suspended indefinitely by a British Columbia judge pending the outcome of a constitutional challenge.

There are still obstacles and barriers. From equipment costs to treatment and services, the harsh reality is that it always costs more to be a person with a disability.

That said, I'm pleased to see that people with disabilities are now participating in the conversation more than ever before. Three years ago yesterday, the ambitious and historic Accessible Canada Act received royal assent. The act is based on the principle of "nothing without us," which set the tone and showed that a barrier-free Canada is possible by 2040. It's realistic to hope the provinces will follow suit in sectors under their jurisdiction.

The 2020 Speech from the Throne announced a plan to include people with disabilities, and the new Canada disability benefit is a key component of that plan.

[*English*]

In conclusion, while I applaud the proposals in Bill C-19, it remains frustrating and disappointing to see that Bill C-22 has not even begun second reading in the other place. I therefore urge the government to make it a high priority when we get back in September because as we are about to recess, we must never forget that for the 22% of Canadians living with a disability — and as many have said before me — poverty will not take a summer break. Thank you.

[*Translation*]

Hon. Éric Forest: I would like to congratulate and thank the sponsor of the bill, Senator Moncion; the official critic, Senator Marshall; as well as the committee chair and its members.

I just want to come back for a moment to the luxury items tax that would apply to the aeronautical, nautical and automotive sectors, among others.

As you know, the current government made this a key election promise; unfortunately, it seems to be poorly crafted. Indeed, during our work, we were very surprised to find that officials from the Department of Finance, otherwise extremely competent people, were unable to justify this tax which, as we know, could be very damaging for the aerospace industry and its workers.

Aircraft manufacturers came to committee to tell us that, as it stands, the tax will have a significant impact on the entire aerospace industry. They estimate losses of $1 billion in revenue as well as 1,000 direct jobs gone. It is important to put this in the broader context, where the Canadian aerospace industry has lost almost 30,000 jobs in 2020 alone and the sector's contribution to Canada's GDP has decreased by $6.2 billion.

Our first instinct was to ask Department of Finance officials the following: If 1,000 direct jobs and $1 billion in revenue are about to be jeopardized because of this luxury tax, can we assume that a study of the anticipated revenue has been conducted, to assess whether the advantages outweigh the disadvantages? Much to our great surprise, we were told that no such studies had been done. Since I'm sure you are as shocked as the Finance Committee members were, let me quote the relevant part from the evidence.

The Director General of the Sales Tax Division with the Department of Finance, Phil King, appeared before the committee on May 31. I asked him the following, and I quote:

> Following the consultations, the Aerospace Industries Association of Canada indicated that it estimated that the tax could result in the loss of approximately 1,000 jobs in Canada and lost sales of between $500 million and $1 billion.
>
> In your consultations, did you estimate the impact of this tax on Canadian jobs in the aerospace industry? I have nothing against taxing the wealthiest; it's a matter of social equity. However, has the impact on workers been assessed?

He provided the following answer, and I quote:

> To respond directly to the senator's question, no, the department has not done an economic impact estimate on the auto, boating or aviation sectors. There are a couple of reasons.
>
> First of all, there are few other examples of such taxes to which we can appeal to look at the impacts, and the economic literature on this type of tax is fairly thin. In particular, that's true of the aircraft sector.
>
> So we don't have an estimate of specifically what the impacts could be, but we have, at the very least, consulted fairly extensively with industry and heard some of the impacts that the senator had mentioned.

Just to be clear, C-19 introduces a tax on luxury items to help the government balance its budget after it had to spend significant amounts during the pandemic. According to the government, the idea is to get the wealthy to contribute. This tax applies to different items, including aircraft mainly produced in Quebec. However, the government is unable to say whether this tax will bring in more than what it will cost in terms of job losses, employment insurance, lower GDP, and so forth.

It is nonetheless quite astonishing that a G-7 country would proceed by trial and error without taking the full measure of the potential negative impact that this tax could have on the flagship businesses of Quebec's economy.

I admit that the lack of a cost-benefit analysis, even a cursory one, tends to reinforce the argument of those who claim that this luxury tax is primarily an electoral ploy by the government to show that it is attacking the wealthiest one per cent.

If the goal is to balance the budget by taxing the wealthy, I think it would have been more effective to increase income taxes to better target the wealthiest members of our society, reconsider certain tax loopholes and revisit our tax treaties with some complacent jurisdictions. However, I must admit that, from an election perspective, that seems less impressive than a tax on luxury items.

• (1720)

I must say that we are very concerned about the lack of a cost-benefit analysis. That is why the Standing Senate Committee on National Finance added an observation to its report on Bill C-19 to recommend that the Department of Finance conduct a real study on the effect this tax would have on Canada's aircraft market and jobs before imposing this tax on the aerospace industry.

As several committees and several colleagues pointed out, it is shameful that we have so little time to study such a big and important bill.

We have criticized the use of omnibus bills to pass measures that have nothing to do with the budget many times in the past. For example, as the Standing Senate Committee on Legal and Constitutional Affairs indicated, it is appalling that the government is including amendments to the Criminal Code to tackle antisemitism in a massive budget implementation bill.

Honourable senators, let me be clear. I think we need to pass Bill C-19 in order to help pensioners, the unemployed, students, workers, and, generally, Canadians. However, I do not want this support to be interpreted as condoning the actions of the government that unfortunately has a bad habit of pushing around parliamentarians by imposing far too strict deadlines to study complex bills containing hundreds of measures that often have nothing to do with the budget. This is a terrible practice and is certainly inconsistent with the government's claims that it is in favour of transparency and sound management of public funds. Thank you. *Meegwetch*.

[*English*]

Hon. Colin Deacon: Honourable senators, I want to first thank Senator Moncion for her sponsorship of this bill and her excellent speech. I also want to thank Senator Marshall. I think we may have only four more budgets that Senator Marshall may be giving great reviews of — maybe better reviews, in another year. We're all appreciative of the time you take to describe the different elements, Senator Marshall, very reliably, regardless of who the sponsor is.

Colleagues, I want to speak to Bill C-19, the budget implementation act, 2022, referencing Budget 2022 that was titled: *A Plan to Grow Our Economy and Make Life More Affordable*. It was billed as a:

> . . . plan for targeted and responsible investments to create jobs and prosperity today, and build a stronger economic future for all Canadians.

I am always pleased to see the government invest in innovation, but innovation alone will not secure the prosperity of our grandchildren and future generations to come. For us to get a strong return on that innovation investment, we will need to align government policies, including procurement polices, regulations and legislation.

We have no time to waste. We are in a global competition for economic opportunity as the world transforms due to digitization and climate change. Right now, it doesn't look good. The OECD predicts that Canada will be at the back of the pack in terms of economic performance through 2030 and in the three decades that follow.

So I am going to make three points that I hope will help to focus attention on what is needed to generate economic return from innovation.

Point 1: The government needs to catalyze and accelerate private investment in innovation.

The pandemic highlighted the potential for governments to innovate, but I feel we have slipped back to where innovation is the exception, not the norm. We have to start applying an innovation lens to our most pervasive problems in our society and economy with agility, speed and scale.

Government has a role in catalyzing private investment and accelerating innovation in the private sector. Unfortunately, this is because we're much better inventors than we are innovators. We have a fabulous research engine, but we are still searching for that transmission that will convert all that research power into the opportunities, jobs and prosperity that Canadians increasingly need.

Achieving this is and has been difficult. Deputy Prime Minister Freeland stated in her budget speech that innovation and productivity are the Achilles heel of our economy. I agree with her. Indeed, many governments, no matter the political party, have been unable to tackle this issue effectively. This is not a new problem in Canada.

This problem was also highlighted by the Senate's Prosperity Action Group, led by Senator Harder. Our report highlighted the following two points. First, over a period of 50 years, Canada's productivity growth has declined considerably. In 1970, Canada's GDP per hour worked was roughly $1 less than in the United States and $1 more than the G7 average. By 2019, Canada's GDP per hour was $18.10 less than the US and $9.50 less than the G7 average.

Second, in 2019, Canadian businesses were investing approximately $15,000 per worker in machinery, buildings, engineering, infrastructure and intellectual property. However, businesses across the OECD were on average investing $21,000 per worker — 40% more — and in the U.S. it was $26,000 per worker — nearly 75% more than in Canada. That is a predictor of the productivity of those workers and our prosperity in the future.

According to the OECD, in 2020 Canada had the lowest level of business investment as a percentage of total investment in the G7. However, it had the highest household investment level and the second-highest government investment level as a percentage of total investment compared to the G7 in 2020.

It is this final point that I would like you to focus on: Canada has the highest level of household investment and the lowest level of business investment despite having leading levels of government investment. If we're going to deliver the promise of Budget 2022, a plan for targeted and responsible investments to create jobs and prosperity today and build a stronger economic future for all Canadians, our government must find ways to successfully catalyze and accelerate private investment in innovation. And we must hurry up and build that transmission, or else we won't be able to afford the engine or the fuel for research.

Point 2: There is an urgent need for greater competition. Over the past year, we have seen a revival of the debate surrounding Canada's competition law and policies. You all know how grateful I am to Senator Howard Wetston for his incredible effort to facilitate the consultation and debate around the Competition Act.

As a result, I was pleased to see the provisions in Bill C-19 regarding amendments to the Competition Act. Division 15 introduced amendments to the Competition Act to criminally prohibit wage-fixing, allow private access to the Competition Tribunal on abuse of dominance and expand the scope of abuse of dominance practices. These are welcome amendments that will move the needle forward on the extensive work needed to reform the Competition Act.

However, I was most pleased when the government clearly positioned these changes to the Competition Act as a "down payment" on what we could expect to see. I was not alone. The Banking Committee shared this view and offered the following observation:

> The committee believes it is imperative that the Government of Canada follows through on the commitment in Budget 2022 to consult broadly on the role and functioning of the *Competition Act* and its enforcement regime, and that it do so without delay.

The need for greater consultation on the act is imperative. Competition affects everyone. It is therefore important to have broad consultations to hear a diverse range of voices on how to reform this important law, not just those of traditional incumbents who have the most to gain from maintaining the status quo. We have to reach far beyond.

Beyond changes to the Competition Act, also discussed by Senator Loffreda, we need to have a whole-of-government approach in terms of developing pro-competitive policies and levelling the playing field for new entrants across the board and delivering increased value to Canadian consumers, especially in sectors where large incumbents dominate, like banking and telecom.

To this end, the Competition Bureau has issued a competition impact assessment and a Competition Assessment Toolkit, which can be a vital tool for legislators and regulators. They need to be used by public servants who have to start prioritizing these tools so they can identify anti-competitive practices, policies and regulations across government and make them pro-competitive.

Our economy will never achieve our potential unless governments become more innovative, more willing to change and unwilling to tolerate the statement, "but that's not how we do things."

Point 3: The last point I want to make is about regulatory modernization. You heard me speak about this in my third-reading speech on Bill S-6 earlier this week. Canada has a huge problem with command-and-control regulations. OECD data for 2018 shows that Canada leads the OECD in the use of these regulations, and that is not a good thing. By definition, they eliminate the opportunity to innovate because they define the process that must be followed.

• (1730)

To be clear, I'm not in favour of deregulation; rather, I'm in favour of efficient regulation and regulatory modernization that plays a huge role in spearheading innovation, increasing investment and accelerating the growth of business while protecting consumers from risks that rapidly emerge only when regulations stagnate in our ever-changing world.

If you don't understand the breadth of administrative burden due to how we regulate, please listen again to the speech that Senator Petitclerc just gave. Those issues are in every corner of how we govern ourselves.

In conclusion, we must become fervent in our determination to build an effective transmission that converts the power from our research engine into opportunities, jobs and prosperity. Increased competition creates opportunities for innovative new entrants, and those new entrants push incumbents to invest in innovation versus increasing dividends, bonuses and share buybacks. That's the benefit of increased competitive pressure. New competitive opportunities increase investment, which further fuels innovation and drives the changes needed to achieve productivity growth.

But the innovation will not convert to productivity growth unless we modernize our regulations so that businesses are empowered to implement innovative new practices that also protect consumers. It is productivity growth that will deliver the promise of Budget 2022. Productivity growth is what will grow our economy and make life more affordable.

However, we have been heading in the wrong direction for 40 years. Change is hard, and we need change. In a recent op-ed in *The Hill Times*, Professor Ken Coates of the University of Saskatchewan offered:

> Tinkering with Canada's existing innovation policies will not transform the national economy into a creative economic power. Governments need to rethink their approaches and look for innovative innovation policies.

An innovative economy requires an innovative government. Canada is already a G7 leader in investing tax dollars. However, we are an OECD laggard when it comes to updating policies, regulations and legislation that determine how effectively those investments convert into opportunities, jobs and prosperity.

Let's "double down" and "triple down" on the down payment that Bill C-19 has made in competition law reforms and the good intentions of Bill S-6 as it relates to regulatory modernization.

I hope you now see how those crucial elements are important to fulfilling the promise of Budget 2022. I support Bill C-19 as a down payment on all the hard work we need to do to maximize the return on the government's investment in innovation. Thank you, colleagues.

(On motion of Senator Martin, debate adjourned.)

STRENGTHENING ENVIRONMENTAL PROTECTION FOR A HEALTHIER CANADA BILL

BILL TO AMEND—THIRD READING—DEBATE

Hon. Stan Kutcher moved third reading of Bill S-5, An Act to amend the Canadian Environmental Protection Act, 1999, to make related amendments to the Food and Drugs Act and to repeal the Perfluorooctane Sulfonate Virtual Elimination Act, as amended.

He said: Honourable senators, I rise today to speak at third reading of Bill S-5, the "Strengthening Environmental Protection for a Healthier Canada Act," which modernizes the Canadian Environmental Protection Act, or CEPA.

I would first like to acknowledge the work done by the members in this chamber of the Standing Senate Committee on Energy, Environment and Natural Resources as we studied this bill. A huge thank you is also owed to our staff: the clerk, analysts of the committee and all those whose support has brought us to this point.

I would also like to especially thank Senator Arnot, who kindly gave up his space on the Energy Committee for me, as sponsor of the bill, to participate. I congratulate him on having his first amendment to a piece of federal legislation accepted by the committee. It will not be his last, I'm sure.

When Minister Guilbeault, in his opening remarks at committee, invited the Senate to study and seek ways to improve this bill, senators took this to heart. You all heard about the number of amendments that were proposed to this bill from Senator Massicotte. We all discovered that modernizing an act as complex as CEPA is not an easy task.

As Senator Massicotte noted yesterday, the committee made a number of amendments to the bill. It also refused some amendments after vigorous debate and thoughtful deliberation. In my opinion, in these decisions around which amendments to accept and which to refuse, the committee exercised its due diligence — moving ahead on those areas it had comfort with and not moving ahead on areas that gave it discomfort.

Over the past two months, the committee heard from numerous witnesses representing many and diverse perspectives. I acknowledge the interest and valuable input of all those who took the time to testify, to provide briefs and to reach out to discuss the many issues that arose during our committee work. The engagement of civil society and industry in our study of this bill illustrates the importance and value of our democratic process.

I am proud to support this bill as it has been amended, and I urge all senators to vote to adopt it and send it to the other place for their consideration.

CEPA is one of Canada's core environmental laws. It protects the health of our people and our environment, largely by enabling federal action on a wide range of pollution sources.

Much has changed since its last significant update in 1999. The proposed amendments to CEPA, if passed, will strengthen the protection of Canadians and our environment, and will provide Canadians with an environmental protection law that confronts 21st-century issues with 21st-century science.

This bill proposes a number of changes to achieve this goal, which can be summarized in two major themes. First, Bill S-5 recognizes that every individual in Canada has a right to a healthy environment, as provided under the act.

To ensure that the right to a healthy environment is meaningful in the context of CEPA, this recognition is paired with a duty of the government to monitor and protect that right. How that will be operationalized will be elucidated in an implementation framework to be developed in collaboration with Canadians within two years of Royal Assent of this bill. That will explain how the right will be considered in the administration of the act.

With amendments that were made in committee, that implementation framework will, among other things, elaborate on principles such as environmental justice, which includes avoiding adverse effects that disproportionately affect vulnerable populations; intergenerational equity, which means meeting the needs of the present generation without compromising the ability of future generations to meet their needs; and non-regression, which means not rolling back environmental protection and continuously improving the health of the environment and of all Canadians. It was clear from the thoughtful discussions in committee that senators were keen to ensure that this right would be meaningful and the guidance on developing the implementation framework clear.

I think the bill reflects those considerations.

Second, this bill proposes to modernize Canada's approach to chemicals management. It requires a new plan of chemicals-management priorities to give Canadians a predictable, multi-year, integrated plan for the assessment of substances, as

well as the activities and initiatives that support substances management. That includes, but is not limited to, information gathering, risk management, risk communications, research and monitoring. It also adds a mechanism for the public to request the assessment of a substance.

The bill sets out a workable regime for substances of the highest risk, which include persistent and bio-accumulative substances, as well as certain carcinogens, mutagens and substances that are toxic to reproduction. The bill requires that, when considering how to manage such substances, priority be given to prohibiting them.

• (1740)

The bill also reorients the act to additional considerations based on emerging concerns of Canadians and the growth of a robust and yet-developing scientific understanding of the impacts of cumulative effects of substances. It also extends its acknowledgement of the necessity to identify and protect vulnerable populations, and, as a result of the committee's discussion, vulnerable environments.

The bill also now includes several provisions to avoid regrettable substitution. That means taking a substance which could be quite toxic to human health and putting it into commerce. The most important of these remains the watch list, which will give an early warning to industry of substances that, for example, are hazardous and may be determined to be CEPA-toxic if exposure to them or their uses change.

The bill further eliminates duplication between acts and departments, and, if passed and if appropriate regulations are adopted, would remove the requirement to notify, assess and manage new drugs under two separate acts as is currently the case. For example, the Food and Drugs Act for the safety, efficacy and quality of a drug; and, concurrently, CEPA for the environmental risks of the drug's ingredients. This would provide a more efficient and effective approach to assessing and managing the risks of drugs in Canada.

Finally, the bill increases transparency with changes to the confidential business information regime and now includes substantive requirements to accelerate efforts to replace, reduce and refine animal testing.

As someone who is familiar with the issues regarding the use of animals in health-related research, I am particularly pleased that the Senate amendments to this bill have moved the yardsticks toward the goal of eliminating animal testing of substances as soon as is scientifically possible.

As I mentioned previously, there was vigorous and thoughtful input from civil society and from industry during the committee's study of this bill. We heard from over 35 witnesses and received numerous written submissions covering a wide swath of issues, items of concern and suggestions for changes. The committee heard from Indigenous organizations, industry organizations, non-governmental organizations, academic experts and individual Canadians, all of whom shared their opinions on the bill and CEPA reform in general.

We heard commentary on a variety of topics, including animal welfare, increasing transparency, public access to information and the assessment and management of toxic substances, among others.

We heard pleas for increased transparency and easier access to information provided under CEPA, confidential business information and modifications to the online CEPA Registry to make it more user-friendly.

We had calls for increased specificity in the risk assessment and risk management processes. We heard about some of the many long-standing hardships faced by Indigenous peoples in relation to pollution and the need take to heart the UN Declaration on the Rights of Indigenous Peoples as well as our constitutional duties and to ensure that the implementation of CEPA would be guided by these.

We heard about the need to "put the health of people and the environment first" and to ensure that vulnerable people and vulnerable environments would be top of mind, not bottom of the pile.

The committee adopted several amendments related to these topics. I will highlight three recurring themes in our discussions and address some of the adopted amendments that address those.

To begin, several amendments were made to better incorporate Indigenous rights and perspectives. Indigenous knowledge was explicitly recognized alongside current and emerging science.

The committee also addressed consultation and reporting requirements. New requirements were added to provide greater notice of actions and decisions under the act, and emphasis was added on the need for a searchable, electronic registry.

The committee added additional protections for vertebrate animals by including substantive provisions to the bill that go beyond the aspirational statement in its preamble and that reordered the three Rs — reduce, replace and refine — to reflect that the first priority is to replace entirely the use of vertebrate animals in toxicity testing. If that is yet not possible, then their use should be reduced and refined. That means attending to their welfare when used for testing.

Among other changes along this theme, the committee also adopted an amendment to require that the plan of chemicals management priorities include specific activities or initiatives to promote the development and implementation of alternative testing methods that do not involve the use of vertebrate animals. This will encourage the development and timely incorporation of scientifically justified alternative methods and strategies in the testing and assessment of substances and is consistent with actions being taken by international partners such as the United States and the EU.

The committee also made a number of observations that I personally hope will drive the government to improve its ability to deliver on what this bill now demands.

Bill S-5 amendments have noted, for example, in section 44 that:

> The Ministers shall conduct research, studies or monitoring activities to support the Government of Canada in protecting the right to a healthy environment. . . .

Another amendment replaces paragraph 45(a) with a new passage that requires the Minister of Health to "conduct research and studies, including biomonitoring surveys, relating to the role of substances in illnesses or in health problems."

Unfortunately, honourable senators, as we heard from witness testimony, the government is not at this time able to provide the essential, robust and comprehensive biomonitoring, biobanking, ongoing longitudinal cohort studies and toxicogenomic analyses that are necessary to support what this bill promotes. Additionally, the committee learned that existing biomonitoring activities do not currently include an appropriate representation of Indigenous peoples. Both of these issues will need to be resolved, as without a robust and fulsome scientific capability in all the areas that I have mentioned, the promises that this bill makes for improved health for people and the environment will not be met.

Many Canadians will be watching to see how rapidly this need for enhancing our capacity to do this essential scientific work will develop and what funding and expectations for the development of this scientific capacity the other place can put into the bill to further promote this necessity.

I am proud to support this bill and urge all senators to vote to adopt it and to send it to the other place for consideration. This modernization of CEPA will be an important step for the Government of Canada toward the continued protection of people's health and the environment, and I trust it will not be the last.

Many parts of CEPA were not modified as they were not within the scope of this bill, but we hope that in the not-too-distant future, as alluded to by Minister Guilbeault's testimony before our committee, we will soon have a chance to address other parts of the act and continue to improve CEPA.

I look forward to following the debates on Bill S-5 in the other place, and I hope the revised and improved version of Bill S-5 which is before the Senate today will be adopted here and moved forward as expeditiously as possible.

Thank you, *wela'lioq*.

The Hon. the Speaker: Senator Kutcher, will you take a question?

Senator Kutcher: Absolutely.

Hon. Mary Jane McCallum: Thank you. Could you expand on biomonitoring as it applies to Indigenous people and when you think it will come to fruition? In other words, what are the areas we have gone over that will be excluded because this cannot be done at this time?

Senator Kutcher: Thank you very much for that excellent question. Biomonitoring, which means looking at the accumulation of substances in the human body — you can look at that through blood work or your nails, hair, tissue and other things — is an essential component of being able to determine how substances impact human health, not just at one point in time but over longer periods of time.

• (1750)

We need the capacity to do that kind of biomonitoring work in the general population, but also very importantly in vulnerable populations. With respect to people who are living in environments in which toxicity is known to be potentially greater, biomonitoring tells us what we need to know in terms of the impact of environment on human health. Canada currently does some biomonitoring but not enough. We heard from witnesses that the biomonitoring has to be much more robust. Many more people need to be involved. It has to reflect the variety of Canadians, of the Canadian population. It cannot just be given to one group. All Canadian groups have to be involved in the biomonitoring so we can see what differential effects the environment can have on different groups.

We also heard testimony that Indigenous peoples are not included in the routine biomonitoring, and certainly not as included as they should be in terms of large enough numbers for us to get a good understanding of what's happening to Indigenous peoples.

Because we can't put money into this bill in the Senate, we strongly urge through our observations that these scientific necessities be improved dramatically within Canada and that the other place address those in this bill. Thank you very much, Senator McCallum, for that question.

Hon. Rosa Galvez: Honourable senators, I rise to speak to Bill S-5, the strengthening environmental protection for a healthier Canada act. As you may know, the Canadian Environmental Protection Act, or CEPA, was adopted in 1999 and has not seen any significant modernization since. Twenty-three years is too long of a wait to update our protection regime in a fast-changing world. More than 28,000 chemicals are registered for use today, and more than 600 new chemicals are introduced every year in Canada, which is more than triple than in the U.S.

I encourage you to vote in support of Bill S-5 as amended in committee and want to use this opportunity to explain how and why CEPA affects all of us, and why it is important that we frequently study and review this act.

CEPA provides the framework for how, why and when chemical substances are assessed for toxicity, and whether and how they need to be regulated. Bill S-5 seeks to strengthen this assessment and regulation-making framework.

[*Translation*]

The House of Commons Standing Committee on Environment and Sustainable Development studied this bill in 2017 and made 87 recommendations. Just a few of these recommendations were taken into account in Bill S-5, most notably the consideration of vulnerable populations. A number of the recommendations from the committee and from experts have not yet been included, such as the requirement of justification for confidentiality requests, risk assessment, climate change, pesticide management, radioactive substances, electromagnetic radiation and genetically modified organisms.

A number of senators tried to fill these gaps by proposing amendments during the committee's study. I want to thank Senators Miville-Dechêne, McCallum, Patterson and Arnot for their thoughtful proposals. I also want to thank Senator Kutcher, the sponsor of the bill, for agreeing to take on the difficult task of sponsoring such a large and highly technical bill.

Yesterday, the Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources shared some statistics about our work and our overall findings. I won't repeat everything that he shared, but I do want to emphasize that 64 amendments were presented, 34 of which were adopted. I'm pleased that my colleagues supported 14 of my amendments, many of which had to do with the reduction of assessments and the number of tests on vertebrate animals.

[*English*]

Under CEPA, the government is tasked with assessing substances and categorizing them depending on their toxicity. The Government of Canada assesses approximately 600 new substances in the Canadian market each year. Yet, with all these substances and thousands of new products imported to Canada annually, the government has not given itself sufficient resources to undertake adequate testing. If you heard my question earlier to Senator Gold, we don't know if the government is overly reliant on industry to provide the scientific basis for assessments, if university labs will play a bigger role in this testing or if government officials rely on literature reviews.

This ambiguity is problematic. A literature review, however useful in getting a broad picture, might not include testing in the right conditions to determine if a substance is toxic in the environment, if it might lead to long-term chronic effects in humans or if there are equivalent substances that are less toxic, for example. While these assessments are the responsibility of the minister by law, the government relies on data from experiments that are overwhelmingly designed, performed, analyzed and disclosed by industry for the purpose of sales. This overreliance on industry-provided data should warrant an additional layer of precaution, not less.

CEPA references the precautionary principle several times, an approach that emphasizes caution when addressing substances for which extensive scientific knowledge is lacking. This is a wise approach when dealing with substances that have the potential to destroy ecosystems or cause lasting health impacts on human health. Unfortunately, our environmental protection regime is more grounded in risk management than precaution.

In fact, Bill S-5 changes the CEPA preamble by removing an acknowledgement that we ". . . need to virtually eliminate the most persistent and bioaccumulative toxic substances. . . ."

This was in the initial CEPA. Today, we would rather focus on "the need to control and manage pollutants." This is neither a precautionary approach nor prevention. It sends the wrong signal, by suggesting that there is no need to eliminate pollutants — only to manage and control them.

When it comes to prevention, we heard from the government that only 25 substances from the list of toxic substances have pollution prevention plan requirements. They went on to suggest that this should not be concerning because not all uses of substances create a risk. We must point out that highest risk and acceptable risk are not defined in Bill S-5. Without these boundaries, risk management may lead to situations where it is acceptable that citizens are exposed to different levels of dangers, which creates more inequalities. This issue is avoided when the focus is put on prevention.

I appreciate that the government proposed an amendment brought forward by Senator Kutcher in committee to extend the priority of pollution prevention actions to both parts of the list of toxic substances in Schedule 1, rather than just part 2. The committee also adopted Senator Miville-Dechêne's amendment giving authority to the government — should they need it — to require pollution prevention plans from any manufacturer of toxic substances. Prevention is a cornerstone of adequate environmental protection, and these amendments make Bill S-5 stronger.

[*Translation*]

The bill also introduces a tool that I think will be good for the environmental protection framework, and that is a list of potentially toxic substances. This list sends a clear signal to industry that a substance may become toxic if it is used differently or if more of it enters the environment. It also indicates that further regulatory action may be taken if necessary. It acts as a warning system, one that is not limited to substances tied to a new activity. Although some industry witnesses were opposed to it, I believe it will benefit industry by helping them avoid substances that they would otherwise have to replace eventually.

• (1800)

[*English*]

With great expectations from citizens, Bill S-5 introduces in its preamble the right to a healthy environment. Sadly, Canadians won't benefit from this right in its due form when the bill passes. At this stage, the bill only instructs the minister to develop and implement a plan to set out the exact nature of this right within two years of coming into force.

The Hon. the Speaker: I'm sorry, Senator Galvez, it is now six o'clock. I apologize, but I have to interrupt you.

Pursuant to rule 3-3(1), I'm required to leave the chair and suspend until eight o'clock unless it's agreed that we not suspend. If you wish the sitting to be suspended, please say "suspend."

Some Hon. Senators: Suspend.

The Hon. the Speaker: The sitting is suspended until 8 p.m. Senator Galvez, you will have the balance of your time when we return.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

• (2000)

BILL TO GIVE EFFECT TO THE ANISHINABEK NATION GOVERNANCE AGREEMENT AND TO AMEND OTHER ACTS

BILL TO AMEND—MESSAGE FROM COMMONS

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons returning Bill S-10, An Act to give effect to the Anishinabek Nation Governance Agreement, to amend the Sechelt Indian Band Self-Government Act and the Yukon First Nations Self-Government Act and to make related and consequential amendments to other Acts, and acquainting the Senate that they had passed this bill without amendment.

STRENGTHENING ENVIRONMENTAL PROTECTION FOR A HEALTHIER CANADA BILL

BILL TO AMEND—THIRD READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Kutcher, seconded by the Honourable Senator Boehm, for the third reading of Bill S-5, An Act to amend the Canadian Environmental Protection Act, 1999, to make related amendments to the Food and Drugs Act and to repeal the Perfluorooctane Sulfonate Virtual Elimination Act, as amended.

Hon. Rosa Galvez: Honourable senators, with great expectation from citizens, Bill S-5 introduces in its preamble the right to a healthy environment. Sadly, Canadians won't benefit from this right in its due form when the bill passes because at this stage, the bill only instructs the minister to develop and implement a plan to set out the exact nature of this right within two years of the coming into force of the bill. Moreover, although Bill S-5 stipulates that the implementation framework must consider the principle of environmental justice, it must also consider the balancing of the right with other factors, including economic factors. Obviously, rights are subject to reasonable limits. Our charter and judicial system recognize this clearly. However, I couldn't find any similar usage of balancing factors in other rights legislation. Colleagues, what if your right to religious freedom, for example, was balanced with economic factors? Would you accept that?

This right is better than nothing, and when Canadians will benefit from a form of this right, they will join 156 other nations around the world who already have this right enshrined in law in their constitutions. Interestingly, 110 of them afford this right constitutional protection, something that we are far from doing with Bill S-5.

Finally, I'm concerned about the government's decision to remove the title of Schedule 1, "List of Toxic Substances." Although the schedule is referred to as "the list of toxic substances" everywhere else throughout the bill, the title itself was removed. At first glance, it seemed like a minor omission since each substance on Schedule 1 has already been declared toxic under CEPA. However, upon further reflection, I think that it could have unintended or intended constitutional ramifications. The 1997 Supreme Court ruling in *R. v. Hydro-Québec* upheld CEPA as adopted in 1988 as valid legislation on the basis of its criminal law power. Justice La Forest, writing for the majority, noted that:

> . . . the stewardship of the environment is a fundamental value of our society and that Parliament may use its criminal law power to underline that value. . . .

He also stated that the act ". . . is an effective means of avoiding unnecessarily broad prohibitions and carefully targeting specific toxic substances."

In other words, CEPA is within its constitutional jurisdiction as long as it stays narrowly focused on regulating toxic substances, an analysis that is shared with the Canadian Environmental Law Association.

Under CEPA, a substance is declared toxic if it may enter the environment under conditions that may have an immediate or long-term harmful effect on the environment or its biological diversity, may constitute a danger to the environment on which life depends or may constitute a danger to human life or health.

Lead, mercury and plastics, for example, are on Schedule 1 precisely because they are toxic, despite what you might hear from some industry representatives. As with everything, there are cases where these substances do not pose a risk, but that doesn't mean they aren't toxic substances as defined by CEPA. Removing the label "toxic substances" from Schedule 1 could undermine the precedents established by the Supreme Court of Canada in that 1997 ruling, ultimately weakening the government's authority to regulate these substances.

From another angle, simply naming this list as Schedule 1 is meaningless for most Canadians and gives no indication of what this list represents. At worst, it is misleading the public just to satisfy some industries that don't like seeing the substances they use defined as toxic.

I have opted not to bring forward an amendment to reverse this government decision, but I hope the House of Commons will consider this issue seriously for clarity and transparency.

In conclusion, Bill S-5 does improve certain aspects of Canada's toxic substance management framework, but as explained, there is still lots to cover. We really need to better protect our environment, as our health and safety depend on it. Vulnerable populations are overexposed to pollutants present in the water and fish they eat. Without proper labelling, we buy food and items that are sprayed or treated with substances that can bioaccumulate in our bodies. Plastics that are composed in their majority of toxic substances break into microplastics that are found today in human blood and placentae. Chronic, low-dosage exposures are also very dangerous.

I hope that we will continue improving CEPA in the years to come and we won't wait another 23 years to update this important law. Thank you, *meegwetch*.

Hon. Mary Jane McCallum: Honourable senators, I rise today to speak to third reading of Bill S-5, the strengthening environmental protection for a healthier Canada act. I want to acknowledge my brothers and sisters of the Tataskweyak Cree Nation.

[*Editor's Note: Senator McCallum spoke in Cree.*]

This is for you; this is your voice. Thank you to James and Anna for all their work, spirit and energy in working alongside me.

I would like to begin by registering my concern on the continuous assault of the water and lands surrounding vulnerable populations and vulnerable environments. The assault that I speak of largely occurs at the hands of resource-extractive companies. This unrelenting pressure and demand on our natural resources comes from various industries, including oil and gas, whose activities result in tailings ponds and orphan wells and whose hydraulic fracturing on both land and water comes with its own list of environmental concerns; hydro, which has had devastating effects on the quality and calibre of water, the health of the people and species who live in and rely on that water and the surrounding lands that are flooded or eroded with the changing water levels, affecting cultural and spiritual practices; forestry, which discharges effluent that has adverse impacts on surrounding land and waterways; agriculture, due to both herbicides and pesticides making their way into water sources as well as the effluent sewage and related runoff from farms; and mining, whose tailings and effluent are often discharged into the river system.

The vulnerable populations who are disproportionately affected therein, colleagues, are First Nations. Many nations and reserves are located on or in proximity to resource extraction sites. They experience many burdens that are largely unknown and unseen to Canadians who live in cities and in rural settings isolated from the multiple devastations that occur.

Honourable senators, the Assembly of First Nations' brief to the Standing Senate Committee on Energy, the Environment and Natural Resources, under the heading "Right to a Healthy Environment Requires a Remedy," states:

> First Nations experience environmental racism throughout the country, resulting in disproportionate exposure to toxic substances and hazardous activities. Children living in communities or on reserve are disproportionately impacted by unregulated chemicals (e.g., the lack of regulation on use of pesticides and herbicides on and around reserves).

The Assembly of First Nations continues:

> As noted by the United Nations Special Rapporteur on Human Rights and Hazardous Substances and Wastes, "[t]he invisible violence inflicted by toxics is an insidious burden disproportionately borne by Indigenous [P]eoples in Canada."

The rapporteur states that the rights to health, safe water and food, adequate housing, safe and healthy working conditions and others implicated by toxins do not appear to be directly actionable under Canadian law.

• (2010)

Colleagues, CEPA, 1999 has been in effect for 20 years; yet, where is the protection for First Nations promised by this legislation? There was much discussion on the concept of "balancing" in the Energy Committee's study of Bill S-5. Was the protection against toxins "balanced" with other factors like employment and economic considerations, factors that then took precedence over the lives and lands of First Nations?

Has this misaligned "balancing" led to vulnerable populations and environments? The term "vulnerable environment" was defined for the Energy Committee by Mr. John Moffet, Assistant Deputy Minister, Environmental Protection Branch, Environment and Climate Change Canada. He stated:

> . . . the concept of cumulative effects is becoming better understood in the scientific community, and so an environment could be considered vulnerable, for example, if it has been subjected to multiple stresses over a period of time and a new stress, a new emission or pollution that might not have a large effect somewhere else might have a significant effect in an area that has already been subject to multiple stressors over time.

Honourable senators, I would like to raise the case of Tataskweyak Cree Nation, a community in northern Manitoba. Their stressors include the cumulative impacts of residential school and intergenerational trauma; dispossession of lands, culture, livelihood and spirituality and their impact on food security and health; endangered sturgeon population; the devastation of hydro impacts including unsafe drinking water; effluent discharge from mining in Thompson, Leaf Rapids and Lynn Lake, including tailings; and being a water basin for interprovincial and international drainage that flows into Split Lake — the water that is sacred to them.

Now, Tataskweyak Cree Nation has found that new toxins, resulting from the presence of blue-green algae, have added to the myriad of stressors already burdening their waterways. This compounding of issues is a prime example of the term "vulnerable environment."

Colleagues, as we balance economic concerns against health and environmental concerns, we must understand the concept of poverty. Poverty is not simply the lack of income or economy. It is the lack of ability to achieve minimally satisfying living conditions. It is the devolution of one's ancestral home territory into a hazardous environmental wasteland — as we see occurring with Tataskweyak Cree Nation and many communities.

People continue to remain disempowered due, in large part, to the regulatory gaps within federal and provincial jurisdictions. Poverty cannot be removed mainly in terms of economic growth; social changes are required. It is incumbent on us as parliamentarians to identify and remove these barriers to change.

Honourable senators, while CEPA endeavours to protect all aspects of the environment, I will largely focus on issues related to water and environment, as First Nations have been fighting for clean water in their own homeland of Canada and on their reserves for the past 100 years.

Generations of youth have never experienced clean water, having lived their entire lives under a boil-water advisory. The physical, mental, spiritual and emotional burden that this causes cannot continue to be ignored by parliamentarians. These kinds of assaults on the basic needs and human rights of human beings, as well as on those of Mother Earth, are unconscionable.

The issue of blue-green algae raised by Tataskweyak Cree Nation, or TCN, was highlighted in a brief provided to the Energy Committee by TCN's Chief Doreen Spence, who wrote:

> We are particularly concerned about the presence of the blue-green algae toxins in our Lake and drinking water supply which is why we are asking for this amendment.

In an accompanying brief, Mr. Ian Halket, TCN's project director and a hydrologist, states:

> Our lake receives the wash loads from watersheds as far away as the Rocky Mountains in Alberta, southern Minnesota, and North Dakota, as well as, the wash from Winnipeg and English River in Northern Ontario. . . . Our Lake sits at the bottom of watersheds that [drain from the above]. By the time these waters reach our Lake, the plant-available nitrogen has been used up and blue-green algae dominate.

Mr. Halket continues:

> When the natural balance [of nitrogen to phosphorus] gets out of hand (low nitrogen and high phosphorus) blue-green algae start to dominate the algae community in the lake. Blue-green algae release toxins, some of which are the most toxic substances we encounter in the environment, even if you include industrial pollutants. With the advent of big agriculture, wastewater treatment plants and industrial and mining releases of effluents, the natural balance of plant-available nitrogen to phosphorus is being altered, swinging it towards the thresholds that encourage the growth of blue-green algae and increasing concentrations of cyanotoxins in lake water.

He continues:

> Blue-green algae toxins . . . can result in serious illness. . . . In 2020, Health Canada confirmed that more severe symptoms include liver and kidney, nerve and muscle damage.

On this point, Chief Spence wrote:

> People in our community have health complaints ranging from gastrointestinal upsets and skin rashes to disease of the liver, kidneys and nervous system, symptoms that parallel effects of exposure to blue-green algae toxins. Ours is not the only northern reserve that is experiencing these health symptoms.

Although some have tried to argue that blue-green algae are naturally occurring, it has been well established that human activity and intervention have been the main culprit in the spread and propagation of this serious matter that has brought with it dire health consequences for the surrounding communities.

As such, honourable senators, the onus is on us to embrace this opportunity and ensure that toxins from blue-green algae are addressed under Bill S-5.

As the proliferation of these toxins is largely attributable to human activity, it goes to follow that this issue would logically fall under section 46 of the CEPA legislation, which deals with "activities."

For context, colleagues, I would like to quote Mr. John Moffet, from Environment and Climate Change Canada, where he defines "activities" within the bill. He says section 46:

> . . . covers authority to gather information on a range of pollutant-related issues and covers all of the various authorities in the act: toxic substances, nutrients, intergovernmental water and air pollution, et cetera.

He goes on to say:

> What we are trying to do by adding (k.1) is to go beyond information on substances and gather information about activities themselves that may, when the activity is carried out, create pollution. Then we can have better information to devise risk management approaches focused on preventing pollution as opposed to just identifying it and managing it once it occurs.

And further:

> . . . the idea of (k.1) is to focus on activities related to pollution, and by that I meant activities that contribute to the kind of pollution that releases substances that are harmful to the environment or human health.

Colleagues, as Mr. Moffet has stated, this section has been specifically created to gather information on a range of pollutant-related issues, including toxic substances. I would like to point out that the Energy Committee's report on Bill S-5, adopted yesterday, added hydraulic fracturing and tailings ponds to this section already, establishing an important precedent.

MOTION IN AMENDMENT NEGATIVED

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

> That Bill S-5, as amended, be not now read a third time, but that it be further amended in subclause 9(3) (as amended by the decision of the Senate on June 21, 2022), on page 5, by adding the following and repositioning and renumbering accordingly if required:
>
> "**(k.4)** activities that may cause or contribute to growth of blue-green algae;".

• (2020)

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

Some Hon. Senators: Question.

The Hon. the Speaker: All those senators in the chamber who are in favour of the motion will please say, "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those senators in the chamber who are opposed to the motion will please say, "nay."

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

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

An Hon. Senator: Fifteen minutes.

The Hon. the Speaker: The vote will take place at 8:36 p.m. Call in the senators.

• (2030)

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

YEAS
THE HONOURABLE SENATORS

Arnot	Marshall
Ataullahjan	Martin
Audette	McCallum
Batters	Oh
Boisvenu	Pate
Dagenais	Plett
Housakos	Poirier
Lovelace Nicholas	Smith
MacDonald	Wells—19
Manning	

NAYS
THE HONOURABLE SENATORS

Black	Klyne
Boehm	Kutcher
Bovey	LaBoucane-Benson
Busson	Loffreda
Campbell	Marwah
Carignan	Massicotte
Clement	Mégie
Cordy	Miville-Dechêne
Cormier	Moodie
Cotter	Omidvar
Dasko	Petitclerc
Dawson	Quinn
Deacon (*Nova Scotia*)	Ravalia
Deacon (*Ontario*)	Richards
Dean	Ringuette
Downe	Saint-Germain
Duncan	Seidman
Dupuis	Simons
Forest	Sorensen
Gagné	Tannas

Gerba	Verner
Gignac	Wallin
Gold	White
Harder	Woo
Jaffer	Yussuff—50

ABSTENTIONS
THE HONOURABLE SENATORS

Bellemare	Moncion
Galvez	Patterson—4

• (2040)

BILL TO AMEND—THIRD READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Kutcher, seconded by the Honourable Senator Boehm, for the third reading of Bill S-5, An Act to amend the Canadian Environmental Protection Act, 1999, to make related amendments to the Food and Drugs Act and to repeal the Perfluorooctane Sulfonate Virtual Elimination Act, as amended.

Hon. Dennis Glen Patterson: Honourable senators, I rise today to speak to Bill S-5, known by its short title of "Strengthening Environmental Protection for a Healthier Canada Act."

This bill marks the first significant changes to the Canadian Environmental Protection Act, or CEPA, since it was passed in 1999.

As I said when speaking to this bill on second reading and as I told the minister when he appeared before our committee, it seems totally illogical to pass a bill that enshrines the right to a healthy environment but postpones the elucidation of that right to a two-year process and the results of at least two current court cases on the issue. But I won't dwell on that today.

As you can imagine, many groups — from Indigenous governments to environmental non-government organizations and industry representatives — came forward to present their views on this bill, and to suggest additional amendments to CEPA.

The bill was introduced on February 9, 2022, and it was referred to committee on April 7. We held five hearings with witnesses and spent eight meetings going through clause by clause. The result of this relatively short study of a very complex bill is that we didn't have the time to hear as many witnesses as I would have liked on a variety of issues. Senator Galvez, my colleague on the Energy Committee, mentioned in her speech today the issue of radiofrequency radiation among issues that need further attention.

We did find time to hear one witness on the issue of radiofrequency radiation, also known as RF, which is the type of radiation that is emitted continuously by things like cell towers. Remember the advice to keep your cellphone away from your ears? That's what I'm focusing on in speaking to this bill.

Dr. Meg Sears, who co-authored a white paper by Prevent Cancer Now and Canadians for Safe Technology, was very critical of the limitations of Health Canada's current Safety Code 6, which is used to measure the dangers of human exposure to this radiofrequency radiation. Dr. Sears told the committee:

> . . . Safety Code 6 applies to human exposures, and it's based upon six-minute exposure times. There have been concerns that Safety Code 6 may not be protective of human health, but I'm putting that aside right now because when we looked at the regulatory framework for birds, bees and various insects, every kind of biota apart from humans is being affected by the radiofrequency radiation. There is no assessment, and this was confirmed by Environment and Climate Change Canada. They're not doing any research on this. So, we provided the Senate a white paper specifically on this issue.
>
> There are regulations. There is the Radiation Emitting Devices Act. That act and the regulations under it actually refer to CEPA and the Species at Risk Act and other environmental legislation, which is all completely silent on this issue. There is this recognition that there should be some kind of environmental protection for non-human species, but it's an empty basket. There is nothing there at all.
>
> In 2018, *The Lancet Planetary Health* published research showing that the ambient exposures — the peak exposures, which are kind of like the bullets out of the gun, so they are important — have gone up by a factor of a quintillion — that's a one with 18 zeros after it. It's unimaginable how much this radiation has increased, and the radiation can also work along with chemicals. It can magnify the effects of chemical toxicities. So while we are seeing rapidly decreasing populations of insects, birds and other small wildlife, and we're ascribing that to insecticides and chemicals, it's quite probable that radiofrequency radiation is an important contributor to what we're actually seeing in terms of biodiversity loss.

• (2050)

Honourable senators, I had no idea about the issue of RF waves and their negative effects not only on our health but on biodiversity in Canada, but I was particularly struck by Dr. Sears's data that linked RF radiation to a higher occurrence of cancer. This was alarming to me, and I believe that it warrants further study, and that is all I'm suggesting be done in an amendment that I will propose today.

Honourable senators, I'm simply asking for your support to approve an amendment that would expressly include radiofrequency electromagnetic radiation under section 46(1) of the act as subparagraph (k.2). Section 46 occurs under the heading "Information Gathering" and currently states:

> **46(1)** The Minister may, for the purpose of conducting research, creating an inventory of data, formulating objectives and codes of practice, issuing guidelines or assessing or reporting on the state of the environment, publish in the *Canada Gazette* and in any other manner that the Minister considers appropriate a notice requiring any person described in the notice to provide the Minister with any information that may be in the possession of that person or to which the person may reasonably be expected to have access, including information regarding the following: . . . .

So the goal is simply to add RF waves to that list of information that should be gathered and be readily available.

To be clear, colleagues, I am asking that we put in a mechanism that enables us to gather more data and information on the potential impacts of RF waves on humans and biodiversity in Canada. This is particularly important given the push to roll out 5G across the country and the exponential rise in exposure of humans, plants and animals to radiofrequency radiation.

In committee, we heard several arguments against this amendment, including that it was out of scope. Greg Carreau, Director General of the Safe Environments Directorate within Health Canada, told the committee that CEPA only deals with substances and that other acts, such as the Radiocommunication Act and the Radiation Emitting Devices Act, address the safe application of RF waves.

In response to those criticisms, I would point out that Prevent Cancer Now also provided senators with a link to a table showing that the referenced acts do not have provisions specifically dealing with protection of humans, plants and animals specifically from RF waves, nor are there any provisions relating to research and data collection. The Radiation Emitting Devices Regulations do not address cellular antennas and wireless devices, which do produce RF radiation, and the three safety standard regulations rely on the previously discussed flawed logic of Safety Code 6.

The other weak argument on scope put forward by the government witness said that the amendment was out of scope because CEPA deals with substances and that radiofrequency electromagnetic radiation is not a substance, even though this radiation is composed of ions — the same as other substances in the act.

Furthermore, radiofrequency electromagnetic radiation appears to fall within the definition of pollution in CEPA, which is broadly defined and, for example, defines pollution prevention as:

> . . . the use of processes, practices, materials, products, substances or energy that avoid or minimize the creation of pollutants and waste and reduce the overall risk to the environment or human health.

I would also point out to senators that CEPA, in section 2(1), states:

> In the administration of this Act, the Government of Canada shall, having regard to the Constitution and laws of Canada and subject to (1.1),
>
> **(a)** exercise its powers in a manner that protects the environment and human health, applies the precautionary principle that, where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation, and promotes and reinforces enforceable pollution prevention approaches; . . . .

Section 2(1)(j) repeats that the government shall:

> protect the environment, including its biological diversity, and human health, from the risk of any adverse effects of the use and release of toxic substances, pollutants and wastes; . . . .

Honourable senators, we need to address the fact that there is a pollutant, which experts are telling us has negative effects on human health and biological diversity. They are telling us that this warrants closer study and that our safety codes need to be updated with a view to higher exposure levels. They are telling us that we need to gather more scientific data, and that is all this amendment would aim to do: it would give us the mechanism to learn more about RF waves and their effects on humans, plants and animals.

MOTION IN AMENDMENT NEGATIVED

Hon. Dennis Glen Patterson: Therefore, honourable senators, in amendment, I move:

> That Bill S-5, as amended, be not now read a third time, but that it be further amended,
>
> (a) in clause 7, on page 4, by adding the following after line 33:
>
> "**(3.2)** The Ministers shall conduct research or studies relating to radiofrequency electromagnetic radiation, methods related to its detection, methods to determine its actual or likely short-term or long-term effects on the environment and human health, and preventive, control and abatement measures to deal with it — as well as alternatives to its use — to protect the environment and human health.";
>
> (b) in subclause 9(3) (as amended by decision of the Senate on June 21, 2022), on page 5, by adding the following and repositioning and renumbering accordingly if required:
>
> "**(k.4)** radiofrequency electromagnetic radiation;".

Thank you.

Hon. Stan Kutcher: Thank you very much, Senator Patterson. This is indeed a really important issue; there's no question about that. However, to say that the committee studied this when we had one witness who presented some evidence, but had no chance to study the topic at all, is not a reasonable way to bring in an amendment to a bill. It was not studied.

Also, the World Health Organization is currently doing many studies on the health impacts of radiofrequency electromagnetic radiation. There may be effects, but we really need to look at this carefully and not hear from just one witness in the committee.

Radiofrequency electromagnetic radiation is not a substance. We heard this very clearly from officials.

• (2100)

This bill deals with substances. It is not a substance. Wishing to make it so doesn't make it so. It is energy. It is not even an ion, sir. It is energy — energy that actually is non-ionizing. Another form of non-ionizing energy is visual light. That is also non-ionizing energy. That means it is energy that doesn't have the ability to change the electrical charge on an ion or a molecule. We're all made up of ions and molecules. Some of us have more energy than others. That's not the point.

There are acts which deal with this, and if we do the studies in the acts, we should do the studies in the acts where these things actually deal with this, and we should hear witnesses that deal with these issues carefully. The Radiocommunication Act is such an act; the Health Canada Radiation Emitting Devices Act is such an act. Those are the appropriate places to have discussions on this topic. Thank you. I would vote against the amendment.

Hon. Frances Lankin: Senator Kutcher, will you accept a question?

Senator Kutcher: Certainly.

Senator Lankin: Senator Kutcher, I have to say I'm very low on energy now myself, but I found that response incredibly helpful. We all know that we can make amendments at third reading, but it's difficult to know what the background is in terms of what the committee heard or saw. To have someone from the committee stand up and speak, and if there are alternative opinions from the committee, they should stand up and speak as well. It is an important part of the debate. I think, respectfully, people moving amendments should also, if they would, refer to how the committee responded, dealt with it or the reasons why. For example, I asked Senator Batters yesterday why there was opposition to your amendment. I understand as talk has gone on that the previous amendment that was defeated belongs to the scope of the Freshwater Fish Marketing Act and not this act because it is a natural occurrence —

The Hon. the Speaker: Sorry, Senator Lankin, it sounds as though you've entered debate. Are you asking a question?

Senator Lankin: I thought that's what I wanted to do, and I think you thought that's what I should be doing. Thank you.

Would you speak to whether this was ever discussed or ruled out of the scope of the bill? I'm talking about Senator Patterson's amendment. Thank you very much.

Senator Kutcher: Thank you very much for that question. We had a long discussion about radiofrequency electromagnetic radiation. Very clearly, this is not a substance. I would ask Senator Massicotte if he remembers better whether it was ruled out of scope specifically or not.

The Hon. the Speaker: It's not really appropriate.

Senator Kutcher: Oh, I can't ask the question.

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

Hon. Senators: Question.

The Hon. the Speaker: If you are opposed to the motion, please say "nay."

Some Hon. Senators: Nay.

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

Some Hon. Senators: Yea.

The Hon. the Speaker: All those present in the chamber who are opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

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

(Motion in amendment of the Honourable Senator Patterson negatived, on division.)

BILL TO AMEND—THIRD READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Kutcher, seconded by the Honourable Senator Boehm, for the third reading of Bill S-5, An Act to amend the Canadian Environmental Protection Act, 1999, to make related amendments to the Food and Drugs Act and to repeal the Perfluorooctane Sulfonate Virtual Elimination Act, as amended.

Hon. David Richards: Honourable senators, I've been dealing with the problem of Atlantic salmon for 40 years and for the last five years in this Senate, and I've never received a credible answer from either representatives of Fisheries and Oceans Canada or any of the fisheries ministers — I think this is the third one — about our wild salmon stock and how it's depleted. They don't seem to have any answers. They have a lot of regulations, but they don't seem to have any answers at all.

In Bill S-5, they're called "living organisms," but there's nothing more spectacular than seeing a salmon move into a pool early in the morning or at evening for that matter. The idea of genetically altering this species is both dangerous and arrogant, and it's being done in the United States and in Canada with Atlantic salmon. It will not end well because sooner or later the

genetically altered species will enter our waterways, one way or the other, and I have no idea what will happen to our wild salmon if it does.

MOTION IN AMENDMENT NEGATIVED

Hon. David Richards: Therefore, honourable senators, in amendment, I move:

> That Bill S-5, as amended, be not now read a third time, but that it be further amended on page 28 (as amended by decision of the Senate on June 21, 2022) by adding the following before new clause 39.1 and renumbering the bill as required:
>
> "**39.01 (1) Subsection 106(1) of the Act is amended by striking out "and" after paragraph (a) and by adding the following after that paragraph:**
>
> **(a.1)** where the living organism is an animal having a wild counterpart, the information provided shows a demonstrable need for the living organism and that the living organism is not toxic or capable of becoming toxic; and
>
> **(2) Subsection 106(4) of the Act is amended by striking out "and" after paragraph (a) and by adding the following after that paragraph:**
>
> **(a.1)** where the living organism is an animal having a wild counterpart, the information provided shows a demonstrable need for the significant new activity involving the living organism and that the significant new activity does not render the living organism toxic or capable of becoming toxic; and
>
> **(3) Section 106 of the Act is amended by adding the following after subsection (8):**
>
> **(8.1)** Despite subsection (8), if the living organism is an animal having a wild counterpart, the Minister must provide
>
> **(a)** a public notice of the request for a waiver; and
>
> **(b)** opportunities for members of the public to participate in the assessment.".

Hon. Dennis Glen Patterson: Honourable senators, I rise today to speak in support of Senator Richards' amendment.

While participating in the study of this bill, I was struck by the story of a genetically engineered Atlantic salmon species being released into the wild without anyone really being aware of it. Mark Butler, a senior advisor with Nature Canada, spoke of "[t]he risk to wild salmon and the implications for Indigenous peoples' rights. . ." that such a species could have.

This amendment would ensure that until a proponent can demonstrate that a living organism that has a wild counterpart can be used safely, its development, manufacture, import or use is prohibited. To be clear, colleagues, I would underline for you all the term "with a wild counterpart." We're talking about, in this case, a fish, but it could include lobsters, rabbits and larger animals of that ilk and not microscopic organisms such as bacterial strains.

It is worth noting that similar recommendations have been made for chemical substances of very high concern to put a strong onus of proof on proponents to demonstrate the need. It is also in line with the precautionary principle that I referenced in my previous speech found in section 2(1)(a) of the Canadian Environmental Protection Act, or CEPA. The proponent should also have to demonstrate that the new living organism is needed.

I would also like to draw the attention of senators to part 3 of the amendment that seeks to ensure there is an increased level of transparency and accountability with regard to decisions undertaken by the government under the authority of this act concerning genetically modified organisms with a wild counterpart. This approval took place under the radar.

• (2110)

I know that some industry groups have argued that this places in jeopardy the confidential business information, or CBI, of current and future proponents. However, there are several protections in the regulations governing CEPA that would protect CBI, including the powers that exist under section 313(1) that states:

> A person who provides information to the Minister under this Act, or to a board of review in respect of a notice of objection filed under this Act, may submit with the information a request that it be treated as confidential.

This approach, as Senator Richards said, is based on the example of a company called AquaBounty. This is a company operating a land farm in P.E.I. as we speak that breeds genetically modified salmon, and they're selling that salmon with no label. In this instance, there is no requirement for genetically modified salmon to be clearly labelled, so concerned citizens have to dig for information on the potential health concerns of consuming this salmon.

Karen Wristen of the Living Oceans Society told us the story of AquaBounty. As a lawyer in the NGO space, she should not have been taken by surprise that a new species of salmon had been introduced into Canadian waters, but Ms. Wristen told our committee:

> In the complete absence of any public information in Canada regarding the risk assessment or the status of AquaBounty's application, the Living Oceans Society and Ecology Action Centre filed for judicial review of the decision to permit the manufacture and export of AAS. It would be fully a year before the government produced its record of decision and longer still until we were finally permitted to see the risk assessment.

Honourable senators, I was discomfited to hear about the details of their lawsuit, and I believe we have an opportunity here with this amendment to ensure that government decisions and all relevant information is released to the public in a timely and transparent manner. Some may know that I brought this amendment forward in the committee. It passed the first time we considered it at clause by clause, and then failed when we had to redo the votes due to a technicality. Senator Kutcher told the committee then that:

> I've learned that Environment and Climate Change Canada and Health Canada have now initiated a comprehensive review of the New Substances Notification Regulations (Organisms), which are a part of the regulations that implement part 6 of CEPA. As such, changes to those regulations will be examined closely during part of this review, and it would thus be premature to propose amendments to this part of the act before those consultations and subsequent regulatory modernization initiatives have run their course.

Trust us and wait. While a review and potential changes to the New Substances Notification Regulations (Organisms) would be welcome, regulations are not enough. Changes in the act are required to ensure that Canadian consumers are protected now. We have a chance to do this through this amendment.

The Assembly of First Nations, Congress of Aboriginal Peoples, Atlantic Salmon Federation — who knew nothing about the development of this new species until the court action I mentioned — the Living Oceans Society and Bob Chamberlin, a B.C. Indigenous leader, all endorsed this amendment when they either appeared as witnesses or submitted briefs to the committee. They feel it ensures the public is able to learn about and participate in the process of authorizing activities related to genetically modified organisms with a wild counterpart.

I'd like to thank Senator Richards for his devotion to the iconic Atlantic salmon, and I would urge all honourable senators to adopt this amendment. Thank you.

Hon. Pat Duncan: Senator Patterson, will you take a question?

Senator Patterson: Yes.

Senator Duncan: Thank you, Senator Patterson. This may also be addressed by Senator Kutcher. You made significant reference to Atlantic salmon. Was there any discussion of the impact of this proposed amendment on Pacific salmon and/or are there examples of the situation you described occurring on the West Coast?

Senator Patterson: I don't know of the occurrence of this genetically modified engineering on other species in Canada. As far as I know this is the first, and this was the only species that we were told about in committee.

With respect to Senator Kutcher, we had one witness. It's unfortunate we didn't have time for more, but this amendment basically ensures that if this kind of genetic engineering of wild species happens again, there will be some public transparency that did not exist in the AquaBounty case. Thank you.

Senator Duncan: As I heard your discussion of this amendment, you were referring to consultation and work that's under way by environmental protection and Health Canada. Is it possible that those two agencies are working with those individuals who are working with B.C. salmon? Is it possible that they have more information and are working with fish farmers, for example, on both the West and East Coasts? Is it possible that this additional consultation that they're proposing is actually required before we make such an amendment?

Senator Patterson: Thank you for the question. You've suggested in your question that concerned groups like the Living Oceans Society and the Atlantic Salmon Federation, as I understand it, could be working with Environment and Climate Change Canada and Health Canada, who have now initiated a review of the so-called new substances notification regulations, or SNAc — significant new activity — provisions, as they're called.

These organizations, Ecology Action and Nature Canada, had to sue the courts to even get information about the risk assessment that had been done by the department. They do not have a good working relationship with the department that is charged with reviewing these regulations. They had to sue them to find out what was going on, and it took a year. I don't believe that we should wait and trust the department to examine this issue in the fullness of time. We've waited some 20 years for these amendments to come forward. Governments don't move rapidly.

In the meantime, we have what I think is the alarming potential for an explosion of other genetic modifications that could threaten other species. So I don't think there is a potential for cooperation here. It certainly hasn't existed in the past. Thank you.

[*Translation*]

Hon. René Cormier: I must first say that I appreciate your argument. I support the concerns of Senator Richards in this area considering the impact of Atlantic salmon on our region, both environmentally and for tourism and food. The issue is very important and the GMOs are a source of major concern.

• (2120)

That being said, my question for you is simple. I believe that this is a completely legitimate concern, but is this bill the right bill and the right vehicle for addressing this issue? I ask the question since this is a bill on chemical substances and as Senator Kutcher said, we are dealing with GMOs, organisms.

[*English*]

Senator Patterson: Thank you for the question, Senator Cormier. I know you're from a region that cherishes the Atlantic salmon.

There's no question that this amendment is within the scope of the bill. The bill covers substances, including living substances that could pose a danger to human health, so this is the bill to deal with this. As Senator Kutcher said, the department is going

to be reviewing the regulations, and it's going to take care of it, the same department that is in charge of administering this bill. So we've got the right bill.

The question is: Do we wait for the government to do its regulations? Do we trust a department that secretly, apparently, at least without public consultation and notice, allowed these genetically modified species to be released into a fish farm on Prince Edward Island, which is now producing and selling, without labels, this genetically modified fish?

Let's act now and not wait for the government to move on this. Thank you.

The Hon. the Speaker: Senator Patterson, there are a few more senators who wish to ask questions, but your time has expired. Are you asking for five more minutes to answer questions?

Senator Patterson: No.

Hon. Fabian Manning: Honourable senators, my plan was to ask questions, but since Senator Patterson is not taking any more, I'll make a few comments.

I am very concerned about some of the discussion here this evening. I have several concerns, and I want to touch on a few of them.

If I followed correctly what has been said, there is a company on Prince Edward Island that I was not aware of, to be honest with you, producing a food product in our country and selling it with no label. I'll take your word about what you're saying.

That concerns me greatly. The Canadian Food Inspection Agency usually oversees the production and the selling of products, and licenses companies and distributors to sell products. Certainly, any food product in this country that is being sold without proper labelling — I mean, you can buy a muffin at the store now, and there is a label attached which shows the ingredients, inspections and whatever the case may be.

I'm also very concerned that, again, I'm unaware of the fact that there is a story of a genetically engineered salmon species being released into the wild without anyone being aware of it, as indicated by the comments Senator Patterson made earlier. That's of great concern for the simple reason that no one is aware of it. That is one part of the concern I have, that a species will be released into the wild and the fact that it's a genetically engineered salmon species that would then interact with the wild Atlantic salmon or whatever species that it would come into contact with.

These are very serious concerns, in my view, that we need to take a very serious look at.

I made some notes when Senator Patterson was speaking that Mark Butler, Senior Advisor at Nature Canada, spoke of the risks to wild salmon and the implications for Indigenous people's rights that such a species could have. Again, this is another serious issue that has been raised. Our Fisheries Committee is in the process of concluding a study into Indigenous fishing rights. This genetically engineered salmon species is a detriment to not only the Indigenous people's rights, but, indeed, for Canadians' rights in regard to interfering with any product in the ocean that is processed, at the end of the day, for food.

I'm very concerned with some of the things that have been brought forward here this evening in relation to this, Your Honour. What risk assessments are being done? Who's looking into it? What departments are looking into it?

This is about food. As we all know, we have a global shortage of certain food products for various reasons, whether it's COVID, climate change or whatever the case may be. Looking down the road at the future of food availability, we have to ensure that everything is being done to ensure that food is being grown properly, whether it's a vegetable, fish, animal, or whatever the case may be, and that it's being processed properly, that it's being labelled properly and that it's being sold with everybody's health, first and foremost, in their concerns.

I wanted to touch on a couple of things that were raised, Your Honour. I am very concerned about some of the discussion here this evening in relation to the safety of our food supply. Certainly, when you talk about genetically engineered salmon, if that is the case, if this is going on — I have no reason not to believe what is being put forward here this evening — the question is: What's next? What happens after? This company had to apply for some type of licence from someone, whether it was the provincial government of Prince Edward Island in this case or the federal government. It had to apply for a licence to be able to produce and process food. Maybe someone can enlighten me on what's going on here, but I certainly believe we have to take a second look at some of the concerns that have been raised here this evening. I want to ensure I'm on the record in saying that.

Thank you.

Hon. Stan Kutcher: Honourable senators, I want to thank Senators Patterson, Richards and Manning for raising these very important issues.

As someone from the Atlantic and someone who loves Atlantic salmon, I am very much in favour of ensuring that we study these issues carefully so that we actually know what we're amending. I think herein lies the rub.

We didn't hear from the Canadian Food Inspection Agency, so we don't know anything about the labelling. We heard some witnesses say something. We didn't hear the wider range. We don't know. We have to either accept it prima facie or we have to do a thorough study.

We didn't hear from DFO, so we don't know what the issues are around this. We didn't hear anything from AquaBounty, the company that has been pilloried in the chamber. We should hear from them if we have concerns. I think that's only fair. We didn't hear from Indigenous peoples on this issue, and this is a very important issue to talk about.

We didn't study this, and I would urge us to be very cautious about making amendments in the chamber at third reading on issues that we did not study.

We were told in committee by officials that Environment and Climate Change Canada and Health Canada have initiated a comprehensive review of the *New Substances Notification Regulations (Organisms)* — this is an organism; it's not a substance — which are regulations in Part 6 of CEPA. Bill S-5 deals with chemical management, not the regulation of living organisms. So a study is already under way to deal with this particular issue.

Frankly, I feel it would be premature to propose amendments to this part of the act before those consultations are done and before we have a fulsome study so we actually are fully informed when we take the step to make an amendment. I would vote against the amendment on that basis.

Senator Manning: Senator Kutcher, would you take a question, please?

Senator Kutcher: From you, Senator Manning, always.

Senator Manning: I hope you say that after I'm finished.

As we all know and as they tell us here, the committees are masters of their own destinies. Maybe you could elaborate for us. Why did you not hear from DFO? Why did you not hear from Indigenous groups? Why did you not hear from the Canadian Food Inspection Agency? Why did you not hear from AquaBounty? You may not be able to tell us, but I'd like to know the answer.

• (2130)

Senator Kutcher: I didn't select the witnesses for the committee, as the honourable senator would expect. The issue here is that the committee was studying substances. It was an act that addresses chemical substances management. There are other parts in CEPA where this can and should be brought forward because it's an issue that must be studied. You're absolutely correct that to expect a committee or our chamber to make decisions about something that the committee didn't study would be quite inappropriate.

[*Translation*]

Hon. Julie Miville-Dechêne: I want to quickly confirm what Senator Patterson said, namely, that Part 6 of the act deals with living organisms. Thus, we cannot say that the issue of genetically modified salmon is completely beyond the scope of this bill. I would go further. When studying this bill, there was a great deal of discussion about animals, especially animals used in experiments. We had many discussions and made many amendments. I can tell you that animals used in these experiments will be very well protected by the bill we studied.

Therefore, if that is the case for laboratory animals, I believe it is very clear that the issue of genetically modified salmon is a complex question and that there was no transparency on that issue. Clearly, you are right that the committee did not spend months studying this matter, but that is true for all the elements of Bill S-5. We summarily studied several extremely complicated things and tried to understand them by reading up on them, so you are right, not everything was discussed at committee.

I was, however, one of the people who voted in favour of this amendment the first time, and I plan to vote in favour of it a second time.

[*English*]

Senator Kutcher: Senator Miville-Dechêne, you mentioned we had studied animals. Did we study animals to understand the impact of testing of substances on the animal or did we just study animals?

[*Translation*]

Senator Miville-Dechêne: You're correct, Senator Kutcher, we did study animals as part of our study of this bill, because we did not want tests to be done on these animals. I think this issue is important because I consider salmon to be living beings as well. In this case, genetically modified salmon are absolutely within the scope of the bill, but what's even more important is transparency. During the study of this bill, I fought for transparency, for the ability to know what is in these substances, and now, we want to know whether these genetically modified organisms are toxic.

I don't think we should wait around for a study that will come at some unspecified time. As you know, this bill has not been amended or reviewed in 20 years, so it would be appropriate to include this amendment in the bill as a precaution, because we will eventually receive the studies that will have been conducted, but this will take time, and this bill will not be reviewed after they're received.

[*English*]

Hon. Percy E. Downe: Honourable senators, this company is well known in Prince Edward Island. AquaBounty is an American company, and they've been producing salmon in Prince Edward Island. In fact, their salmon is the first genetically modified fish to be harvested and sold in Canada.

Most of the discussion here this evening is public information in Prince Edward Island. It's been reported in the local media; it's been reported in the national media. All the comments Senator Patterson, Senator Richards and others have made are well known and well understood in Prince Edward Island. The issue is, in my mind, one of transparency.

If my colleagues want to Google this, they can see all the media stories and reports. There's nothing secret about this. AquaBounty announced how much genetically modified salmon they are producing. They've indicated that between the P.E.I. plant and their American plants, they have produced 84 tonnes of salmon recently. The genetically modified salmon from P.E.I. has only been sold in Canada. None of the genetically modified salmon produced in the United States has been sold in Canada. They're quite correct that the Canadian Food Inspection Agency has said AquaBounty's salmon has been evaluated by Health Canada and found to be safe for consumers, and can be sold in the country without labelling.

The problem, of course, is they won't disclose where this salmon is sold. When asked, they say they sell it through food distributors. But if you sit down in a restaurant in Canada or go to your grocery store and buy Atlantic salmon, you might like to know if it's genetically modified or not. I think that's the issue and I think others have stated that. Any action by the Government of Canada will take years, if not decades, to rectify a problem we can address this evening. I'm therefore voting in favour of the amendment, colleagues.

Senator Richards: I think that it's probably great for consumption, Senator Downe, but three years ago we tried to introduce 2,800 salmon that were spawned out of the head waters of the Northwest Miramichi —

The Hon. the Speaker: If you speak again, Senator Richards, it ends debate entirely. I understood that you were asking a question of Senator Downe. Are you asking a question?

Senator Richards: Your Honour, thank you very much. I will forgo.

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

Hon. Senators: Question.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

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

Hon. Senators: Now.

The Hon. the Speaker: Is there leave to have the vote now? If you're opposed to leave, please say "no." The vote will take place now.

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

YEAS
THE HONOURABLE SENATORS

Arnot	McCallum
Ataullahjan	Miville-Dechêne
Audette	Mockler
Batters	Oh
Black	Pate
Boisvenu	Patterson
Cormier	Plett
Dagenais	Poirier
Downe	Quinn
Galvez	Richards
Greene	Ringuette
Housakos	Smith
Lovelace Nicholas	Tannas
MacDonald	Verner
Manning	Wallin
Marshall	Wells
Martin	White—34

NAYS
THE HONOURABLE SENATORS

Bellemare	Gold
Boehm	Harder
Bovey	Jaffer
Busson	Klyne
Campbell	Kutcher
Clement	LaBoucane-Benson
Cordy	Loffreda
Cotter	Marwah
Dasko	Massicotte
Dawson	Mégie
Deacon (*Nova Scotia*)	Moodie
Deacon (*Ontario*)	Petitclerc
Dean	Ravalia
Duncan	Saint-Germain
Dupuis	Seidman
Forest	Simons
Francis	Sorensen
Gagné	Woo
Gerba	Yussuff—39
Gignac	

ABSTENTIONS
THE HONOURABLE SENATORS

Lankin Moncion—2

• (2150)

BILL TO AMEND—THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Kutcher, seconded by the Honourable Senator Boehm, for the third reading of Bill S-5, An Act to amend the Canadian Environmental Protection Act, 1999, to make related amendments to the Food and Drugs Act and to repeal the Perfluorooctane Sulfonate Virtual Elimination Act, as amended.

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, let me begin by apologizing for doing this at this late hour, but the government leader rightfully reminded me that we had agreed to finish this debate today. I will try to keep my remarks short. I will probably not entertain questions, just in case somebody wants to prolong it.

Let me begin my remarks by quoting something that Senator McCallum said during one of the many marathon clause-by-clause meetings on this bill. Her sentiments have become a constant refrain in this place when it comes to government legislation. In response to a comment from the chair that her intervention might mean the committee would have to sit again on the bill next week, she said:

> That's fine. We're supposed to do this with sober second thought, and I really don't appreciate how we have been rushed through this bill. . . .

Rushing a bill through the Senate has been a rather common event in this place, honourable senators. As the famous saying goes, the first time it happens, it's an accident; the second time is a coincidence; the third time is a pattern. I've lost count as to how many times this has happened with this NDP-Liberal government.

I have lost patience with it as well. This place is going to slide very quickly into irrelevance — nearly as quickly as the government expects bills to pass through here — if we don't do something more than express our outrage at it.

Senator McCallum was not alone in her frustration at the committee. Senator Seidman expressed similar frustration when she said:

> We are rushing through this like crazy, and we are receiving amendments that we have never really discussed at committee. We have never really heard proper witness testimony about this. We have never had time to really properly study. . . .

She was referring to one of the more than 65 amendments that were proposed to this bill, some of them proposed on the fly.

The context of Senator Seidman's observation was the real-world consequence of what happens when you are rushing through a bill of such complexity. As I mentioned, it is a situation that several senators from all sides — except the government, of course — complained about in committee.

Of course, the result was inevitable. Senator Patterson, on the last day of clause-by-clause consideration of the bill, felt compelled to propose an amendment to an amendment — an amendment that the committee had already voted to pass earlier in the week, something they did without fully understanding the ramifications. As Senator Patterson explained in moving his amendment, by replacing the word "may" with the word "shall" in clause 10.1 of the bill, Senator Miville-Dechêne's amendment would oblige the minister to require pollution prevention planning from any person who releases, manufactures or imports a substance listed in Schedule 1 of the Canadian Environmental Protection Act, or CEPA.

The problem with that, of course — and Senator Patterson can correct me if I have this slightly wrong — is that there are many innocuous substances in the schedule that require pollution prevention planning if the word "shall" is used.

For example, plastic manufactured items would target not only shopping bags and disposable straws, it would capture a multitude of everyday objects, manufactured or imported. Some can be made from other materials, but not necessarily.

The example Senator Patterson gave us was a light switch plate, which is made of plastic, is long-lasting and not an important source of plastic pollution. Yet in changing "may" to "shall," they would be subject to a pollution prevention plan.

Only days after approving Senator Miville-Dechêne's well-intentioned amendment, the committee felt compelled to reverse itself and, in effect, renege it.

That is unusual, to say the least, but it also raises the question of what other amendments will have similar ramifications that slipped unnoticed past the committee's lens. It is clearly symptomatic of the committee having to rush through their work without being able to pay the diligence due to the bill's various facets.

It is not the only one, as we will hear when we debate Bill S-6, an entire part of which was removed at the request of the government who inserted it in the first place. But I will leave that to the debate on Bill S-6.

Honourable senators, the committee had 12 meetings on Bill S-5. I'm sorry, they held 13 meetings on Bill S-5 because, as Senator Patterson said, there was a technicality — a technicality of a senator not being where a senator was supposed to be. That sounds like a lot. Seven of those thirteen meetings — more than half — were devoted to clause-by-clause consideration of the bill. Only five were devoted to hearing from witnesses and gathering testimony. It is fair to say that most of the committee's time was not spent on hearing from witnesses, but on hearing from each other on some 65 amendments that were proposed during clause-by-clause consideration of the bill.

Committee members had to sit outside their allotted sitting times for five of the seven meetings on clause-by-clause consideration to get this bill passed in time to meet the NDP-Liberal government's timeline.

Now, I am aware more than anyone that we have constrained hours for our committees. I have complained about it more than once, but that does not negate the fact that, once again, the government's poor planning became the Senate's emergency.

While I think the committee did an excellent job under very difficult circumstances and, indeed, went the extra mile to get this done, it is very telling when senators with environmental expertise admit they didn't have enough time to study all of its aspects. It is a very complex and technical bill, which means there was a lack of time to understand all the ramifications of what was being proposed. This, colleagues, is unacceptable.

Back when I spoke to this bill at second reading, I made a joke about the long title being a mouthful, so I referred to it by its short title, "Strengthening Environmental Protection for a Healthier Canada Act," as I also did today, if I had read the front page. But in a sense, that is doing the bill a disservice, because that short title misrepresents it as being solely about the environment. It is not. It is, as I said, a very complicated and technical bill, and it concerns more than environmental protection.

The full title is, "An Act to amend the Canadian Environmental Protection Act, 1999, to make related amendments to the Food and Drugs Act and to repeal the Perfluorooctane Sulfonate Virtual Elimination Act."

Minister Guilbeault, when he appeared before the committee, referred to the dual aspect of the bill. The first aspect being to recognize in the preamble the right to a healthy environment as provided under CEPA, and the second aspect aimed at strengthening the management of chemicals and other substances in Canada.

The bill proposes to address the first aspect — the right to a healthy environment — through the development of an implementation framework, which will set out how this right will be considered in administering the Canadian Environmental Protection Act.

The committee justifiably struggled with how the government was going to enforce a right that is in the preamble to the act and that is not a right like a Charter right. I am not sure they got the answers to that, at least to their satisfaction.

The second aspect of the bill — or as the minister put it, the second set of key amendments proposed by this bill — relates to the management of chemicals and other substances in Canada. It is here where the highly technical aspects of the bill come in and, in my opinion, where the rushing through of this bill has been most keenly felt.

Let me stress that I do not believe this is due to any shortcoming of the committee or its deliberations. This bill amends the Canadian Environmental Protection Act, and the committee, in the time it had, focused its attention on strengthening environmental protection — as the short title of the bill suggested it should. But I worry that those who would be directly affected by the chemicals management regulatory aspect got short shrift.

• (2200)

Many of the industry witnesses — people from the Chemistry Industry Association of Canada, Cosmetics Alliance Canada, Canadian Manufacturers & Exporters, Canadian Paint and Coatings Association and others — appeared as witnesses early in the committee's study at the second hearing on May 5.

They were followed in the succeeding weeks by the government officials who drafted the bill and by witnesses from various health and environmental associations and activist groups. In fact, the industry people who will be directly affected by the new regulations were outnumbered by a factor of more than 2 to 1 by the non-governmental organizations, or NGOs, and government officials.

I don't think it is unfair to say that the concerns of the industry with this bill — and they had very few concerns with it in its unamended form — were, perhaps, overwhelmed by the testimony of the disproportionate number of witnesses from those NGOs and the fact that most of the industry witnesses testified so early in the committee hearings. Given more time, perhaps more industry witnesses could have testified.

Since they couldn't, I thought I would read into the record some of the issues that many of those representatives from the industry raised in a letter concerning the amended bill as it emerged from the committee and arrived here in the chamber.

It states:

> The Bill, as introduced, advanced important updates to modernize the Canadian Environmental Protection Act, 1999 (CEPA) and prepare for the next iteration of chemicals management in Canada. The Canadian approach to chemicals management is heralded as the global gold standard for protecting the environment and human health. Canada's program relies on balancing precaution with a weight-of-evidence approach to risk assessments and risk management, focusing on eliminating exposures to chemical substances of concern. CEPA is a science-based statute.

The letter continues:

> It is worth highlighting that during the Minister's testimony on the Bill, he specifically lauded CEPA as a world leading program for the management of chemical substances, noting:
>
> > I am looking forward to hearing from Canadians as we develop the plan of chemicals management priorities and continuing the work on what has been recognized as a world-class chemical management program.

> In addition to altering the risk-based approach at the heart of the Act, it is our considered view that many of the Committee's amendments may also be outside of the legislative scope of the Bill.

That should concern all senators, since one of Senator Patterson's proposed amendments was defeated by the committee for being out of scope.

Finally, the letter says that:

> . . . to maintain the global gold standard in chemicals management that protects our environment and the health of Canadians, we urge the full Senate to reverse the amendments introduced by the Committee and pass Bill S-5 as it was originally introduced.

The letter was signed by seven industry associations, four of which did not even have the opportunity to appear before the committee. They are the Tire and Rubber Association of Canada, the Canadian Fuels Association, Responsible Distribution Canada and Electricity Canada.

Honourable senators, let me repeat one line from the letter I cited: "CEPA is a science-based statute."

When I spoke to this bill at second reading, I referenced two environmental chemical scares — Love Canal and the panic over Alar — that caused untold disruption, cost billions of dollars and were not based in science but rather were activist-driven panics, both of which turned out to be false alarms.

My reservations about many of the amendments made to Bill S-5 is that the balance of the testimony that the committee heard leading to many of the amendments was too heavily weighted in favour of the activist organizations. To repeat Senator Seidman's words that I quoted at the beginning of this speech:

> We are rushing through this like crazy, and we are receiving amendments that we have never really discussed at committee. We have never really heard proper witness testimony about this. We have never had time to really properly study.

The result has been a bill in which some 65 amendments were proposed, some of them from the very government that is responsible for the bill. As the saying goes, you reap what you sow. Thank you.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

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

CRIMINAL CODE
CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—SECOND READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Gold, P.C., seconded by the Honourable Senator Gagné, for the second reading of Bill C-5, An Act to amend the Criminal Code and the Controlled Drugs and Substances Act.

Hon. Brent Cotter: Honourable senators, I rise to speak to Bill C-5 introduced by Senator Gold earlier this week and, if I may say so, spoken to in depth and with elegance.

I support the bill, but am hopeful that at committee we will have the opportunity to explore the bill and potentially go further.

Many colleagues will have a deeper empirical appreciation than I do of the implications of many aspects of this bill. I will not try to replicate those deeper understandings or appropriate them. Today, I would like to speak to the principles associated with two aspects of the bill and that I hope we will have the opportunity to study in depth.

The first relates to the removal of a series of statutorily imposed mandatory minimum sentences for approximately 20 criminal offences. As others have noted, including the sponsor of the bill, these offences represent a minority of the existing mandatory minimums in federal criminal law. I want to explore the principles upon which this initiative is based and will suggest that these principles are equally applicable to the sentences for the remaining 50 or so mandatory minimum sentences.

I want to suggest that there are two governing principles that underlie this aspect of the bill. The first is the principle of constitutionality and the consequences of unconstitutional laws on the books. As we have heard, a significant motivation for this amendment is that over 40 courts have struck down mandatory minimum sentences as unconstitutional violations of the Charter of Rights and Freedoms, either because of the imposition of cruel and unusual punishment or as an unjustified violation of the principles of fundamental justice.

The presence of mandatory minimums has created at least four problematic consequences. First, they have, in many cases, led to incarcerations that can only be viewed as harsh and unfair and, as we have heard, these harsh and unfair consequences have been disproportionately assigned to offenders from racialized and marginalized communities.

Second, consider the circumstances where you are charged with an offence that carries a significant mandatory minimum sentence. Even if you think you are not guilty of the offence, the sword of that mandatory minimum hanging over your head is liable to induce you to admit to a lesser offence just to avoid that sword. The coercive nature of mandatory minimums is unacceptably weighty, and consequently too susceptible to leveraging unfair plea bargains.

Third, for those who wish to challenge the constitutionality of a mandatory minimum sentence, they must launch and fund such a challenge on their own. Given that many who are caught up in the criminal justice system are of modest means, to say the least, absent the willingness of a lawyer or legal organization, the opportunity to launch such a challenge is minimal — unfairly minimal.

Fourth, the cases that challenge mandatory minimum sentences are complex and, in certain respects, unique. They consume an enormous amount of both court time and court cost. They require courts to develop imaginative approaches to analyzing the constitutionality of mandatory minimums. Indeed, one of our leading judges on these issues, Justice David Doherty of the Ontario Court of Appeal, is rapidly becoming the "emperor" of so-called "reasonable hypotheticals," a necessary, though unusual, technique to analyze mandatory minimums.

• (2210)

These questions of unconstitutionality are important to us as senators in relation to our responsibilities, and the implications of unconstitutional mandatory minimums have great significance for offenders, the system and the big issues of access to justice that deserve our serious consideration.

The second principle involved here with respect to the initiative to eliminate a number of mandatory minimums is an implicit statement of our confidence in our judiciary and their wise exercise of discretion. This is also really important. We are a society governed by law and, as we like to say, the rule of law. We, as senators, are part of that framework, but judges are at the centre.

Given the importance of the rule of law, it is surely an understatement to say that we repose enormous authority in, and responsibility upon, our judges. With rare exceptions, we try our best to pick the best people available to serve as judges. Once there, they have important work to do in ensuring that proceedings are fair; they hear and assess the witnesses; and they reach decisions, some of which are life-determining for the people before them — weighty decisions, to say the least.

That is no less true in cases where mandatory minimum sentences are at play.

But keep this in mind: Long before the sentencing decision and question arise, it is the judge who must oversee the proceedings and, in most cases, weigh the evidence in determining this most important question of whether the person before them should be convicted of the offence in the first place. So is it not passing strange that we parliamentarians have decided that these very judges are not capable of administering the next stage of justice; they cannot be fully trusted to impose a fair and just punishment?

Sentencing is a process itself that is guided by a body of law — the law of sentencing — that has been developed over the decades. At my law school, for example, we offer a popular course exclusively dedicated to sentencing in criminal law. So there is a thoughtful system in place.

If one thinks that the judge got it wrong in the application of those sentencing principles, the decision is capable of being reviewed.

It is a remarkably good system.

I don't want to be uncharitable to parliamentarians, and I have not studied the work of Parliament when mandatory minimum sentences were introduced over the years, but my guess is that this body of law — this law of sentencing — was not much studied at the time.

Regarding this bill, to the government's credit, the bill expresses the support for and endorses those two principles: a commitment to constitutionality and a recognition of the independence of judges and their exercise of judicial discretion in doing the difficult jobs we ask them to do. Each of those principles is applicable to the amendments before us that will remove some mandatory minimums.

But here is the rub for me and, I think, for others: Each of these principles also applies to those mandatory minimums left in place, not even moderated where exceptional circumstances exist and might justify them. Indeed, to the credit of Senator Jaffer and other colleagues in this house, the sponsorship of other bills would take those two principles to their logical conclusion and address the range of mandatory minimums in honourable and principled ways.

On that point, I want to end by observing that some may say that political expediency — half a loaf — is sometimes necessary; that is, half measures are required. I'm new to this kind of work, and I think I understand that principle in a general way, but we're talking about principles here that are deeply embedded in our law. We are a people who adhere to law, especially our Constitution, and we trust one of the best judiciaries in the world to deliver the law well, honourably and fairly.

My hope is that we will choose such principles over expediency and go further than Bill C-5 on this issue of mandatory minimums.

My second set of comments relating to Bill C-5 is focused on the diversion measures contemplated for inclusion in the Controlled Drugs and Substances Act. I support these measures but want to pose two questions or concerns. The first is contextual. Here I am borrowing and, to some extent, critiquing the observations that Senator Gold made in his speech with respect to the bill.

The bill proposes that prosecutions proceed on charges of simple possession only if the prosecutor is of the opinion that none of the alternatives — a warning, referral or alternative measures — is appropriate. That none of those other measures is appropriate is a requirement for a prosecutor to proceed. But by any other measure — and to some extent, Senator Gold referenced this — this is a description of prosecutorial discretion. All of this authority already exists for prosecutors, so the section seems redundant and unnecessary.

Furthermore — and this is a mystery to me, although perhaps this is already in place — nearly all the charges under the Controlled Drugs and Substances Act are prosecuted by federal prosecutors or their agents rather than prosecutors within provincial governments who prosecute most other criminal matters; that is, those who handle drug cases are agents of the Attorney General of Canada. The Attorney General can give this directive to prosecutors without one word of legislation. Although Senator Gold observed that this is helpful in provincial contexts, the fact of the matter is that provincial prosecutors do not prosecute these cases except in the most extraordinary of circumstances.

It feels like a redundancy. I support the concept, but it seems to me that it's unnecessary in legislation.

My second and, quite frankly, more serious concern with this part of the bill is the curious disconnect between what prosecutors are to do in the context of alternative measures — the process I have just described — and what is required of police officers.

This is a fairly significant dimension of the bill in real time. This is where the issues of individuals facing potential charges are encountered the most. In most Canadian jurisdictions, when the police officer has a reasonable basis on which to believe that a crime has been committed, they have the authority and discretion to lay a charge — in legal terms, "laying an information." The same is true particularly for charges of simple possession with respect to the Controlled Drugs and Substances Act.

You will recall that the proposed amendment for prosecutors requires that they proceed with a charge only when alternative measures are inappropriate. The way it works is that they take up the prosecution of the charges laid by the police officers and make a judgment. Hence, you would expect that, for police officers who initiate the process, the standard for laying the charge in the first place — that is, only when other options are inappropriate — would be the same. But it is not. Police officers need only consider whether it would be "preferable" to pursue an alternative measure. That is far less than a mandatory requirement: "prosecution only where no other option is appropriate."

You might be inclined to think, "This is okay. The prosecutor will clean things up." True, but that fails to take into account a number of observations, including ones Senator Gold made, about the consequences of being charged: if one thinks about it, the lost opportunity of an alternative measure; the embarrassment to an accused of a charge, though subsequently withdrawn, having been laid in the first place; and it doesn't take into account the waste of police, court and prosecution resources when matters are resolved later in the process than necessary.

If "only where appropriate" is the requirement for proceeding with a charge in court, surely it should be the requirement for laying the charge in the first place. That has to be addressed.

While I support the bill, in my view, it can be improved and expanded. I hope that those and other aspects of Bill C-5 will be carefully considered at committee and that a good initiative can be made even better.

Thank you, *hiy hiy*.

• (2220)

Hon. Denise Batters: Senator Cotter, I may well have misunderstood you, so I wanted to ask you about something. At one point in your speech, you seemed to indicate that when these particular bills — the bills that bring forward these mandatory minimums that were in place and which this particular bill seeks to remove — first came into place, parliamentarians may not have taken enough time to study them. In the sentencing aspect — I can't speak for the House of Commons, and I've only been here nine and a half years — I can tell you that during the time the Harper government was in place and during my time at the Senate Legal Committee, we brought forward many of those mandatory minimums and we absolutely, every single time, devoted diligent study to those particular mandatory minimums.

Is that what you were referring to? When you say "parliamentarians," of course that refers not only to the House of Commons but also to the Senate, and our Senate Legal Committee always does diligent study.

Senator Cotter: I didn't go back and study the record, Senator Batters, and I wasn't referring to the quality of examination of mandatory minimums. I was referring to the vast body of law in the law of sentencing, and my guess is that it was not extensively studied and adequately enough respected in this exercise. In my judgment, the introduction of mandatory minimum sentences imposes constraints on judges implicitly because of lack of confidence in them and the system they administer.

Hon. Kim Pate: Honourable senators, the government's goals for Bill C-5 are laudable. I repeat, they're laudable goals, and I support them. Regrettably, Bill C-5 will not significantly reduce the number of federally imprisoned Black or Indigenous people, most especially not Indigenous women.

In the 1999 *Gladue* decision, the Supreme Court declared the overrepresentation of Indigenous peoples in prisons a national crisis. At the time, Indigenous people represented 10.6% of the country's federal prison population. Today, that percentage has risen to 32%. Even worse, Indigenous women now make up half of all women in federal prisons, and 1 in 10 federally sentenced women are Black.

In 2015, Prime Minister Trudeau tasked the Minister of Justice with decreasing the number of Indigenous people in prison and repealing mandatory minimum penalties in accordance with the Calls to Action of the Truth and Reconciliation Commission, or TRC, which directed:

> . . . the federal government to amend the *Criminal Code* to allow trial judges, upon giving reasons, to depart from mandatory minimum sentences. . . .

This and reconciliation remain within the mandate of the Minister of Justice. Bill C-5 will not meet these goals and falls far short of the TRC Call to Action 32 and the subsequent Calls for Justice 5.14 and 5.21 of the National Inquiry into Missing and Murdered Indigenous Women and Girls.

Mandatory minimum sentences are a primary contributor to Indigenous and Black overrepresentation in prisons. As the Missing and Murdered Indigenous Women and Girls inquiry brought into stark relief, Indigenous women do not receive just, fair or equitable treatment under the law. This is Canada's legacy. The TRC and Missing and Murdered Indigenous Women and Girls inquiry traced Canada's history of abuse and mistreatment of Indigenous peoples from the ongoing effects of colonialism, including the legacy of residential schools, which reveals itself in the current realities of mass incarceration.

Clearly, urgent action is needed to address this crisis. Bill C-5 will remove mandatory minimum penalties for some drug offences, some firearm offences and one tobacco-related offence. But most mandatory minimums will remain on the books, including the mandatory life sentence for murder. By removing only some mandatory minimum penalties, we are effectively sanctioning continued injustice in Canada.

Retaining the vast majority of mandatory minimum penalties is said to be justified on deterrence grounds. This logic often resonates with people because of a view that long, mandatory sentences will prevent people from committing crimes. If this were true, punishment would not have been abandoned in virtually every other sphere, from parenting to educating. More to the point, if it were true, then we should expect that the United States — the leader in the proliferation of mandatory minimum penalties — would be the safest, most crime-free country in the world.

Yet the deterrent effect of mandatory minimum penalties has been debunked as a myth. The government's own research reveals that mandatory minimum sentences do not deter and are less effective than proportionate sentences reached through the exercise of broad judicial discretion. I want to thank Senator Cotter for outlining what exactly that means.

In 1952, the Royal Commission on the Revision of the Criminal Code concluded that all mandatory minimum sentences should be abolished. For at least seven decades, experts, commissions of inquiry, judges, community-based advocacy groups and reconciliation commissions have advocated for the repeal of mandatory minimums.

Instead, in this bill, we see the repeal of a select few mandatory minimum penalties. It will barely put a dent in the overincarceration of Indigenous and Black people, not only because it will apply to so few offences but also because mandatory minimum sentences add jet fuel to discrimination and discriminatory law enforcement and prosecutorial practices, magnifying the impact by preventing sentencing judges from addressing the context of offences and the ways in which the criminal legal system replicates and deepens discrimination.

Mandatory minimum sentences coupled with biased police response, investigation and charging practices create miscarriages of justice. For vulnerable populations, interactions with the police are often intimidating and traumatizing. Experiences of force and abuse from authorities begin at a young age for many Indigenous women, often in times when they need support and protection, and that abuse can continue into adulthood.

When police are called but disbelieve Indigenous women, not only are Indigenous women further traumatized, but too many are left to protect themselves. If they have used any force reactively — even defensively — they are likely to find themselves criminalized and imprisoned.

Too often, colonial attitudes held by members of the legal system regard Indigenous women as more blameworthy than others and deserving of harsh punishment by the justice system. This has been labelled as hyper-responsibilization and is a phenomenon experienced by many, particularly the 12 women recently profiled in our report.

As was also noted in *The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, the Canadian legal system:

> . . . criminalizes acts that are a direct result of survival for many Indigenous women. This repeats patterns of colonialism because it places the blame and responsibility on Indigenous women and their choices, and ignores the systemic injustices that they experience. . . .

— and which directly contribute to the behaviour for which they are criminalized.

Mandatory minimum penalties shackle judges, forcing them to impose sentences of incarceration that do not appropriately reflect the context, circumstances or legal blameworthiness of the accused or the abuse they may have experienced within the law enforcement process.

Mandatory minimums break with Canada's historical trust of our judiciary that granted them discretion in sentencing. Before the fervour for mandatory minimum sentencing started sweeping across our criminal laws in 1995, judges were entrusted to develop individualized sentences that balanced the gravity of the offence against the culpability and circumstances of the accused. When the Criminal Code was first enacted in 1892, it contained six mandatory minimum penalties. Until 1995, the number of mandatory minimums remained constant at around 10.

• (2230)

Now there are more than 70 offences carrying mandatory minimum penalties — this in spite of the fact that judicial discretion in sentencing is overwhelmingly supported by Canadians. In 2017, in a report commissioned by the Department of Justice, 9 out of 10 Canadians wanted the government to consider giving judges the flexibility to not impose mandatory minimum sentences.

The bill does not respond adequately to the judicial decisions that have found mandatory minimum penalties in violation of the Canadian Charter of Rights and Freedoms.

One glaring omission is the failure to deal with the mandatory minimums regarding parole ineligibility for murder, which is particularly important for reducing the overincarceration of Indigenous women. The sentence of mandatory life, in combination with parole ineligibility for at least 10 years for second-degree murder, and 25 for first-degree murder, was the trade-off for the abolition of the death penalty.

Even then, a key component of the parole ineligibility period was a provision allowing for a special judicial review and a five-step process to which a person may seek access after they have served 15 years of a life sentence. The provision was colloquially referred to as a "faint hope clause" of the Criminal Code.

The significance of the faint hope clause was considered by the Supreme Court of Canada in 1990 when the constitutionality of the mandatory life sentence was challenged. The Supreme Court at that time rejected the challenge and upheld the mandatory sentence on the basis that the faint hope clause preserved the constitutionality of the life sentence for murder.

In 2011, the Conservative government repealed the faint hope clause, thereby further limiting opportunities for parole and rendering the mandatory minimum unconstitutional.

Moving forward, we must consider that last year, on the first National Day for Truth and Reconciliation, Prime Minister Justin Trudeau gave a speech saying that:

> Today, we . . . recognize the harms, injustices and intergenerational trauma that Indigenous peoples have faced — and continue to face — because of the residential school system, systemic racism, and the discrimination that persists in our society.

Colleagues, it's time for us to do our job. Let's help the government along this path by making Bill C-5 fit for purpose.

Meegwetch, thank you.

[*Translation*]

CRIMINAL CODE

BILL TO AMEND—FIRST READING

The Hon. the Speaker pro tempore informed the Senate that a message had been received from the House of Commons with Bill C-28, An Act to amend the Criminal Code (self-induced extreme intoxication).

(Bill read first time.)

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

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

[*English*]

CRIMINAL CODE
CONTROLLED DRUGS AND SUBSTANCES ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Gold, P.C., seconded by the Honourable Senator Gagné, for the second reading of Bill C-5, An Act to amend the Criminal Code and the Controlled Drugs and Substances Act.

Hon. Bernadette Clement: Honourable senators, I join my colleagues in speaking today on Bill C-5, An Act to amend the Criminal Code and the Controlled Drugs and Substances Act.

We have heard many excellent debates about this bill and on the topic of mandatory minimums and their effects on Canadians. But this is not just about mandatory minimums. This is about systemic racism.

It might surprise you to know that even though I'm a former mayor, a lawyer and now a senator, I am not beyond the reach of systemic racism. As I stand here addressing my peers, I want you to know that the privilege that we share does not shield me from the experience of racism.

No matter your path in life, you're in the skin you're in.

Now strip away my title as senator. Strip away my career. Strip away my health. Strip away my education, my supportive family and my friends. Let's take a minute to think about that. If I experience racism, imagine the experience of someone who does not have the privilege that I do.

This is how systemic racism works. As a Black person, you are always subject to the fear, the risk and the reality that there are still injustices that not only exist but are reinforced in places like our legal system, institutions and democracy.

[*Translation*]

For Black Canadians and members of other racialized communities, mandatory minimum sentences do not start and end at the time of sentencing. Like other inequities in our justice system, these sentences can be traced back and are related to realities, experiences and injustices members of these communities face every day.

[*English*]

When we look for solutions for these systemic problems and for a clearer understanding of how they tie into issues like mandatory minimums, I am drawn to the writing of community advocates like the Black Legal Action Centre. They wrote in their co-brief to the House of Commons Standing Committee on Justice and Human Rights:

> That the importance of Bill C-5, and the potential impact of their proposed changes to it cannot be separated from the systemic discrimination perpetuated by Canada's criminal justice system against marginalized people in Canada, and in particular against Black and Indigenous women in Canada.

[*Translation*]

Even if they continue to look at the statistics on the overincarceration and overrepresentation of racialized people in our justice system, it is obvious that systemic discrimination based on race, sex and income is closely related to this issue.

[*English*]

This analysis of systemic inequities is also echoed in the testimony of Mr. Brandon Rolle, senior counsel of the African Nova Scotian Institute, who spoke at the Standing Committee on Justice and Human Rights.

In his remarks, Mr. Rolle indicated that the disproportionate impact of mandatory minimums on custody rates for Black people is clearly outlined in the data, but we need to understand the context here.

First, there is a distinct overpolicing and oversurveillance of Black communities, which contributes to the likelihood of being arrested and charged, where Black Canadians are at a disproportionate risk of criminal liability for offences carrying a mandatory sentence.

Second, there is a disproportionate number of Black Canadians detained before trial, which places more significant pressure on them to plead guilty, including to crimes with mandatory minimum penalties.

Third, African Canadians have experienced a legacy of slavery, colonialism, segregation and racism that has led to this historic pattern of disadvantage, which includes overrepresentation in custody, involvement in certain offences, being denied bail and receiving longer jail sentences and subsequently serving harsher time while in custody.

Honourable senators, in understanding that systemic racism is the underlying cause of issues like the overincarceration of racialized people, and is inseparable from practices like mandatory minimums, I will return to the refrain you have heard time and time again.

Mandatory minimums do not work. They do not deter crime. They do not make our communities safer. They do not reduce recidivism and, most of all, they do not bring us toward a more equitable and just Canada for all Canadians. The Black community has been telling us this for decades, and the data reflects this too.

Canada's federal correctional agency indicates that most Black Canadians accounted for 7.2% of federal offenders in 2018 and 2019, while comprising only 3.5% of Canada's population. Nearly 1 out of every 15 young Black men in Ontario experiences jail time. That's compared to 1 in about 70 young White men. These statistics are alarming and disheartening. But, as I have been saying, they only represent one part of the picture.

• (2240)

Mandatory minimums are not merely an issue that affects our numbers and percentages. They are also tools that distance our judicial system from seeing offenders as people with diverse circumstances, perspectives and lived experiences, and are disadvantaged under a racist and discriminatory system.

As I consider these factors and the substantive and data-based responses already outlined by my colleagues, I'm hesitant in my support of Bill C-5. Many advocates, legal professionals and Canadians have waited for so long to finally see this move forward. Bill C-5 does make some progress — it does — in bringing back fairer sentencing by our judges, sentencing based on individual circumstances that slowly turn our eyes to the human, social and financial costs of imposing mandatory minimum sentencing.

[*Translation*]

However the fact remains, honourable senators, that Bill C-5 eliminates only 20 of 73 mandatory minimum sentences, which means there are still 53 others that will continue to contribute to the overincarceration of racialized Canadians. There are still 53.

[*English*]

Our communities know how long it takes to get these changes and how many suffer during those years of waiting, advocating and pleading.

Bill C-5 and the entire movement to remove mandatory minimums deals with the systemic racism that continues to ruin so many lives, that robs people of options and possibilities and that prevents people from returning to the healing and rehabilitation potential of their communities.

I acknowledge that mandatory minimums are one piece of the puzzle, and we must do more. We need programs, initiatives with comprehensive community infrastructure and a racialized community-focused justice approach to building real solutions for Canadians. We need efforts further upstream in the justice system that address the root causes of offending behaviour, not just measures that address sentencing after these offences. Colleagues, most of all, we need to be looking at this from the eyes of Canadians who live with and are impacted by our judicial system every day.

In his speech this Monday, Senator Gold stated that for many of us criminal law is personal, and he is so right about this.

[*Translation*]

Every day, our justice system and our correctional institutions have an impact on the lives of Canadians, whether through their own experiences, those of their loved ones or as part of their duties as professionals or advocates in our justice system.

[*English*]

I believe we should always treat this as a personal issue, a human issue, that permanently impacts the lived experiences, opportunities and prosperity of real Canadians, not just on our data, statistics and bottom lines.

[*Translation*]

Mandatory minimum sentences are dangerous tools in our justice system and they do not work. They harm Canadians, particularly those from racialized communities who are already fighting against a system that is still riddled with systemic inequalities, racism and discrimination.

[*English*]

So while from a political and legislative perspective Bill C-5 is a good step in the right direction, from a human and personal standpoint, I'm under no illusion here. We have not gone far enough. This is why I look forward to the opportunity for a robust committee study this fall when we will have the chance to see where and how we get more for Canadians; why I am eager to hear more about Bill C-5 and how it will tie into the government's Black Canadians Justice Strategy, as stated in the mandate letter of the Minister of Justice; why I'm focused on what more Bill C-5 can do in advancing change in our justice system.

Laudable, yes, we heard that. Bill C-5 is a laudable effort, but it is not shooting for the moon. It is not shooting for the moon, the stars or any other type of distant goal that hangs high above the realities and needs of Canadians. Repealing mandatory minimums is within reach, not out of this world. It's one small step in the right direction. The first step makes me feel both concerned and hopeful.

I'll end on hope — hope that the path ahead offers substantial solutions for the racism experienced by Black Canadians in our justice system. Thank you. *Nia:wen*.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

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

REFERRED TO COMMITTEE

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

(On motion of Senator Gold, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

(*At 10:46 p.m., the Senate was continued until tomorrow at 2 p.m.*)

APPENDIX

DELAYED ANSWERS TO ORAL QUESTIONS

AGRICULTURE AND AGRI-FOOD

SUPPORT FOR FARMERS AND PRODUCERS

(*Response to question raised by the Honourable Brian Francis on April 5, 2022*)

Canadian Food Inspection Agency

The Government of Canada has supported the sector through the $28 million Surplus Potato Management Response plan. Business risk management programs such as AgriInsurance, AgriStability, and AgriInvest also remain available to potato producers to manage business risks. A producer with an AgriInvest account may also draw upon funds to support a transition to other crops.

As an additional tool to enhance compliance restrictions and reduce the risk of spreading potato wart, Prince Edward Island producers who are required to dispose of their seed potatoes may be eligible for compensation under the *Potato Wart Compensation Regulations* if they meet the eligibility criteria provided in the regulations. A grower can submit their compensation application once disposal of potatoes is verified.

Details on the compensation application process for seed potato growers were shared at a meeting held by the Government of Canada on April 22, 2022. The Government of Canada is scheduled to meet with P.E.I. growers on June 16, 2022, to further discuss this topic.

HEALTH

COVID-19 PANDEMIC—LONG-TERM EFFECTS

(*Response to question raised by the Honourable Stan Kutcher on April 26, 2022*)

Public Health Agency of Canada (PHAC)

The federal health portfolio, in collaboration with various partners, is addressing the issue of post-COVID-19 conditions through investments in research and surveillance, sharing of the latest scientific evidence and the development of information and guidelines to support affected health professionals and Canadians.

The Public Health Agency of Canada (PHAC) is collaborating with paediatricians across Canada and with the Canadian Paediatric Society (CPS), who works closely with various countries through the International Network of Paediatric Surveillance Units on a surveillance study of post-COVID-19 conditions. PHAC is also collaborating with the United Kingdom National Institute for Health and Care Excellence to share evidence and preferred practices, and with impacted Canadians to inform the development of evidence-based guidelines and tools. Through Budget 2022, PHAC committed approximately $17 million in the development of these tools for health professionals and citizens. The Canadian Institutes of Health Research (CIHR) has invested over $410 million to fund targeted short- and long-term research studies on post-COVID-19 conditions that span biomedical, clinical, health systems and services and population health topics.

Additionally, the federal government will be part of discussions regarding international cooperation in addressing this issue at the G7 Science Ministers meeting in June 2022.

INFRASTRUCTURE

INFRASTRUCTURE PROJECTS

(*Response to question raised by the Honourable Mary Coyle on May 10, 2022*)

Infrastructure Canada (INFC) is committed to continuous improvement of all of its infrastructure programs and tools, including the Climate Lens.

INFC is developing a detailed action plan for implementation of its responses to the recommendations in the commissioner's report. INFC is continuing to improve the Climate Lens by integrating climate considerations directly into project applications, enhancing its review process of climate outcomes, and developing user-friendly guidance for applicants, including sector-specific guidance.

These actions will start as soon as this summer, with the publication of sector-specific guidance and documentation of the internal review process in more detail.

As new programs are developed, INFC will continue to integrate clear requirements to provide information on greenhouse gas (GHG) emissions and resilience outcomes in the program application process.

The commissioner's report highlighted some very positive progress that has been made under the Green and Inclusive Community Buildings (GICB) Program. This includes the integration of clear requirements to provide information on GHG emissions and resilience outcomes, and the requirement to use a standardized tool to estimate energy savings and GHG emissions reductions.

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