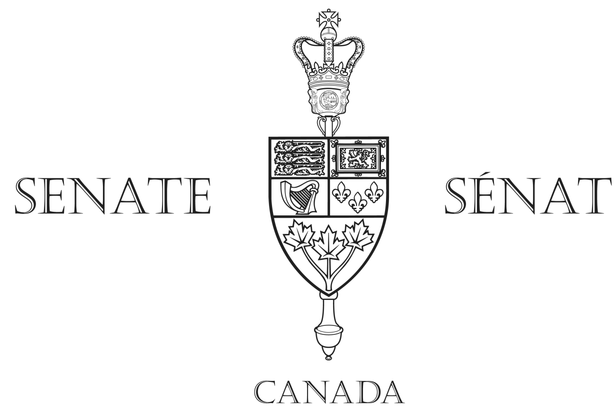

DEBATES OF THE SENATE

1st SESSION 44th PARLIAMENT VOLUME 153 NUMBER 17

OFFICIAL REPORT
(HANSARD)

Thursday, February 10, 2022

The Honourable GEORGE J. FUREY,
Speaker

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(Daily index of proceedings appears at back of this issue).

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THE SENATE

Thursday, February 10, 2022

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

Prayers.

[*Translation*]

SENATORS' STATEMENTS

CONTRIBUTIONS OF BLACK CANADIANS AT THE MUNICIPAL LEVEL IN QUEBEC

Hon. Marie-Françoise Mégie: Honourable senators, the 2022 theme for Black History Month in Canada is "February and Forever: Celebrating Black History today and every day."

This theme focuses on recognizing the daily contributions that Black Canadians make to Canada. This year, I want to highlight their contributions at the municipal level in Quebec.

When Jean Alfred was elected as a city councillor in Gatineau in 1975, it set the stage at the municipal level in Quebec. It was not until 1994 that four new Black municipal officials were elected, two of whom became mayors for several terms. They were the late Ulrick Chérubin in Amos and Michel Adrien in Mont-Laurier. That same year, Kettly Beauregard would become the first Black woman elected to Montreal city council.

Four Black people were elected between 1998 and 2017.

The entire province of Quebec had six Black municipal officials going into the 2021 municipal elections.

An analysis of the November 7, 2021, election results by Councillor Josué Corvil of the Saint-Michel district in Montreal found that 27 Black people, including 19 women, were elected in more than 1,100 municipalities in Quebec. I want to recognize Gracia Kasoki Katahwa, who was elected mayor of the Côte-des-Neiges—Notre-Dame-de-Grâce borough. Colleagues, please join me in congratulating them.

According to Statistics Canada projections, the Black population will continue to grow and could reach 5% of the total population of Canada by 2036. By then, if not sooner, I hope to see that same representation of Black people on city councils.

I want the Black population to see themselves reflected in our democratic institutions and to feel represented by the members of our community.

As Myrlande Pierre, a researcher with the UQAM Centre de recherche en immigration, ethnicité et citoyenneté, wrote:

> Promoting the full participation of Black communities will help legitimize our democracy, for a more just and equitable society.

I urge Black people to get involved in politics at all levels. Yesterday I spoke about this to a group of teens from Calixa Lavallée high school in Montreal at an event organized by S'Engage.

If we want Black communities to be well represented, Black people will have to run for office, go vote and make their voices heard, which will contribute to a more harmonious society. Thank you.

[*English*]

REPUBLIC OF KAZAKHSTAN

THIRTIETH ANNIVERSARY OF INDEPENDENCE

Hon. David M. Wells (Acting Deputy Leader of the Opposition): Honourable senators, I rise today to mark a very important milestone for the Republic of Kazakhstan. This past year marked the thirtieth anniversary of Kazakhstan independence and diplomatic relations with Canada. This anniversary commemorates the development, peace and prosperity it has achieved since then.

Kazakhstan is the largest country in Central Asia and the ninth largest in the world. In an historically short period of time, Kazakhstan has made great progress in the improvement of living standards, the development of a modern legal system and strengthened sovereignty, security and stability. Over the past 30 years, Kazakhstan has established diplomatic relations with 186 countries and transformed into one of the dynamically developing countries of Eurasia and a reputable diplomatic voice on the world stage.

Colleagues, like Canada, Kazakhstan has a bicameral parliament composed of the *Majilis*, which is the lower house, and a senate.

Kazakhstan's notable accomplishments include their significant contribution to the non-proliferation of weapons of mass destruction and nuclear disarmament and their contributions to UN Peacekeeping. Kazakhstan has also contributed to the establishment of a Central Asian Nuclear-Weapon-Free Zone.

• (1410)

Colleagues, Kazakhstan's culture is ancient but their democracy is young. Please help me in celebrating this very important milestone for the Republic of Kazakhstan and the important bilateral relations between our two countries.

Thank you.

THE LATE WANDA ROBSON

Hon. Wanda Elaine Thomas Bernard: Honourable senators, I join you today from the unceded territory of Mi'kma'ki, the traditional land of Mi'kmaq people.

For African Heritage Month, I want to pay tribute to a national treasure, Wanda Robson, who passed away last Sunday at age 95. You may know her as the sister of Viola Desmond. I knew her as Wanda, a dear friend and mentor.

Wanda Robson was a fierce advocate for human rights and education. For most of her life, she had held on to a very shameful memory of Viola's time in jail after being dragged out of the White-only section of the movie theatre. This changed when she arrived at university in her seventies and a professor spoke to the importance of examining critical moments in Nova Scotian history. She learned to re-examine her sister's story as a justice issue. Wanda successfully advocated, with allies, to have Viola's charge posthumously pardoned. In this process, she shifted a story of shame to one of pride, pride that Viola had stood up for her rights and pride for African Nova Scotian history.

In February of 2020, I invited Wanda and her husband, Joe, to Ottawa to visit the Senate. That evening, Wanda and I enjoyed a wonderful fireside chat at the Museum of History. Despite the large audience, it was like we were chatting in her living room in North Sydney. She shared memories of her sister, of African Nova Scotian history and we even discovered that we had the same childhood nickname.

Honourable colleagues, please take a moment with me to honour the life and legacy of Wanda Robson and offer deepest sympathy to her husband, children, grandchildren and all who knew and loved her.

Thank you, *asante*.

CODE FOR THE RESPONSIBLE ADVERTISING OF FOOD AND BEVERAGE PRODUCTS

Hon. Robert Black: Honourable senators, I rise today to speak on the Code for the Responsible Advertising of Food and Beverage Products to Children, otherwise known as the Food and Beverage Advertising Code.

The Food and Beverage Advertising Code represents a commitment made by four leading industry associations on behalf of their members: the Association of Canadian Advertisers, Food, Health & Consumer Products of Canada, Canadian Beverage Association and Restaurants Canada to govern the advertising of food and beverage products to children under the age of 13.

We know that this topic has long been discussed in both this chamber and in the other place in the past. I would like to take this time to thank my honourable colleagues, and specifically Senator Petitclerc, for all their hard work on this issue in the past. Although the regulations detailed in the former Bill S-228 were never adopted, as it didn't receive Royal Assent before the 2019 federal election was called, I am proud of the work that industry has done since that time to continue to work on this important issue and make the recommendations a reality.

I would like to note also that a private member's bill was tabled on this very matter just last night. I'm hopeful that industry has been, and will continue to be, consulted in that process because they have been working tirelessly on this important matter.

According to industry, the guidelines set out in their Food and Beverage Advertising Code exceed Health Canada's initial recommendations from 2018. In fact, these are the same recommendations which were first introduced by our colleague former senator Nancy Greene Raine in 2016 to prohibit the marketing of unhealthy food and beverages to children.

Ultimately, the regime set out in the code will be enforced by Ad Standards with pre-clearances and will govern advertisers across Canada on all platforms. The Food and Beverage Advertising Code will also allow Health Canada to deliver on one of its top priorities under the healthy eating strategy.

Honourable colleagues, it is clear that children represent a special audience and that messages built around the consumption and choice of food and beverage products should be regulated. This code is a critical document in the industry that will help support the way in which food products are advertised to children going forward. I am hopeful that the Food and Beverage Advertising Code will stand as an example of the type of positive results that can come from collaboration between industry, government and stakeholders and further encourage these partnerships in the future.

Thank you, *meegwetch*.

NEGLECTED TROPICAL DISEASES

Hon. Stan Kutcher: Honourable senators, I rise to draw our attention to the scourge of neglected tropical diseases, or NTDs, terrible illnesses which affect almost two billion of the poorest and most disadvantaged people globally and which can be largely eliminated with available treatments and prevention. With concerted global effort, we can be successful; without concerted effort, these diseases will continue unchecked, creating even more poverty, disadvantage and disparity.

NTDs include but are not limited to elephantiasis, a swelling of limbs due to a parasitic worm infection; trachoma, a bacterial infection causing blindness; intestinal worms that cause anemia and stunted growth; leprosy, another bacterial illness which causes disfigurement and blindness.

For these and other NTDs, effective treatments are available including antibiotics, ivermectin, antifungal medications and others. Better personal and community sanitation helps prevent the spread of these diseases.

Global initiatives are underway with notable success; however, the pandemic has significantly slowed progress. Global partnerships that include the World Health Organization, governments, researchers, the pharmaceutical industry and civil society organizations have had a great impact in many parts of the world. Some NTDs such as Guinea-worm disease and river blindness have been eliminated or substantially reduced over the last decade.

January 30 was World NTD Day, raising awareness about these terrible yet treatable illnesses and reinvigorating the global community in conquering them. In June 2022, Commonwealth heads of state will be meeting in Rwanda. Hopefully, Canada, along with all other members of the Commonwealth, will sign on to the Kigali Declaration, promising to end NTDs altogether.

Great impact can be made with relatively little. For example, Canada, working through the Pan American Health Organization could, by itself, fund the elimination of blinding trachoma from the region of the Americas within five years. The estimated cost, less than $15 million; the impact, incredible.

The Canadian Network for Neglected Tropical Diseases has been a strong, science-driven advocate in the global fight against NTDs. Recently, three members of this chamber — Senators Boehm, Ravalia and myself — have joined an independent international group of parliamentarians addressing NTDs. Together with colleagues in the other place, we are nudging our government to step up to the plate and hit a home run by helping erase NTDs from the world.

We can do this if we act. I hope that every member of this chamber will support Canada becoming part of the promise of Kigali. Thank you, *meegwetch*.

INTERNATIONAL DAY OF ZERO TOLERANCE FOR FEMALE GENITAL MUTILATION

Hon. Mobina S. B. Jaffer: Honourable senators, the United Nations has declared February 6 as the International Day of Zero Tolerance for Female Genital Mutilation.

I am truly disappointed to inform you that Canada's record on prosecuting this horrific and excruciating practice is dismal. Although the Criminal Code was amended in 1997 to include female genital mutilation as a form of aggravated assault, to date there have been no prosecutions for female genital mutilation in Canada. Twenty-five years, no prosecutions.

Honourable senators, this is unacceptable, particularly given that the End FGM Canada Network under the leadership of Giselle Portenier, with whom I have been working closely, estimates that there are more than 100,000 survivors across Canada and thousands of girls remain at risk.

Girls like Serat who was born in Somalia, but grew up with her aunt in Ontario. When she was 13, she travelled with her aunt to Somalia to see her mother. Early one morning, three women burst into her home and grabbed her while she was sleeping. Serat started screaming and tried to run. The women caught her, pinned her down, spread her legs and subjected her to female genital mutilation. Serat passed out from blood loss and pain. When she recovered consciousness, her legs were tied together. When she returned to Canada a few months later, her aunt told her to accept what had happened and move on. How could she? Serat still talks about feeling ashamed and devastated. She did not reveal this terrible act that happened to her for over a decade.

• (1420)

Who could she talk to when there remains a complete wall of silence, even in Canada, around FGM? Honourable senators, we need to break this wall. Our laws are clear. To make it illegal, remember that Canada has a clear law that would make genital mutilation a crime.

I stand before you, as I have many times on this issue, to say that if you are moved by Serat's story, please act now. Please look out in your community for those vulnerable girls, and please remember that they are our girls. I ask you to support me to get the issue of FGM prosecuted in Canada. Thank you, senators.

ROUTINE PROCEEDINGS

CANADA-UNITED STATES INTER-PARLIAMENTARY GROUP

U.S. CONGRESSIONAL MEETINGS, MARCH 15-18, 2021—REPORT TABLED

Hon. Michael L. MacDonald: Honourable senators, I have the honour to table, in both official languages, the report of the Canada-United States Inter-Parliamentary Group concerning the U.S. Congressional Meetings, held by video conference, from March 15 to 18, 2021.

WESTERN GOVERNORS' ASSOCIATION ANNUAL MEETING, JUNE 30-JULY 1, 2021—REPORT TABLED

Hon. Michael L. MacDonald: Honourable senators, I have the honour to table, in both official languages, the report of the Canada-United States Inter-Parliamentary Group concerning the Western Governors' Association Annual Meeting, held by video conference, from June 30 to July 1, 2021.

NATIONAL CONFERENCE OF STATE LEGISLATURES' BASE CAMP, AUGUST 3-5, 2021—REPORT TABLED

Hon. Michael L. MacDonald: Honourable senators, I have the honour to table, in both official languages, the report of the Canada-United States Inter-Parliamentary Group concerning the National Conference of State Legislatures' Base Camp, held by video conference, from August 3 to 5, 2021.

CANADIAN/AMERICAN BORDER TRADE ALLIANCE VIRTUAL CONFERENCE, DECEMBER 6-7, 2021—REPORT TABLED

Hon. Michael L. MacDonald: Honourable senators, I have the honour to table, in both official languages, the report of the Canada-United States Inter-Parliamentary Group concerning the Canadian/American Border Trade Alliance Virtual Conference, held by video conference, from December 6 to 7, 2021.

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO STUDY THE IMPACTS OF CLIMATE CHANGE ON CRITICAL INFRASTRUCTURE IN THE TRANSPORTATION AND COMMUNICATIONS SECTORS

Hon. Leo Housakos: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(j), I move:

> That the Standing Senate Committee on Transport and Communications be authorized to examine and report on the impacts of climate change on critical infrastructure in the transportation and communications sectors and the consequential impacts on their interdependencies, and measures needed to increase resiliency to those impacts;
>
> That the committee also examine the impacts of critical infrastructure in the transportation and communications sectors on climate change, and measures to reduce those impacts; and
>
> That the committee submit its final report no later than November 30, 2023, and that the committee retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to.)

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY THE CANADIAN FOREIGN SERVICE AND ELEMENTS OF THE FOREIGN POLICY MACHINERY WITHIN GLOBAL AFFAIRS

Hon. Peter M. Boehm: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

> That the Standing Senate Committee on Foreign Affairs and International Trade be authorized to examine and report on the Canadian foreign service and elements of the foreign policy machinery within Global Affairs Canada, and on other related matters; and
>
> That the committee submit its final report no later than March 30, 2023, and that it retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

[*Translation*]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY EMERGING ISSUES RELATED TO ITS MANDATE

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

> That the Standing Senate Committee on Energy, the Environment and Natural Resources be authorized to examine and report on emerging issues related to its mandate:
>
> (a) The current state and future direction of production, distribution, consumption, trade, security and sustainability of Canada’s energy resources;
>
> (b) Environmental challenges facing Canadians including responses and adaptation to global climate change, pollution, biodiversity, and ecological integrity, and the cumulative environmental effects of energy and natural resource development;
>
> (c) Sustainable development and management of renewable and non-renewable natural resources including but not limited to water, minerals, soils, flora and fauna;
>
> (d) Pathways to net-zero greenhouse gas emissions and ways to address the human and environmental impacts of climate change and manage the transition to a low carbon economy;

(e) Opportunities and challenges for women, Indigenous Peoples, Black and racialized Canadians, newcomers, persons with disabilities, and LGBTQ2 Canadians, in the energy and natural resource sectors; and

(f) Canada's international treaty obligations affecting energy, the environment and natural resources and their influence on Canada's economic and social development; and

That the committee submit its final report no later than December 31, 2025 and that the committee retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

[*English*]

QUESTION PERIOD

TRANSPORT

COVID-19 PANDEMIC—TRAVEL RESTRICTIONS

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, my question again today is for the government leader in the Senate. Senator Gold, it is not only truckers who oppose restrictions that are no longer supported by science. Canada's two main airlines, WestJet and Air Canada, have joined with Toronto Pearson International Airport to call for an end to the current mandatory PCR testing for fully vaccinated passengers upon arrival.

Canada is the only G7 country that continues to demand pre-departure and on-arrival PCR testing. The CEO of WestJet, Harry Taylor, said recently, ". . . Canada remains stagnant in its approach and continues to make travel inaccessible and punitive for Canadians and inbound tourists."

WestJet cut 20% of its flights in March, and Air Canada has reportedly cut over 40% of its flights next month.

Leader, when will the Trudeau government catch up to the rest of the G7 and present a path forward for airlines and Canada's entire travel and tourism sector?

Hon. Marc Gold (Government Representative in the Senate): I thank the honourable senator for the question. Canada and the Government of Canada are proud of the measures taken since the beginning of the pandemic to protect Canadians. We are proud of the ability of the government to procure vaccines and for Canada to be a world leader in its degree of vaccination. This pandemic is causing enormous frustration and difficulty for individuals and for the sectors and companies to which you refer. The government is very much aware of that. It is constantly evaluating the appropriate policy adjustments to make in light of the evolution not only of scientific understanding but the evolution of the pandemic and the wave or waves that may still come. This chamber should rest assured that the government is constantly evaluating and reassessing what its policy positions will be going forward, and announcements, when appropriate, will be made.

• (1430)

Senator Plett: It is sad that we can't at least touch on the answers and say "I don't know" if the answer isn't known. That would be an appropriate answer.

The Leader of the Opposition in the other place said to the Prime Minister:

> Prime Minister, you can't take science and put it on the table when it suits you and take it off when it doesn't suit you.

The Prime Minister has constantly been saying that everything he is doing is scientific. Science now says that what we're doing is not right, and he doesn't change. You don't have an answer. You hardly even touch on the question. That was as bad as the minister yesterday when he didn't even touch on the question.

Senator Gold, WestJet, Air Canada and Toronto Pearson Airport are also calling for an end to mandatory quarantines for asymptomatic travellers awaiting test results upon arrival. Leader, most families can't afford lengthy quarantines. They don't want to hear that the government cares about them. They want to see what you are doing to show you care about us.

When, leader? Give us a date. If not today, give us a date when we come back. When will this Trudeau government end these ineffective and costly restrictions?

Senator Gold: Thank you for your question. I'm sorry that my answers are not satisfactory to you.

The fact remains that the government is in ongoing consultations and discussions with its scientific advisers and others. Science is not a monolithic answer. This is not Grade 3 arithmetic. There is a diversity of views within the scientific community. Science, one might say, is more of an art than a science.

That said, the government remains committed to making the appropriate policy choices based upon the best scientific advice that it receives and will announce whatever changes, if any, in due course when appropriate.

[*Translation*]

PUBLIC SERVICES AND PROCUREMENT

AGREEMENT WITH DAVIE SHIPYARD

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

On December 19, 2019, the Trudeau government announced that the Davie shipyard was the only shipyard that had qualified to build six new program icebreakers for the Canadian Coast Guard. At the time, Canadians were told that an umbrella agreement with the Davie shipyard was expected to be put in

place by late 2020. That did not happen. Last May, we were told that an agreement would be in place by the end of 2021. Of course, once again, that did not happen. Two years have passed, and the government has not yet finalized the agreement.

Why is this taking so long? When will the Government of Canada and the Davie shipyard have an agreement? If the answer is "I don't know," feel free to say so.

Hon. Marc Gold (Government Representative in the Senate): I thank the honourable senator for his question and for highlighting the importance of our procurement program to better protect Canada and Canadians.

I will make inquiries with the government about a specific date and get back to you with an answer as soon as possible.

Senator Carignan: That sounds a lot like "I don't know" to me.

It seems likely that excessive delays in finalizing such an important agreement with Davie will delay the start of icebreaker construction and deployment along our coasts.

When will construction on these icebreakers finally start? Does your government still believe that the first ship will be delivered in 2029-30? If not, what is the expected date of delivery? Will the plan be tabled in the Senate so we can get a clear sense of what is happening with the ships and the contract, not only in terms of the seaway, but also in terms of jobs in Lévis?

Senator Gold: Thank you. I will add those questions to the others.

CANADIAN HERITAGE

LGBTQ2 COMMUNITY CAPACITY FUND

Hon. René Cormier: My question is for the Leader of the Government in the Senate.

Last week, the Honourable Marci Ien, Minister for Women and Gender Equality and Youth, announced that funding would be extended for the LGBTQ2 Community Capacity Fund and granted to two specific LGBTQ2 projects. Obviously, I applaud this announcement, which will help many LGBTQ2+ organizations in Canada continue their activities.

This fund is especially important for organizations working in rural regions. For example, Rendez-vous de la fierté Acadie Love, an organization on the Acadian Peninsula in New Brunswick, is doing outstanding work. Thanks to this fund, this organization recently contributed to the creation of a new francophone provincial group: Alter Acadie NB, the New Brunswick association of queer francophones, which focuses on LGBTQ2+ issues.

That being said, I am very concerned about the fact that the LGBTQ2 Community Capacity Fund was extended for only one year for $7.5 million, which is approximately the same amount as in previous years.

How does the federal government assess the growing financial needs of the LGBTQ2+ organizations that are eligible for this fund? How does it plan to ensure that they receive ongoing financial assistance?

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

LGBTQ2+ organizations are essential in Canada's communities and are a lifeline for Canadians. They need our support to keep their doors open and to continue to develop. That is why the funding for the LGBTQ2 Community Capacity Fund is being extended for another year. This funding will enable organizations to build stronger infrastructure to advance LGBTQ2+ equality across Canada.

I'm sorry to say I don't have any details on how the eligibility criteria for the fund are assessed. I will find out from the government and get back to you as soon as possible.

Senator Cormier: Thank you for the answer.

LGBTQ2+ organizations need to do long-term planning. Funding for just one year is rather problematic. I would like to know if this LGBTQ2 Community Capacity Fund can be accessed by new LGBTQ2+ organizations, such as the one recently created in my province. If not, what will the government do to support these organizations, and when will it do it?

Senator Gold: Thank you for your question, senator.

The government recognizes that organizations across the country urgently need support to provide vital community resources. The government intends to uphold its commitments.

I would add that, in the past, I have had a great deal of experience and involvement with not-for-profit organizations. I saw that stable and predictable funding is important. That said, I must point out that the government invested $7.1 million in the 2021 budget to support the work of the LGBTQ2+ Secretariat and $15 million for projects in these communities.

As for the funding, I will endeavour to follow up on the previous question.

[*English*]

IMMIGRATION, REFUGEES AND CITIZENSHIP

IMMIGRATION PROCESSING BACKLOG

Hon. Tony Loffreda: Honourable senators, my question is for Senator Gold, the Government Representative in the Senate. My question today focuses not so much on Canadians but those who may wish to become Canadians. It's no secret that there are massive backlogs at Immigration, Refugees and Citizenship Canada. This has been going on for years. In some ways, it's a good problem to have because it shows how attractive Canada is to foreigners. However, it is completely unacceptable that visa applications can take up to three years to process. These

applicants deserve an answer, whether it's yes or no. The least we can do is show them the respect they deserve and make a decision in a timely manner.

• (1440)

Last year, the government announced in its Fall Economic Statement that $85 million would be spent to hire more public servants to address the backlogs, among other things.

Can you tell us if the government has started to spend this money and if new immigration officers have been hired to help address the processing issues?

Hon. Marc Gold (Government Representative in the Senate): Thank you, senator, for raising this important issue.

The government continues to shift resources in this area to focus on priorities, to increase digitization of applications, to streamline its processes and resume in-person operations while, of course, respecting public health and safety guidelines.

Furthermore, I'm advised that Immigration, Refugees and Citizenship Canada has already hired approximately 500 new processing staff, are digitizing applications and reallocating work amongst their offices around the world.

With regard to your question on spending of the allocated funds under the Fall Economic Statement, I have been advised that an outline for the funds has been released. Unfortunately, I don't have an itemized list of the expenditures. I shall, however, inquire with the government and report back to the chamber with an answer.

Senator Loffreda: Thank you for that response, Senator Gold. I'm relieved to hear that the money is starting to flow into the departments and that problems are starting to be solved.

Despite encouraging unemployment numbers in recent months, I know that many employers are still having difficulty hiring people. It's a huge problem. Word on the street is that businesses are not being consulted and asked what type of skilled workers they need.

I know the minister will unveil a new immigration plan this month. Can you assure us that the government will consult widely with the business community and experts, and that it will consider realigning its immigration priorities and policies to ensure that we attract the talent our economy actually needs?

Senator Gold: Thank you, colleague, for the question. I have made inquiries with the government, but I have not yet received an answer. When I hear back from the government, I will report in a timely fashion.

FINANCE

MEDICAL EXPENSES AND PARENTAL LEAVE

Hon. Jane Cordy: Senator Gold, I raise this issue with you today on behalf of a Canadian couple who reached out to me and shared their experience of the barriers they faced as a same-sex couple starting their family.

During the last two elections, the current government campaigned on a promise to remove barriers for LGBTQ2+ people who wanted to start a family. These changes would also help heterosexual couples who have fertility challenges.

As well-intentioned as these promises are, they fail to take into account the realities of surrogacy and the differing family law systems across the provinces and territories.

More often than not, the intended parents cover the expenses of in vitro fertilization, IVF; and because neither of the intended parents are the "patient," they are not eligible to claim the expenses from a tax perspective. The egg donor, or surrogate, cannot claim the expenses, as it would be claiming an expense for which they did not pay.

This requires a review of the structure of the tax credit system and how it defines a "patient" for the purposes of the tax credit.

Access to 15 weeks of leave is available to those parents who adopt their child following surrogacy. The government failed to understand that in several provinces with more progressive family law systems, the child born through surrogacy is not adopted. That would mean that these families would not be entitled to leave, as neither of the intended parents are the birth mother; nor would they be eligible for adoptive leave, as they have not, in fact, adopted the child.

Senator Gold, this couple's experience is not unique. It is the same situation faced by parents starting their families through surrogacy, regardless of sexual orientation, across Canada. Mark Foley and Shelly Maynard from Dartmouth made their case public in 2019.

I know it's not a simple issue, which is why I shared this couple's concerns with your office in advance. I know I have provided a lot of information in a short period of time. Senator Gold, my question is this: Did you have an opportunity to raise these concerns with the responsible ministers; and if so, have you received a response?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. I have made inquiries, Senator Cordy, and I have not yet received a specific response. However, the government remains committed to continuing to review and evaluate the structures in its areas of jurisdiction to take into account the rapidly changing realities of families in this country. As soon as I have an answer, I'll be happy to report back.

Senator Cordy: Thank you for following up, Senator Gold, because things have certainly changed tremendously. I remember — and perhaps a few others on the line who may be my age will remember — getting eight weeks' parental leave

after one's child was born. I have to tell you that it was really tough going back eight weeks after my older daughter was born, since I had been in the hospital a month beforehand.

Senator Gold, I met these young men who are expecting their first baby this month, in February. Congratulations to them. They are bringing this issue forward to help other people, because in some of these situations it's too late for them to benefit.

In a recent conversation, one of the fathers said they were very fortunate because they are both professionals with good-paying jobs — as was the couple from Dartmouth. However, there is a gap in the law, and parents shouldn't have to be well off to afford surrogacy. I'm not sure how many of us in our twenties would be able to afford $100,000 for the procedure. The surrogacy laws must be updated.

Senator Gold, would you please request that the government fulfill what were campaign promises relating to in vitro fertilization under the Assisted Human Reproduction Act?

Senator Gold: Thank you. I will certainly pass that on to the government.

ENVIRONMENT AND CLIMATE CHANGE

MIGRATORY BIRDS REGULATIONS

Hon. Diane F. Griffin: Honourable senators, I have a question for the Government Representative in the Senate.

Senator Gold, proposed changes to the Migratory Birds Regulations appeared in the *Canada Gazette*, Part I, on June 1, 2019. These regulations were first promulgated in 1917 under the Migratory Birds Convention Act, but they have not been substantially changed in the years since and are in sore need of modernization.

As it turns out, the Minister of Environment and Climate Change has been tasked with halting and reversing nature loss in Canada by 2030. This will be a huge challenge, indeed. There are drastic declines in some species of Canadian birds. For example, since the 1970s, two thirds of migratory birds that rely on grasslands and feed on flying insects have been lost.

Senator Gold, these changes are on the minister's desk for action on his part, and have been there for quite some time. Will the government act to modernize our Migratory Birds Regulations? Thank you.

Hon. Marc Gold (Government Representative in the Senate): Thank you, senator, for the question. The government has made significant progress in advancing biodiversity and protecting our natural heritage. Indeed, the government has committed to protecting 25% of the land by 2025 and 30% by 2030 and, as you have noted, has committed to halt and reverse biodiversity loss by 2030, with full nature recovery by 2050.

With regard to, specifically, the Migratory Birds Regulations, I'm confident the minister will make a decision in a timely manner — one that both protects our environment and supports Canadian jobs.

Senator Griffin: I think I received the answer I need, namely, that it will be timely; and if it's not timely, I'll be back. Thank you.

FOREIGN AFFAIRS

RESOLUTION ON MYANMAR

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

February 1 marked one year to the day that the Burmese military overthrew the elected government of Myanmar, or Burma, and began a brutal attack on political leaders, activists and ordinary citizens. At least 1,500 people have been killed by the military in the past year.

• (1450)

Wai Wai Nu, a leading young human rights defender whom I work with, has set out a long list of inaction by democracies. I repeat to you her question, Senator Gold: Will Canada support a resolution on Myanmar to the UN Security Council that includes key demands such as a global arms embargo, support for cross-border humanitarian aid and the referral of Myanmar to the International Criminal Court?

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

Canada, as you know, condemns the convictions and other abuses, and the coup d'état particularly, in Myanmar. With regard to the specific question, I'm not aware of a decision that has been made with regard to a resolution at the United Nations. I will certainly make inquiries, and if an answer is forthcoming, I will be glad to share it in the chamber.

Senator McPhedran: Senator Gold, in addition to that inquiry, could you please ask specifically about the Rohingya in the largest refugee camps in the world, mostly in Bangladesh? And could you ask for an update to this chamber on what Canada is doing to provide services to the Rohingya women and children who continue to be at risk of being trafficked and having their education denied for the most part?

Senator Gold: I will certainly do so. Thank you.

IMMIGRATION, REFUGEES AND CITIZENSHIP

AFGHAN REFUGEES

Hon. Salma Ataullahjan: My question is for the government leader in the Senate.

Senator Gold, last fall, an investigation by "The Fifth Estate" revealed that the office of the Minister of Immigration was aware of the urgency needed to take decisive action and bring our interpreters to safety in Canada. As early as February 2020, the Minister of Immigration was contacted by Liberal MP Marcus Powlowski. An article published this morning by the *National Post* revealed Mr. Powlowski had pushed to rescue Afghan interpreters weeks before Kabul fell, citing credible evidence of an imminent Taliban attack against Canadian interpreters and concerns brought to him by an Aman Lara co-founder.

While strict paperwork rules and deadlines imposed by Immigration, Refugees and Citizenship Canada, or IRCC, led to hundreds of desperate evacuees exposing themselves to Taliban collaborators by rushing to local internet cafés to complete the application, Jeff Valois, who was at the time an advisor to the Prime Minister, allegedly ordered Powlowski to stay in his lane and to let professionals in the ministries handle it.

Senator Gold, in light of the growing number of blunders committed by our government, many are losing faith in Canada's rescue efforts. Why is our government playing political games instead of saving lives?

Hon. Marc Gold (Government Representative in the Senate): Well, senator, thank you for your question and for underlining the ongoing challenges and problems that are facing those in Afghanistan.

With respect, the government is not playing political games. It is dealing with it as best it can. The government has been monitoring the situation closely. Canadian Armed Forces personnel were present in Afghanistan from early 2021 to monitor the situation on the ground. Canada was part of an air bridge with allies that saved as many people as it could throughout the difficult circumstances. The Armed Forces worked around the clock to evacuate as many people as possible for so long as conditions permitted, saving thousands of people under extraordinarily difficult circumstances.

We did not evacuate as many people as we would have liked to in August. The government is committed to exercising all of its available options to evacuate Canadians and our Afghan allies via land or air. I have finally been advised that the Minister of Foreign Affairs is in close contact with our allies and other countries in the region to help get as many people out as possible.

Senator Ataullahjan: Senator Gold, there is mounting evidence showing Canada's mismanagement of rescue efforts in Afghanistan. A quick extraction force sat idly at a Kuwaiti air force base for days. A Canadian embassy staffer publicly outed an interpreter and safe house facilitator. The video shows Canadian soldiers ignoring Global Affairs Canada-approved evacuees at the Kabul airport.

There have also been reports of evacuees with perfect paperwork being turned away and of families being separated at checkpoints, leaving spouses and children behind because of trivial inconsistencies with their documents. Why is our government continually placing paperwork above saving lives?

Senator Gold: Again, thank you for your question. The government is doing everything it can to save lives, and there is no attempt to put obstacles in the way. Circumstances were and remain difficult and challenging. The government is committed to doing everything it can, alone and with its allies, to address this significant, important challenge.

PUBLIC HEALTH AGENCY

DIGITAL PRIVACY

Hon. Michael L. MacDonald: Senator Gold, earlier this week, Canada's Privacy Commissioner, Daniel Therrien, said his office was informed — not consulted, but informed — by the Public Health Agency about the collection and use of the mobility data of 33 million Canadians during this pandemic without their consent.

The commissioner also said that when his office proposed to examine the technical means used to depersonalize this data and to offer advice, the Trudeau government declined and said it would rely on other experts instead.

Senator Gold, why did the government turn down an offer from the Privacy Commissioner to provide expertise on this matter? Does your government regularly refuse advice from our Privacy Commissioner? As well, who were the experts your government did consult, and how much did it cost taxpayers?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. The government values the advice of the Privacy Commissioner, advice that is always well received and taken into consideration. The government also values the privacy of Canadians and their right to control their data. In that regard, it will continue to do so.

I do not have information, senator, with regard to whom the government has consulted to the extent that information would be publicly available and disseminated. I'll make inquiries and will be happy to report to the chamber.

Senator MacDonald: Senator Gold, the Public Health Agency recently issued a new request for proposals to track cell tower base location data across Canada until May 31, 2023. Earlier this week, the House of Commons passed a motion calling on the government to suspend this new tender and not to go forward with it until the Access to Information, Privacy and Ethics Committee of the other place reports that it is satisfied the privacy of Canadians will not be compromised. Senator Gold, will your government abide by this vote and not proceed with the tender at this time?

Senator Gold: I will make inquiries and report back in due course.

[*Translation*]

ORDERS OF THE DAY

SPEAKER'S RULING

The Hon. the Speaker: Honourable senators, on December 14, 2021, after the first recorded vote this session, Senator Martin asked for clarification about the practice of senators explaining their reasons for abstaining only after they have voted. I had previously addressed this issue on March 17, 2021, when I noted "that the time for explaining why you abstain is during debate on the matter."

The practice of providing an explanation of abstentions reflects requirements dating back to a period when senators needed permission to abstain, after providing an acceptable explanation. Since 1982, senators have been able to abstain without permission. While our Rules therefore no longer mention explanations of abstentions, they have sometimes occurred, representing something of a residual element of our practice.

Honourable senators, in practice, of course, one would expect that the number of abstentions on any particular vote should be quite limited in most cases, and this indeed reflects historical patterns. One of the most important roles of a senator is to vote, thereby fulfilling our fundamental responsibility to make sometimes difficult decisions that will affect all Canadians.

As all senators know, abstaining is not a vote. However, in recent years the number of senators abstaining has grown considerably. This is a development on which all colleagues should reflect carefully. We have also seen increasing numbers of attempts to explain abstentions after the vote. In some cases, these have actually seemed to be speeches that would be more appropriately given before the vote. Let me remind you that, even when our Rules required explanations for abstentions, they were brief.

The Senate has generally been accommodating to colleagues on this point. Now that the issue has been raised a second time, however, it would be appropriate to note that such explanations should be limited to the rarest of circumstances. They might, for example, be appropriate if, after the bells are ringing for a vote, a senator realizes that he or she may have a possible conflict of interest, or if a colleague had not been able to follow the debate, and wanted to clarify that the abstention reflected a wish to avoid voting on an issue with insufficient information. If allowed, such explanations must be extremely brief. They are not a substitute for participating in debate, and they must never be viewed as a substitute for a vote.

I would like to thank Senator Martin for raising this important issue again.

• (1500)

SPEECH FROM THE THRONE

MOTION FOR ADDRESS IN REPLY—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Gold, P.C., seconded by the Honourable Senator LaBoucane-Benson:

That the following Address be presented to Her Excellency the Governor General of Canada:

To Her Excellency the Right Honourable Mary May Simon, Chancellor and Principal Companion of the Order of Canada, Chancellor and Commander of the Order of Military Merit, Chancellor and Commander of the Order of Merit of the Police Forces, Governor General and Commander-in-Chief of Canada.

MAY IT PLEASE YOUR EXCELLENCY:

We, Her Majesty's most loyal and dutiful subjects, the Senate of Canada in Parliament assembled, beg leave to offer our humble thanks to Your Excellency for the gracious Speech which Your Excellency has addressed to both Houses of Parliament.

Hon. Amina Gerba: Honourable senators, as I rise in this chamber to speak in response to the Speech from the Throne, I feel humbled by the work that needs to be accomplished, but I also feel a strong desire to help do that work on behalf of Canadians.

Before I begin, I want to recognize that we are gathered on the unceded territory of the Anishinaabeg, Anishinaabe, Atikamekw and Mohawk peoples. I extend my warmest greetings to them and to all First Nations, Métis and Inuit people in our country.

All Canadians should be part of the reconciliation effort, which, fortunately, is under way and must be given our support and ongoing attention.

Honourable senators, as I rise to make my maiden speech, I would like to thank my family, my friends and my business partners, who encouraged me to join you. I must also thank the Right Honourable Justin Trudeau, Prime Minister of Canada, who recommended my appointment.

I also thank Senators Marc Gold, Donald Plett, Raymonde Saint-Germain, Pierre Dalphond and Scott Tannas for their warm welcome at my swearing-in in November.

In the Speech from the Throne to open the Forty-fourth Parliament, the government emphasized the need to build a more resilient economy to ensure a better future for Canadians and Canada. In order to fully meet those goals, the government identified preserving and expanding trade as a top priority.

Honourable senators, I am pleased with these overarching goals. They are in keeping with the spirit of what I have tried to accomplish throughout my career. Over a quarter century ago, upon graduating from the Université du Québec à Montréal, I began working as a strategy consultant.

I was responsible for projects for Africa and for helping our companies expand their business to the African continent and around the world. That early experience taught me how complicated it is to do business with international partners.

As I navigated legal systems, customs and tax requirements, transportation logistics, financial and technology transfer, consumer habits and marketing channels, I quickly learned that our entrepreneurs need to know and master many ins and outs in order for their investment or commercial ventures to succeed.

I greatly admire and respect our fellow Canadians who are expanding our international trade. When it comes to the African continent, the lack of precedent, lack of knowledge about private channels and available public resources, lack of economic and business data and, in some cases, a tarnished reputation have made it even more challenging to provide consulting services that are useful to Canadian exporters. That realization inspired me to start a consulting firm called Afrique Expansion Inc. in 1995 to help make the Canadian business community more aware of the opportunities available in Africa.

Given the interest generated by our activities, especially our initial trade missions to Africa, three years later, in 1998, my husband and I started an international economic magazine called *Afrique Expansion Magazine*. Today, that magazine is a reliable reference work for North Americans to find economic information about Africa.

It is also the only Canadian magazine that is distributed in some 20 African countries. To further consolidate partnerships between Canadian and African companies, in 2003, we created the Forum Afrique Expansion, which has since become the largest business networking platform for Canadian and African investors and exporters.

Held every two years in Montreal, the forum brings together 500 African and Canadian decision makers and investors, as well as heads of Canadian and international financial institutions, including the World Bank, the African Development Bank and the African Export-Import Bank.

Many heads of state and government leaders, Canadian provincial premiers, and federal and provincial government ministers have also attended the forum.

Since its creation, the forum has organized over 3,000 B2B meetings and facilitated the signing of contracts worth hundreds of millions of dollars for Canadian businesses.

Honourable senators, our country does have a presence in Africa and its major institutions, including the African Development Bank and the African Union. Although our diplomatic representation in Africa may have decreased in the past few years or decades, our representatives there are still dedicated and effective, as I have had the opportunity to witness on several occasions. I was delighted with our excellent diplomats there, whose presence and work are vital to the success of our businesses.

Some of our major institutions, such as EDC, have a modest but important presence on the African continent. We also can't forget the outstanding work being done by our trade delegates, as well as Quebec's delegations to Africa.

However, considering the objective data regarding Africa's evolution and the extremely strong interest that the world's most powerful countries are taking in Africa, it seems as though Canada is sidelining itself by failing to capitalize on the comparative advantages and opportunities available in Africa today.

• (1510)

During the first quarter of this year, China, Russia, Turkey, the European Union and Saudi Arabia have held or will be holding summits with the leaders of Africa's 54 countries. Trade is on the agenda for all of these high-level meetings. Other countries, such as Germany, Italy, Vietnam, the United Arab Emirates, Korea, Israel and Brazil are accelerating major collaborations with Africa's economies.

I want to reiterate that, unfortunately, it seems as though our country is sidelining itself by failing to capitalize on the comparative advantages and opportunities that can currently be derived from the demographic, urban, industrial and technological dynamics of a continent that may have up to 2.4 billion inhabitants, 2.4 billion consumers, by 2040-50, and that is one of the three largest communities of internet users in the world, along with India and China.

According to the 2020 report of the Observatoire de la Francophonie économique, Africa represents just 2% of all trade with Canada. There is room to expand our trade with Africa and, therefore, an opportunity to grow our economy.

Honourable senators, our country's international trade portfolio is impressive. As you know, Canada and the European Union have strong trade and investment ties. Canada is also very involved in Asia, and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership will enhance our economic ties with many Asian countries.

However, Africa is currently not on Canada's radar when it comes to current and prospective exports and imports in goods and services. Why are we forgetting about Africa's undeniable assets when seeking out trade opportunities, given that all of the world's leading trading nations are looking to get their share of what will soon be one of the largest economic markets?

Honourable senators, Africa is a large market that is moving toward unification. Its GDP represents US$3 trillion. This market will make Africa the biggest free trade zone in the world.

By the middle of this century, one in four people will live on that continent, which will be the most youthful in the world by far. When it comes to maintaining global security and the planetary ecological balance and meeting the socio-economic needs of the human race, nothing about Africa's affairs will

escape the world's notice. Moreover, Africa will play a key role in all global affairs. In order to be successful, Canada needs to recognize that and create a dynamic with Africa like the one it has developed and is seeking to enhance with Europe and Asia.

Honourable senators, I will make developing our relationship with Africa the main object of my contribution to advancing the affairs of our nation. That is baked into my personal and professional commitments.

Right now, I think that Canada should dedicate all of its expertise and its top institutional resources to supporting the successful implementation of the African Continental Free Trade Area, or AfCFTA. This wonderful initiative will create a single market made up of the continent's 54 countries and stimulate the enhanced international trade we are going to need.

As I stand before you, I have a dream that our country, Canada, will eventually sign a free trade agreement with AfCFTA and thus agree to include Africa in the modern economy, on the same footing as the other large economic regions of the world. This initiative would help increase trade between Canada and Africa, diversify Canada's international trade and grow our economy.

In the meantime and in order to prepare, Canada could develop a policy to support Africa's production of goods and services, similar to the African Growth and Opportunity Act, or AGOA, which was enacted by the United States in the early 2000s. It would no doubt also be beneficial for us to review the economic strategy created by Washington last year called Prosper Africa, which focuses on accelerating investment and trade between Africa and the United States.

Honourable senators, enhancing our economic and trade relations with African countries, their regional economic communities and their continental free trade zone would certainly enrich our economy. It would also lead to greater political and diplomatic support for our international initiatives. We have needed that in the past, and we will need it again in the future.

Esteemed colleagues, through legislation and meaningful action, we, as legislators, can make things happen and participate in cultural, social and economic change.

I am pleased to have the opportunity to pursue these goals in this chamber with you and in solidarity with all of the Canadians we have the privilege to serve.

Thank you for your kind attention. *Asante*.

(On motion of Senator Gagné, debate adjourned.)

[*English*]

THE SENATE

MOTION TO RESOLVE THAT AN AMENDMENT TO THE CONSTITUTION (SASKATCHEWAN ACT) BE AUTHORIZED TO BE MADE BY PROCLAMATION ISSUED BY THE GOVERNOR GENERAL —DEBATE ADJOURNED

On the Order:

Resuming debate on the motion of the Honourable Senator Gold, P.C., seconded by the Honourable Senator Cotter:

Whereas on October 21, 1880, the Government of Canada entered into a contract with the Canadian Pacific Railway Syndicate for the construction of the Canadian Pacific Railway;

Whereas, by clause 16 of the 1880 Canadian Pacific Railway contract, the federal government agreed to give a tax exemption to the Canadian Pacific Railway Company;

Whereas, in 1905, the Parliament of Canada passed the *Saskatchewan Act*, which created the Province of Saskatchewan;

Whereas section 24 of the *Saskatchewan Act* refers to clause 16 of the 1880 Canadian Pacific Railway Contract;

Whereas the Canadian Pacific Railway was completed on November 6, 1885, with the Last Spike at Craigellachie, and has been operating as a going concern for 136 years;

Whereas, the Canadian Pacific Railway Company has paid applicable taxes to the Government of Saskatchewan since the Province was established in 1905;

Whereas it would be unfair to the residents of Saskatchewan if a major corporation were exempt from certain provincial taxes, casting that tax burden onto the residents of Saskatchewan;

Whereas it would be unfair to other businesses operating in Saskatchewan, including small businesses, if a major corporation were exempt from certain provincial taxes, giving that corporation a significant competitive advantage over those other businesses, to the detriment of farmers, consumers and producers in the Province;

Whereas it would not be consistent with Saskatchewan's position as an equal partner in Confederation if there were restrictions on its taxing powers that do not apply to other provinces;

Whereas on August 29, 1966, the then President of the Canadian Pacific Railway Company, Ian D. Sinclair, advised the then federal Minister of Transport, Jack Pickersgill, that

the Board of the Canadian Pacific Railway Company had no objection to constitutional amendments to eliminate the tax exemption;

Whereas section 43 of the *Constitution Act, 1982* provides that an amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies;

Whereas the Legislative Assembly of Saskatchewan, on November 29, 2021, adopted a resolution authorizing an amendment to the Constitution of Canada;

Now, therefore, the Senate resolves that an amendment to the Constitution of Canada be authorized to be made by proclamation issued by Her Excellency the Governor General under the Great Seal of Canada in accordance with the annexed schedule.

SCHEDULE

AMENDMENT TO THE CONSTITUTION OF CANADA

1. Section 24 of the *Saskatchewan Act* is repealed.

2. The repeal of section 24 is deemed to have been made on August 29, 1966, and is retroactive to that date.

CITATION

3. This Amendment may be cited as the *Constitution Amendment, [year of proclamation] (Saskatchewan Act)*.

The Hon. the Speaker: Honourable senators will recall that, when we left off yesterday at 4 p.m., Senator Gold was using his time to answer questions, and I believe there was at least one other senator who wished to ask a question.

[*Translation*]

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate): Honourable senators, my question is for the Government Representative in the Senate.

[*English*]

Senator Gold, I know that our office has been working with the government to try to get timely answers to some of the questions that were posed to you yesterday, for which further information was requested. I am asking this question so that you are afforded an opportunity to put some of these matters on the record for the benefit of our colleagues.

[*Translation*]

Senator Gold, would you be able to provide us with this information?

Hon. Marc Gold (Government Representative in the Senate): I thank the honourable senator for her question. The answer is yes.

[*English*]

I am happy to report that I have indeed sought answers and clarifications in response to several questions posed by honourable senators yesterday. With your indulgence, I will provide these as well as a short recap of the essential facts.

As you know, in 1880, Canada and the Canadian Pacific Railway company reached an agreement that included a provision known as clause 16, which exempted CPR’s mainline from certain federal, provincial and municipal taxes. It is important, honourable senators, to note that this exemption only applies to that line and not to the totality of CPR’s enterprise. The exemption was then incorporated by reference in section 24 of The Saskatchewan Act, as well as into the statutes creating Alberta and the statutes extending Manitoba’s borders.

To better answer the question posed by Senator Simons yesterday, the clause 16 exemption also exists in Manitoba and Alberta, but they are not at issue today. To be more precise as it relates to Senator Simons’s questions on outreach by those provinces, I’m not aware of recent overtures made by the governments of Alberta and Manitoba to the federal government of late. However, it is possible, in the long history of this issue, that there may have been some in the past. At this stage, what I can say is that the federal government would, of course, be willing to engage with either province should they wish to pursue a similar change through their own parliamentary procedures.

In 1966, the federal government reached an agreement with CPR. Under the 1966 agreement, CPR would forego exemptions in the Prairie provinces and support constitutional amendments to that effect. However, the Constitution was not amended to reflect this. As you will know, the Constitution had not, at that time, been repatriated, and the question of how to amend the Constitution was far less clear — or easy, more accurately — than it is today.

• (1520)

To answer Senator Dalphond’s question, the 1966 agreement is, in fact, written. It is in the public domain. It is a letter from Mr. Sinclair, which was introduced and read into *Hansard* on September 8, 1966.

Senator Ringuette asked about the exemption as it relates to federal taxes. By virtue of section 241 of the Income Tax Act, I can’t disclose specific federal taxpayer information. However, having said that, I can confirm that CPR is not legally exempt from federal tax, as confirmed by the Federal Court last fall, and that CPR has generally paid federal taxes, including income tax.

As to the existing litigation and which governments are involved, in answer to Senators Dalphond and Dupuis, I can specify the following. First, separate claims were brought by CPR against the federal government and the Government of Saskatchewan. These claims are distinct and are before different courts. Second, CPR filed a claim in the Federal Court against Canada, asserting an exemption from federal tax, claiming

federal taxes paid and seeking a declaration that would preclude the Crown from collecting federal taxes going forward. The claim was made on constitutional, statutory and contractual grounds.

Last fall, the Federal Court decided that CPR is not exempt from federal taxes. CPR has appealed that decision to the Federal Court of Appeal. The Federal Court claim is not directed at Saskatchewan. The constitutional amendment we are contemplating does not engage the Federal Court claim.

CPR, as I mentioned, has appealed that decision to the Federal Court of Appeal, but it should be noted that it is no longer making its claim on constitutional grounds. As it pertains to the federal government, clause 16 was never constitutionalized.

Further, in 2008, CPR filed a separate claim against Saskatchewan before the Saskatchewan courts, asserting the clause 16 exemption, as it relates to provincial tax, claiming provincial taxes paid and seeking a declaration that would preclude Saskatchewan from collecting provincial taxes going forward. That case is ongoing, and final arguments have been scheduled for May 2022. It is in the Saskatchewan case that CPR is claiming over $340 million from the people of Saskatchewan for taxes it has paid over the years — $340 million. Obviously, senators, $340 million to a population of 1.2 million people is quite substantial, to say the least.

CPR is making that claim based upon the vestigial clause that we're being urged by all Saskatchewan legislators — all of them — and all members in the other place to remove from The Saskatchewan Act and the Constitution.

In short, the constitutional amendment that we are considering today deals only with the Province of Saskatchewan and it does not involve CPR's ongoing claim against the federal Crown before the federal courts.

Finally, it should be noted that similar separate claims have been made against Manitoba and Alberta. However, these proceedings have been halted until a final decision is rendered in the Saskatchewan case.

With this additional information and the additional perspectives, we will be hearing soon from the seconder of this motion, Senator Cotter, and I hope we can move ahead swiftly. This is a clear opportunity for us in the upper chamber to stand up for a region of our country in a spirit of cooperative federalism. Colleagues, let us join the unanimous voice of the other place and respond positively to the request made by the elected representatives of the "land of living skies."

Some Hon. Senators: Hear, hear.

[*Translation*]

The Hon. the Speaker: Senator Dupuis, do you have a question?

Hon. Renée Dupuis: Yes, I have a question for the Government Representative in the Senate, if he'll take one.

Senator Gold: Yes.

Senator Dupuis: Senator Gold, you referred to clause 16 of the contract, which exempts Canadian Pacific from provincial and municipal taxation. Please correct me if I have misunderstood the 1950 Supreme Court ruling in *C.P.R. v. A.G. for Saskatchewan*. It is an English-only document that quotes clause 16 of the contract, which states that the company, all its facilities and shares, all its capital, and I quote:

[*English*]

> . . . shall be forever free from taxation by the Dominion, or by any province hereafter to be established, or by any municipal corporation therein . . . .

[*Translation*]

If I read this Supreme Court ruling correctly, it is indeed an exemption from taxation that covers not only provincial and municipal taxes, but also taxation by the Dominion, that is, the federal government. Can you provide us with the documents that relate to this contract, so we can properly consider this motion? I fully agree with you that this is extremely important to the people of Saskatchewan.

Senator Gold: I thank the honourable senator for the question. I will respond in two ways. First, with respect to the 1880 contract, the details are found in several places. I will try to find the text and make it available to senators.

However, it should be noted that in 1880, there was no federal tax. At the time, the taxation system we know today did not exist. At the turn of the 20th century, the Government of Canada introduced several taxes in a wartime context, and CPR paid those taxes. That is why, notwithstanding the wording of clause 16 of the contract, every stakeholder has always understood that the main issue of the situation that concerns us and that concerns Saskatchewan has to do only with provincial taxes.

Senator Dupuis: Would you agree to table in the Senate any legal analysis that may have been done by the Department of Justice regarding this constitutional resolution?

Senator Gold: I will ask the government what is available and appropriate to share, but that is all I can say right now without asking the government.

Hon. Pierre J. Dalphond: I believe I have understood the responses from the Government Representative, and I have done some research on this topic since yesterday. I obtained a copy of the ruling from the trial division of the federal court, which is 306 pages long. I admit that I fell asleep while reading it last night, but not because it wasn't interesting. On the contrary, it was fascinating to read about the early days of Confederation and the railway.

• (1530)

Am I to understand from your comments today that you insist that the Senate adopt the motion without delay and without senators having the time to read the ruling, hear witnesses and check the documents that Senator Dupuis is referring to, some but not necessarily all of which are found in the schedule to the ruling?

Senator Gold: Thank you for this question. I too spent a lot of time studying the court's reasons. The answer is no. As the Government Representative, I believe, and the government believes, that it is important for the Senate to join forces with the elected members in the other place and those in the Legislative Assembly of Saskatchewan to resolve this issue and quickly and efficiently correct what I would refer to as a "historic anomaly," if I may use that expression.

One of the reasons for the Senate's existence is to defend the regions' interests and ensure that there is not an unjustifiable inequity in the treatment of the regions. No one here sees a problem with doing this. That said, you know me, and if senators wish to take more time to debate the matter and obtain information, I will respect that. I am not here to insist that we proceed before you're ready.

Allow me to suggest that, ultimately, we are seized with a relatively simple matter. Given that our role as unelected officials is one that places constraints on us in relation to monetary constraints, and given the unanimous support of Saskatchewan's elected officials and the members of the House of Commons, this is appropriate.

I hope that answers your question.

Senator Dalphond: Thank you for clarifying, Government Representative. It's reassuring to see that we'll have the time to do our duty as representatives of our region as well as fulfill our primary role, which is to carefully examine the bills put before us. I believe that is all the more important when we're talking about a constitutional amendment.

I am pleased to see that, if the members of a provincial legislative assembly make a unanimous request, Ottawa will act on it quickly, no questions asked. However, as a senator, I would like time to read the documents and ask questions about Saskatchewan's proposal. Quebec and other provinces will be making proposals too, and I would like them all to receive equal treatment from the perspective of defending regional interests, but only once they've been subjected to careful review.

Senator Gold: As I said, as the Government Representative, I would like this to be debated and voted on efficiently and appropriately. However, as I said before and will say again, I respect the Senate's and senators' desire to take as much time as necessary to fully understand the matter before us. In light of the clarifications I provided today, I'm eagerly awaiting the speech by our colleague, Senator Cotter, who has a stake and expertise in this area. I hope you'll join me in looking forward to an efficient vote.

[*English*]

Hon. Jim Quinn: This is very interesting to me. I support where this is going, in general. At the same time, after listening to this particular question-and-answer period it seems more complicated for some of us than for those who have stronger backgrounds in such matters.

While respecting the province and the lower chambers voting on this issue, and while I tend to be supportive of this, we would be better served to be well informed and have the opportunity for more discussion. Perhaps we could even hear from CP on their stance on the issue.

Is that something that makes sense for all of us, to be better informed as we take on the decision to agree?

Senator Gold: Thank you for your question. Respectfully, colleagues, I do believe that what I have placed on the table and the responses I have given — and I have every confidence that what Senator Cotter will be providing in his speech — will provide you with the information that you need to be properly educated on this. As Senator Dalphond points out, additional material is available in the public record, which will provide further background and context. I am confident that when all is said and done, this chamber will be in a position in a reasonably short time. It's certainly my hope to include the debate and pass this resolution so that we can correct this unfairness to the government and the people of Saskatchewan.

Senator Quinn: Thank you for that response, which makes really good sense.

Hon. David Arnot: Honourable senators, I speak to you today from Saskatoon, which is in the heart of Treaty 6 territory. Treaty 6 was entered into in August 1876 just a few miles north of where I stand at Fort Carlton. This area is also the traditional homeland of the Métis.

Today, I rise to speak in favour of the motion proposed by Senator Gold, the Government Representative in the Senate. This motion is designed to address an historic inequity placed upon the people of Saskatchewan.

In 1871, Canada entered into an agreement to build a national rail line to British Columbia within 10 years as a critical incentive to bring British Columbia into Confederation.

It took various iterations for Canada to get this commitment underway. To support the project, the Government of Canada provided a series of benefits to a consortium of investors, which eventually became the Canadian Pacific Railway company. These inducements included a payment of millions of dollars, a grant of millions of acres and a critical inducement: a tax exemption granted to the CPR in perpetuity — very unusual.

When Alberta and Saskatchewan were incorporated as provinces in 1905, the tax exemption was incorporated into the constitutional documents, resulting in section 24 of The Saskatchewan Act.

During the 20th century, a range of other actions occurred associated with railways, particularly with the transportation of grain. The purpose was to address the monopoly powers of the railways and the financial vulnerabilities of farmers shipping their grain to market. Various federal measures were taken. One included the establishment of the Crow's Nest Pass rate, which capped the rates that railways could charge to transport grain to port. This protected farmers. However, as the cost of that operation rose, the railways began to experience a financial squeeze.

Ottawa intervened and, based on a transportation inquiry, developed a plan to pay direct subsidies to railways. That inquiry was the 1959 Royal Commission on Transportation, also known as the MacPherson Commission. It was created to investigate transportation policy, particularly freight rate inequities in Canada.

• (1540)

In their 1961 three-volume report, the commissioners, under the chair of Mr. M.A. MacPherson, a well-respected Saskatchewan lawyer, recommended that, first, railways be allowed more freedom to eliminate uneconomic passenger service and branch lines, and second, to receive direct subsidies for grain-handling responsibilities which were imposed upon them by Parliament.

The principles of the report included the value of competition between different forms of transportation, the need to reduce regulatory control and payment of reasonable charges by transportation operators for facilities provided by government. It also recommended the establishment of the Canadian Transport Commission.

In the early 1960s, the provinces of Manitoba, Saskatchewan and Alberta renewed lobbying efforts to end the constitutionalized tax exemption for the CPR. In 1966, the federal government saw an opportunity to leverage the subsidies in exchange for an agreed end to the CPR tax exemptions.

I have read a copy of the correspondence between Mr. Ian Sinclair, the president of the CPR, and Mr. Jack Pickersgill, the Minister of Transportation. Mr. Pickersgill was a former clerk of the Privy Council. In that letter dated August 29, 1966, Ian Sinclair wrote to the minister and stated:

> . . . as a contribution to the rationalization of Canadian transportation legislation, Canadian Pacific would be prepared voluntarily to forgo the perpetual exemption from municipal taxation provided in clause 16 of its contract of 21st October, 1880 . . .

— between Canada and the CPR.

He further wrote that the exemption applies in Manitoba, Saskatchewan and Alberta. This exemption is contractual, statutory and constitutional.

Sinclair wrote further in the letter:

> At any time . . . Canadian Pacific would have no objection to action being taken to amend the constitution and the legislation to terminate the perpetual exemption from local taxation . . .

and that he had the agreement of all of the board of directors.

From the debates in the other place on September 8, 1966, at page 8211, the minister said that the agreement reached between Canada and the CPR "is an act of good corporate citizenship." Looking back, the minister also commented that he thought the tax exemption had been a mistake to make it in perpetuity.

On January 10, 1967, the minister, speaking in the other place, declared that he had spoken to the Canadian Pacific Railway Company and made it very clear to the Canadian Pacific Railway Company that immunity for perpetuity is not desirable in the 20th century. CPR said that if the government gave them the right to raise revenues, "then the company would be glad to give up this immunity."

It is clear that if the government could change the Constitution, the CPR would not object.

From the debates in the other place on the same day, at page 11,602, Tommy Douglas stated that the "government of Saskatchewan between 1944 and 1964 made repeated representations for changes" to be made so that the CPR would be subject to municipal taxation.

In other words, this issue was a perennial one in the three prairie provinces in Canada throughout the whole of the 20th century. There is no ambiguity in the exchange; in my opinion, it's very clear. The intent of the parties is evident in the letter of October 29, 1966, and the contemporaneous debates in the other place.

The CPR received what it wanted: an increase in subsidies. The federal government received what it wanted: an end to the tax exemption in section 24 of the Saskatchewan Act. I believe the CPR voluntarily agreed to end the perpetual tax exemption, recognizing the circumstances of the day and changes in transportation policy, subsidies and protection in the modern era.

The Saskatchewan Minister of Justice, Gordon Wyant, Q.C., introduced a motion in the Saskatchewan legislature in November 2021 to amend the Canadian Constitution as it relates to the Saskatchewan Act, which was accepted by both sides of the legislature and passed unanimously. We have all been informed that it was debated in the other place and unanimously passed in that place yesterday.

This resolution seeks to repeal section 24 of the Saskatchewan Act retroactively to August 29, 1966. This is the date of the crucial correspondence. I believe this reflects the common understanding of the parties at the time they reached that agreement. I believe that the CPR is one of the largest corporations in Canada and should continue to bear its responsibility for provincial taxes just like any other taxpayer.

The CPR benefits from using Saskatchewan's infrastructure and should contribute to the maintenance of that infrastructure. The CPR should not be able to reap the benefits of operating in Saskatchewan without assuming any tax responsibility.

I believe that considering modern taxation and transportation policies, it is time to eliminate any uncertainty respecting the Canadian Pacific Railway's tax exemption and to ensure an equal playing field for all companies operating in Saskatchewan.

Section 24 is a relic of an earlier time, an anachronism from the 19th century when Saskatchewan was not treated as an equal partner in Confederation. A perpetual tax exemption is no longer conscionable in the context of the third decade of the 21st century. If the tax exemption persists, it is to the detriment of the people of Saskatchewan, farmers, consumers, producers and businesses, including small businesses, across the province of Saskatchewan.

I ask my colleagues in the Senate to support this motion and to put to an end any uncertainty on this historic inequity. We need to prevent a wealthy corporation from obtaining an unfair competitive advantage in the marketplace.

To continue with a tax exemption in the 21st century, which was granted to the CPR in the 19th century, would be fundamentally unjust, unfair, unreasonable and an undeserved economic hardship on the residents of Saskatchewan. The continuation of section 24 after August 29, 1966, would not be consistent with the Province of Saskatchewan's position as an equal partner in Confederation.

I hope this will be done with unanimity in the Senate. I encourage my colleagues to move with alacrity on this issue.

I believe that, in fact, it distills to a very straightforward issue and is not as complicated as it may seem. I note that the Westminster parliamentary model was designed to operate with principles of compromise, collaboration and cooperation. This motion introduced in the Senate by the government leader is a clear demonstration, in my opinion, of the cooperation and collaboration by the Government of Canada, Canadian parliamentarians and the Saskatchewan legislature to protect the interests of the Province of Saskatchewan. Thank you.

Hon. Brent Cotter: Honourable senators, let me begin by apologizing if some of what I have to say is repetitive and redundant of the two previous speakers. Colleagues, this is a rare moment for us. It's a rare opportunity for this chamber to consider an amendment to the Constitution of Canada. There have only been seven of such bilateral constitutional amendments considered by Parliament, as Senator Gold outlined yesterday. I rise to speak in support of the motion. Indeed, you may have observed that I introduced the identical motion on December 17 of last year in this chamber.

The motion before us is supported by each of the five senators from Saskatchewan as well as all of the members of Parliament from Saskatchewan who voted yesterday in favour of the motion in the other place. I hope it will be supported by each and every one of us here.

• (1550)

The motion before us is a small constitutional amendment, but an important one to my province as you have heard. In late November, it was adopted unanimously by the Legislative Assembly of Saskatchewan. It addresses a long-standing inequity that was put in place by the Government of Canada to facilitate the building of the intercontinental railway from Central Canada to the Pacific coast decades and decades ago.

Here is the story, and why it is now a matter of significant concern for the people of Saskatchewan.

One part of the bargain to build the railway to British Columbia was part of a deal to bring British Columbia into Confederation in 1871. This commitment, this promise to build the transcontinental railway, was to be built within 10 years. This coincided with at least two other of Canada's larger interests as a nation.

First, a critical building block in the building of a country from the east to the West Coast, Canada's national dream, nation building. We all know this story.

Second, the establishment of a secure Canadian presence in the west, in the face of an aggressive American presence. It will be recalled that the United States at that time had recently acquired Alaska only years before, and a porous U.S.-Canada border across the Prairies was routinely ignored by American hunters and traders in those days.

Indeed, historians have shown that the actual route of the transcontinental railway was strategic in the sense that it was built along the more southerly line, closer to the U.S.-Canada border, than less difficult but more northerly routes through the mountains.

The railway was completed in 1885, as Senator Gold has noted. It's an amazing achievement. The pounding of that Last Spike in the mountains of British Columbia is captured in an iconic photograph. The pounding of that Last Spike is pounded into the memories of nearly every Canadian child and has been eulogized by Gordon Lightfoot.

The story that brings us to this constitutional amendment is the story of the bargain struck to build the railway, and its curious and lingering consequences to this day for the provinces of Saskatchewan, Alberta and Manitoba.

After two failed attempts to get the railway built, and with the 10-year deadline approaching, in 1880 the Government of Canada turned to a consortium of investors — who ultimately became the Canadian Pacific Railway — and entered into an agreement to have the railway built. This was a daunting undertaking. Based on my reading, the consortium had the Government of Canada somewhat over a barrel given the timetable they faced.

It's therefore not surprising that the Government of Canada, for all of these reasons, provided significant incentives to the CPR to build the railway. The most significant of those were three: $25 million in cash, as Senator Arnot noted; 25 million acres of land across the Prairies near the rail line, that land to be selected by the CPR; and, thirdly, tax concessions. It is the tax concessions that are the focus of the constitutional amendment before us today.

I would like to take a moment to reflect on the other two incentives. First, the $25 million. In 1881, a very young country, Canada, had limited fiscal capacity. So $25 million, even then, was a lot of money. You might ask what is $25 million worth today? Using the CPI from 1880 to today, that $25 million would be worth a little over $68 billion.

Second, the land concessions. Now, the CPR acquired large tracts of land in some of Canada's most important Prairie cities: Calgary, Regina, Moose Jaw, Brandon, Medicine Hat, to name a few. Even ignoring the value of the urban land the CPR selected, and imagining that it took only good, rural land — good, rural farmland — by a conservative estimate, 25 million acres of good farmland today would be worth roughly $50 billion.

The tax concession was also generous. It is a wide range of exemptions from federal, provincial and municipal taxes — how wide, and for how long, we have been hearing and I'll speak a bit more about that in a moment.

The exemptions were set out in clause 16 of the CPR-Canada agreement, the clause about which Senator Dalphond asked. They were incorporated into legislation that launched the venture in 1881 and created the CPR as well; and, furthermore, as Ottawa had the power to do, in creating the Province of Saskatchewan in 1905, it unilaterally embedded the exemption from provincial taxes into The Saskatchewan Act, in a way, part of the commitment set out in clause 16 of the agreement, required the exemption to apply to any provinces created thereafter, and that meant that, in 1905, it came to apply to Saskatchewan. The federal government implanted that provision in the constitutional document — The Saskatchewan Act — that created the Province of Saskatchewan.

I mention parenthetically, as you have already heard, that the exact same exemption from provincial taxes is embedded in the constitutional document that created the Province of Alberta, The Alberta Act of 1905, and a series of constitutional documents that expanded the boundaries of the Province of Manitoba in 1881.

The wide-ranging exemption from provincial taxes, which the CPR now argues to include things like sales taxes, taxes on its assets, excise taxes and income taxes, that exemption states the following:

> That the CPR shall be free from taxation by the Dominion or by any province hereafter to be established, forever.

Let me repeat that. "Forever." I don't quite know how long "forever" is, but it feels like a very long time to me.

Now, there was an agreement reached in the mid-1960s — and Senator Arnot has spoken about it — between the CPR and the Government of Canada to end the taxation. But for reasons unknown, it was never implemented in the form of the removal of the constitutionalized exemption from provincial taxes. Even so, a peace broke out and the CPR apparently continued to pay or began to pay provincial taxes, as well as payments of municipal taxes, or at least grants in lieu of municipal taxes, subsequently.

However, again for reasons largely unknown, in 2008 the CPR concluded that that 1960s agreement only applied to municipal taxes; that is, the CPR took the view that it had only agreed to give up its municipal tax exemption, essentially property taxes for land it owned on or near the main line.

It then launched the four lawsuits we have heard about — one against the Government of Canada, one against Saskatchewan, one against Manitoba and one against Alberta — to get a return of taxes paid and a declaration that would confirm the tax exemption.

The claim against Saskatchewan, which is the main focus of the consequences of this exemption is, as Senator Gold noted, $341 million, plus a declaration of a continuing perpetual exemption from provincial tax. Perpetual.

Now to the present.

In the first case against Canada, and Senator Gold referred to this earlier, the CPR tax exemption was recently found in September of 2021 by the Federal Court of Canada not to have been constitutionalized vis-à-vis the Government of Canada, meaning that Canada could, and did, amend its laws to end most of the CPR tax exemption. That is the state of the law presently.

Though not decided in that case — since it was not a case about Saskatchewan — a plain reading of the situation and the evidence indicates that the 1960s deal was only intended, at least on the written language of the text of the material, to remove only the exemption from municipal taxes.

• (1600)

Second, in relation to provincial taxes, the exemption being embedded in the Saskatchewan Act, and therefore being a constitutional exemption, means that Saskatchewan cannot unilaterally amend its own tax laws to make the CPR subject to provincial taxes. It can only do so through this motion in Saskatchewan and a parallel motion in the two houses of Parliament to remove the exemption.

Where does that leave us today? Essentially this: Grand concessions were made to the CPR to get the intercontinental railway built. All Canadians were part of that bargain and, through taxes or in other ways, contributed to it. Fair enough. But one aspect of that bargain has left three provinces, and only three, with no say in the matter, continuing to pay for the building of that railway some 137 years after the railway itself was completed.

Speaking for myself, I'm not opposed to tax incentives that can be clearly shown to advance the public good. Incentives to advance a national and nation-building railway probably fit in that category, but I offer three countervailing points.

First, the other concessions, cash and land, were pretty darn generous in and of themselves.

Second, surely the tax exemption has long outserved its usefulness and justification. Its best-before date has long passed, and it appears that even the CPR thought so in the 1960s.

Third, as a burden imposed uniquely on Prairie taxpayers for a railway that has always served the country's regional and national interests, it is profoundly unfair. If nothing is done in this chamber, there is a good chance that the residents of Saskatchewan would be required to unfairly continue to subsidize the CPR forever.

I will go a little bit further, if I may, in my remarks. As may be evident, I have done a bit of work on this. What I have learned is that, although the CPR cases against Alberta and Manitoba are not as far along as the Saskatchewan case — Senator Gold noted that the latter in Saskatchewan is in the final stages — and although the amounts in those other two provinces' cases vary, the same issue and same unfairness apply to the residents of Alberta and Manitoba.

I would encourage my colleagues in Manitoba and Alberta to examine the question of the CPR tax exemption and its application to their respective provinces and residents.

In my view, this motion is the beginning of an honourable national process to clear away a curious anomaly in the constitutions of our three provinces that, if it was ever appropriate, is certainly no longer so. I would be pleased to assist in such an undertaking.

I urge you to support the motion before you today. Thank you, *hiy hiy*.

The Hon. the Speaker pro tempore: Senator Cotter, we have three senators who would like to ask questions. Would you accept questions? You have barely two minutes.

Senator Cotter: Yes. I will do my best.

Hon. Paula Simons: Senator Cotter, my question is a simple one. As an Alberta senator newly alerted to this situation, what would Albertans need to do to be party to this initiative? Would there need to be a bill or a motion passed in the Alberta legislature or is the bill before us today one that could be amended?

Senator Cotter: I think it is difficult to do the latter. I think it requires a motion and a resolution in the legislature of Alberta. Alberta's situation is slightly more complicated because, based on my understanding, constitutional amendments relevant to the Province of Alberta require a referendum first. I leave you to imagine the complications.

Notwithstanding that, this is an argument that advances the question of millions and millions of dollars — how many millions for Alberta is still not clear — that the people of Alberta are being asked to pay unfairly. It seems to me that if a referendum costs a little money, it would be well worth it.

The Hon. the Speaker pro tempore: Senator Cotter, Senator Griffin and Senator Tannas wish to ask questions. Are you asking for five more minutes?

Senator Plett: No.

The Hon. the Speaker pro tempore: There is already a "no."

Senator Cotter: I will ask and let someone say "no."

The Hon. the Speaker pro tempore: Honourable senators, we now move to debate.

Senator Plett: Question.

The Hon. the Speaker pro tempore: Senator Griffin on debate.

Hon. Diane F. Griffin: I wish to adjourn the debate.

Senator Plett: No.

The Hon. the Speaker pro tempore: It is moved by the Honourable Senator Griffin, seconded by the Honourable Senator White, that further debate be adjourned to the next sitting of the Senate. If you oppose adjourning debate, please say "no."

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: "Yea" that you agree to adjourn the debate? The motion is to adjourn the debate, to which, Senator Plett, you said, "No." Now we are asking the chamber.

Those in favour of the motion to adjourn the debate and who are in the Senate chamber will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: Those opposed to the motion to adjourn the debate and who are in the Senate chamber will please say "nay."

Some Hon. Senators: Nay.

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

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

[*Translation*]

ADJOURNMENT

MOTION ADOPTED

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of February 9, 2022, moved:

> That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, February 22, 2022, at 2 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to.)

BILL TO AMEND THE CANADA ELECTIONS ACT AND THE REGULATION ADAPTING THE CANADA ELECTIONS ACT FOR THE PURPOSES OF A REFERENDUM (VOTING AGE)

SECOND READING—DEBATE ADJOURNED

Hon. Marilou McPhedran moved second reading of Bill S-201, An Act to amend the Canada Elections Act and the Regulation Adapting the Canada Elections Act for the Purposes of a Referendum (voting age).

She said: Honourable senators, I rise today to speak to second reading of Bill S-201. This bill seeks to lower the federal voting age from 18 to 16.

I can think of no better bill to introduce than this wonderful bill, which seeks to include young Canadians in our democracy and is the product of several years of cooperation between my team and youth advisors, the Canadian Council of Young Feminists, and many other youth organizations across the country and around the world.

• (1610)

[*English*]

Today, I am pleased to once again begin the second reading of a bill — this time named Bill S-201 — that would amend the Canada Elections Act to lower the voting age in federal elections from 18 to 16. This bill would also make several minor amendments to the same act to harmonize the logistics of voting to reflect the age of 16 and the registration of potential voters for the ages of 14 and 15.

This marks the third time I rise to introduce this bill. And, while I certainly hope we can progress further this time, I tell you with all sincerity that I am deeply worried about our democracy and that, after 50-plus years of the right to vote beginning at 18, I am convinced that this relatively simple bill will help to revitalize our democracy, so this legislation remains a top priority for me.

I am deeply grateful to the many Senate colleagues who believed in the merit of studying this bill, then entitled Bill S-209, and voted to send it to committee in the last days of the previous Parliament, making it the first such bill to progress that far in our Parliament. Whether senators agreed or not with enfranchising 16- and 17-year-old Canadians, it was heartening that most in this chamber recognized the importance of allowing a committee to study, scrutinize and weigh the merits of increasing inclusion of younger Canadians in our electoral system.

To me, it was a clear signal of two things: first, that we recognize and respect the maturity, engagement and importance of young people and that their increased involvement in the electoral process deserves our sincere study and attention, not knee-jerk, dismissive rejection; and second, that we honour our mandated duty to give thoughtful and fair consideration to issues of national significance.

I acknowledge that there are passionate views on both sides of this issue, but, as senators, we owe our sober first, second and, in fact, our every thought and reflection to the legislative proposals that come before us. After listening to colleagues speaking on this bill, I would ask that you vote to support moving this debate forward.

I would also ask, out of respect for the fact that each senator in this place is an intelligent and dedicated Canadian, that the votes on this bill be left to the independent thought of each senator in choosing how they will vote.

Honourable colleagues, this is not really a complicated bill, but it has the potential for tremendous impact as a catalyst and force multiplier in the revitalization of our democracy. The rationale is simple and straightforward: We should lower the voting age to 16 because Canada's young people are capable, informed and engaged enough to vote. Lowering the voting age will increase voter turnout by providing young people the opportunity to vote for the first time in an environment supported for the most part by their schools and their families.

Additionally, research confirms that those who vote at an earlier age for the first time are more likely to be lifelong voters. It's lamentably ironic that polling stations are often located in high schools, even as most students must watch from afar as others exercise their right to vote.

These are not anecdotal affirmations. We know these facts because an ever-growing body of quantifiable research in several countries confirms this — research from countries like Austria, that extended voting rights to 16- and 17-year-olds in 2007.

Furthermore, let's do away once and for all with the hollow platitude that young people are "the leaders of tomorrow" when the truth we all know is that we share leadership with them today, because they are genuine stakeholders in the institutions that govern our country. This is a substantive opportunity for us to extend their rights and extend our arms to welcome them to participate fully in shaping our common future.

When this bill was debated in the previous session, some in this chamber argued that the voting age of 18 years was a de facto, immutable constant. However, we know this is not true. The accepted threshold age for voting is a social and legal construct. The voting age was changed 50 years ago by statute, not requiring a constitutional amendment. Moreover, the current consensus of 18 years is only one step in an evolution that has been more than a century in the making, shifting downward over time in various Western countries from 21 to 18 and now, in some, to 16.

At Confederation, the voting age was 21. However, at that time, only White men who owned property could vote. Women, Indigenous peoples, Black and other people of colour and members of certain religions were prevented from participating in the democratic process. In 1917, with the First World War raging, the right to vote was extended to all Canadian military members, including, with some limitations, women and

Indigenous people recognized as Indians under the Indian Act. After certain women in Manitoba were the first in Canada to gain the vote — a hard-won battle — the vote was extended to many more women over the age of 21 in 1918, but still not to Indigenous women.

By 1960, the Canada Elections Act extended the vote in federal elections to people recognized as Indians under the Indian Act. And amidst great national debate about how people so young could not possibly exercise such responsibility, the Canada Elections Act was amended to lower the age of voting from 21 to 18 in 1970, more than half a century ago.

We are on the cusp of another period of change. This bill is a response to ever-growing calls for widening the franchise in Canada. This movement is led by youth, but they are not alone. Frankly, they are a lot more impressive, engaged and responsible than many of us probably were at their age. They are watching. They are waiting to be heard by parliamentarians. Regardless of political affiliation, respectful listening to younger members of our society is what a senator can and should do.

The 1991 Lortie commission is instructive in this regard. Although recommending no alteration to the voting age at that time, it concluded emphatically, at page 57, that it was a decision subject to change:

> Since Confederation, the franchise has undergone regular change to include an ever-increasing number of Canadians. As our society continues to evolve, it is possible that a lower voting age will become the focus of stronger demands by those concerned and greater support on the part of Canadians . . . . The voting age is not specified in the constitution and is therefore relatively easy to change. We therefore conclude . . . that Parliament should revisit the issue periodically.

It has been 52 years since the voting age was lowered to 18 years of age, and 32 years since the Lortie commission called for a parliamentary review of that decision.

To highlight how this issue continues to evolve in response to demand, I remind senators that there are presently two bills on lowering the voting age before our Parliament, and that, in fact, over most of the past 20-plus years, there has always been such a bill in play. Internationally, more than 20 countries have implemented a full or limited form of #Vote16 and have observed positive outcomes such as increased civic engagement among youth and people connected to these youth.

#Vote16 campaigns have steadily gained momentum at the provincial and municipal level, notably in British Columbia and Prince Edward Island. And most recently, in December 2021, a group of young Canadians filed an application at the Ontario Superior Court of Justice to challenge the voting age in Canada, arguing that the Canada Elections Act, in preventing citizens under the age of 18 from voting in federal elections, is in violation of sections 3 and 15 of the Charter of Rights and Freedoms and is therefore unconstitutional. It will be some time before these arguments will be determined by a court.

• (1620)

The arguments against lowering the legal voting age to 16 today echo the debates on lowering the voting age to 18 in the 1940s, 1950s and 1960s. Indeed, they are remarkably similar to the arguments were made against women's right to vote.

Today's common criticisms of youth echo those historical debates. Young people are collectively charged with being too uninformed, too unengaged and too immature. Today there is ample evidence to counter all of these stereotypical claims. Indeed, the evidence verifies that 16- and 17-year-old Canadians are more than sufficiently mature, informed and ready to exercise the right to vote in federal elections, commensurate with their 18-year-old peers and older adults.

Let's look at some of the concerns and stereotypical tropes raised thus far in the discussion of lowering the voting age to 16.

Maturity: Critics argue that 16-year-olds are not mature enough to vote. But let's look more closely at the concept of maturity, which is often equated to age.

In a research paper I received from Manitoba high school students Sarah Rohleder and her sister Meaghan, aged 15 and 16 respectively, they made the succinct observation that "Age doesn't make everyone wiser."

When we look outside the voting context, Canadian lawmakers have already decided that 16- and 17-year-olds are mature enough to engage in many activities that require maturity and responsible decision making.

Canadian society sees 16-year-olds as mature enough to enroll in the Armed Forces under the reserves. We entrust them to shoulder one of the greatest responsibilities one can have — serving your country and accepting unlimited liability imbued with the ultimate sacrifice for one's country.

We believe 16-year-olds are mature enough to drive a car, which is fundamentally a killing machine, on the same roads as everyone else. We trust them to get behind the wheel and engage in an activity that is statistically one of the most dangerous acts in everyday life.

We believe that 16-year-olds are mature enough to provide informed consent to having sex and enter into a contract of marriage with the consent of their parents. We defer to the maturity of young people to know their bodies and to have the capacity to speak autonomously for what they do and do not want in the pursuit of their health.

We believe that at age 16 you are old enough to earn an income and be taxed on that income. Governments take money from employed 16-year-old Canadians, create policy and legislation that affects them but without them. Youth as young as 12 years can be charged with criminal offences under the Criminal Code of Canada. At 14 years, they can be tried as adults and sentenced to incarceration. We hold youth accountable and responsible for their actions before the law, and mature enough to bear the consequences and penalties for their actions, yet incapable of casting a ballot — mature criminals but immature voters.

In summary, 16- and 17-year-olds are already considered mature enough to navigate the responsibilities of joining the military, providing sexual consent, driving a car, paying taxes, adult prosecution, getting married and becoming parents. Yet they do not have access to the most fundamental, democratic form of engagement: the right to vote. This contradictory and inconsistent view of youth voting maturity is at odds with the heavy responsibilities that our society has already placed on their shoulders.

Why are we keeping young people away from the heart of our democracy within which the right to vote resides? Instead, we need to harness them as partners in the revitalization of our democracy. This is an essential opportunity to demonstrate to young Canadians the respect they deserve because they have earned it. They are our partners in the stewardship of our country and the institutions that govern us.

Look around you. Although 30 years of age is the threshold to be considered for appointment to the Senate, no one within a decade of that age is a senator. For the first time in our history, Canada has become an old country, by which I mean that older generations outnumber the young. Statistics Canada indicates that this imbalance in the population will only grow and that in less than 10 years seniors could represent almost a quarter of the population.

Let's think about the fact that the federal debt surpasses $1.2 trillion. It is not our generation that will bear the full, long-term impact of the long recovery ahead.

Informed citizens: Some critics argue that a 16-year-old is not informed enough to cast a ballot. The 16- and 17-year-olds that I know, the 14-, 15-, 16- and 17-year-olds who sent me research papers arguing in favour of my bill, delivered papers that I happily would have given a high grade measured by my standards as a university professor. Based on the evidence, 16- and 17-year-olds are able to make an informed decision based on their values and vision of inclusivity and progress.

Colleagues, my dad first ran as a Conservative at the invitation of the late senator Dufferin Roblin, who was then premier of Manitoba. I knocked on dozens of doors, beginning at the age of 12, for several candidates over the years running for a number of political parties. For those among us who have this experience, we know there is many a voter much older than 16 who is neither mature nor well informed, but we would fight for them to retain their right to vote.

A voter may be unsure about their position on some issues, but that does not prevent them from being informed and effectively casting their ballot. An informed voter understands their own values and can translate those values into their vision for Canada by casting their vote.

You don't need to take my word for it. Take the evidence of the past decade from researchers who have established that 16- and 17-year-olds are equal to, in some cases superior to, 18-year-olds in the ability to vote responsibility.

I'm going to quote from the paper authored by Sarah and Meaghan Rohleder, both too young to vote, where they say that, in fact, federal elections in Austria, Malta and Guernsey — all countries that have already lowered the voting age to 16 — have seen high participation, at about 70%. Austria even tops the Eurobarometer for voter turnout for 15- to 30-year-olds with 79%, while the average voter turnout in Europe is 64%.

A Denmark study found that 18-year-olds are more likely to take their first vote than 19-year-olds. The more months that go by in those years saw a decline in first voter turnout. Lowering the voting age will allow people to vote before they leave high school and their home and establish lifelong voting habits.

Evidence from Austria, which lowered the voting age over 15 years ago, confirms that there is a higher first-time voter turnout that continues over time. It shows that they are ready to contribute sound decision making and quality participation in democracy. The feeling of voting, of stating your opinion, is a strong one. It is a simple act, but one that matters immensely.

In another research paper sent to me by three other Manitoba high school students several studies were cited, including a study published by the London School of Economics that a voter's first two election cycles are key in determining their future voting habits. It increases twofold for every election in which they vote.

In the words of high school students Avinash, Rooj and Shiven, "That is the recipe for a lifelong voter."

These student authors also noted that one kind of cognition is called cold cognition, and that is usually what we think about: attention, memory and everyday types of things. It's really non-emotional cognition. Then there is hot cognition, which is emotional and social cognition.

• (1630)

For decisions such as voting, our brains use cold cognition. While hot cognition continues developing until the mid-twenties, psychological research demonstrates that cold cognition is fully mature and developed by the age of 16. This bears restating. Viewed clinically via the lens of cognitive neuroscience, 16-year-olds are completely intellectually capable of making political decisions with the same mental efficacy as adults.

Colleagues, these are rational arguments and evidence that surpass the anecdotal dismissals of young voters that comprise the bulk of arguments we have been hearing from talk show pundits and other opponents.

A study from the American Academy of Political & Social Science verified the adequate level of political knowledge held by teenagers. Finding that on measures of civic knowledge, political skills, political efficacy and tolerance, 16-year-olds, on average, are obtaining scores similar to those considered adults.

Engaging youth and lowering the voting age are mutually reinforcing actions. In the past 20 years, significant studies attest to the corollary effect of education and formation on voting habits and electoral confidence. Lowering the voting age from 21 to 18, or 18 to 16, triggers a parallel increase in civic education and support for those potential new electors, something that Elections Canada has been doing for more than 100 years.

I would point out that every single research report on lowering the federal voting age, at any age, has been accompanied by the recommendation to increase education, political awareness and acuity, dialogue and therefore capacity.

Most young people are in high school at the age of 16, which provides a supportive framework to absorb the knowledge necessary to make an informed vote. At 16 and 17, Canadians are in a uniquely advantageous position to learn about the political process, the history of our democracy and the importance of voting. I would agree with those who argue that this should, in fact, begin much earlier. They are in an environment where they spend time exploring the complicated issues that face all of us today.

In the classroom, young people have a structured opportunity to discuss the different federal and provincial parties and their positions concerning environmental, economic and social issues of national and global importance. Elections would provide students an opportunity to practise forming and acting on their own opinion, and the school setting provides them the informational resources to make an informed decision when voting.

Effective representation: honourable senators, voting is a simple but powerful act. It is an act that recognizes the credibility of the person's voice in making a decision about their community and their nation. It allows citizens to participate in the decision-making process and hold accountable those in power. In fact, our young citizens bear the burden of the decisions we are making now. To some extent, it is their future earnings that we are spending now. Giving young people the right to vote will improve our political representation and help leaders make decisions that positively affect young individuals long after they are young.

Young people are not only affected by government policy on education, climate change and other issues. When a young person moves out of their home, they are impacted by housing policy. When a young person commutes, they are affected by transit and infrastructure planning. When a young person is concerned about how they are going to take care of their elders, they are affected by seniors policy. When young people enter the workforce, they are impacted by tax and economic policy. When young people need to buy groceries for themselves or their family, food prices affect them. When looking for medical attention, young people are affected by the funding levels of our health care systems. Many more young people wish to pursue post-secondary education than those who can. They are affected by education funding.

Young people face important and serious issues that intersect with the role of government. As of 2018, people under 18 are more than twice as likely to live in poverty as are seniors. Historically, youth unemployment has been higher than that of the general population. This pandemic has revealed the vulnerability and disproportionate burden young people are being forced to carry. During the first waves of the pandemic, youth unemployment ballooned to 29.4%. January 2022 statistics reveal youth unemployment is at 13.6%: more than double the national rate now.

With the rising impact and costs associated with climate change, young people will pay the most for our inaction on transitioning to a low-carbon economy and the development of infrastructure resilience. The consequences of government action affect this cohort of young citizens who are mature enough to form an informed opinion but are prevented from being able to exercise their democratic right to vote.

Strengthening our democracy: Lowering the voting age to 16 will strengthen our democracy by increasing the number of habitual voters. Studies have shown that voters who vote in their first election are more likely to continue voting in their lifetime. Failure to engage youth in the democratic process can have negative consequences in the long term for the health of our democracy. Voter turnout in federal elections has not once been over 70% within the past 70 years.

When looking at the demographic breakdown of voter turnout, it is easy to cast a disapproving eye on the 18- to 24-year-olds who are often listed as those least likely to vote. According to Elections Canada, Canadians between those ages have shown the least amount of interest in voting, and their 2019 turnout was 57.1%.

The responsibility for engaging young people is shared. There is a degree of responsibility on youth to get involved. After speaking from experience, young people are ready and willing to engage in meaningful conversations about serious issues. However, there is a reciprocal responsibility on us as a society to create opportunities for young people to participate in the democratic system and develop interest in their communities. We should consider too that part of the reason behind youth political disengagement is due to electoral exclusion to begin with. As the youth authors of the *National Youth Dialogue on Lowering the Voting Age* have concisely stated:

> It is incredibly frustrating to be affected acutely by government policies without any way of tangibly influencing policymaking decisions. . . . When you are treated as though your voice does not matter, that acts as an incredible barrier to political expression.

— and participation.

A study of the relationship between voting age and voter turnout in Denmark suggests that individuals are more likely to vote at 16 while their parents' influence is still stronger than that of their peers. Comparatively, individuals are less likely to vote at 18 when their peers' influence begins to outweigh that of their parents.

Another study found that the benefit of parenting a newly enfranchised voter is that the parent is more likely to vote in the same election, further increasing voter turnout. Most importantly, the older you become before you cast your first ballot decreases the likelihood you will ever vote for the first time. In a study of Austrian elections, 16- and 17-year-old voter turnout was almost 10% greater than those who were 18 to 20.

Colleagues, the take away is clear. Lowering the voting age will allow young Canadians to engage with the democratic process earlier, is habit forming and increases overall voter turnout in the long term. There is clear evidence of this in Austria, Scotland and Denmark — all countries where lowered voting ages resulted in increased voter turnout.

• (1640)

In 2007, when Austria lowered its voting age to 16, researchers found a first time voting boost in the 16- and 17-year-olds that was greater than those between the ages of 18 and 20. They also found that the turnout in the 16- and 17-year-olds was not substantially lower than the average turnout rate of the entire voting population. Academics in Austria also found that those under 18 were able and willing to participate in politics. Their values were as effectively translated into political decisions as those who were older. The study also found no evidence that a lack of voter turnout was driven by a lack of interest or a lack of ability to participate.

Young people are interested. Young people are willing to participate. Let us take a step to strengthen our democracy by increasing the public's participation in the electoral process. Let's bring more people to the table who can help make important decisions about policy and spending that affect them. Let's trust young people and help them develop into the leaders who will soon be at the forefront of the vast dynamic range of issues facing our society, if they are not already in the forefront now.

Last year, I collaborated with the Alberta-based Centre for Global Education and the Ontario-based Taking IT Global, which undertook an intensive cross-Canada consultation of high-skill students from coast to coast to coast on the topic of lowering the voting age. The final report was released in 2021 and presented to parliamentarians in a series of virtual seminars. Many of you attended, and I thank you for that. Among the report's findings:

> Young people want to vote. We want to be able to share our political beliefs in a way that makes a difference. We are living in this country, have voices, and want to make a change as much or even more than older individuals. The barriers we are facing today can be overcome to allow for more educated and involved youth. We are asking that you consider these barriers and help us to make the changes we feel strongly for. We are the next generation, and allowing us to vote will help to guide the changes occurring in the world towards our future.

To those who are concerned that an influx of young voters will disrupt the current political landscape, let's run the numbers. Lowering the voting age would be giving around 800,000 people the ability to vote. Canada's total eligible electorate was just over 27 million people in 2019. Adding the 800,000 16- and 17-year-olds to the electorate would represent a 2.9% increase to the total number of eligible voters. Honourable senators, this is a fraction of the total electorate and will not upset Canada's political competition.

To critics who argue that all youth will simply vote for one particular type of party, the research pushes back against this idea by recognizing it for what it really is: a form of gatekeeping and voter suppression, and of preventing an otherwise capable person from exercising their political preference out of fear that it may not align with our own. Maturity and social responsibility should play the defining role in deciding whether to allow someone to vote, not their personal political beliefs. Such a notion is antithetical to the understanding of democracy itself, where the unfettered voices of the people voting are the source of legitimate power.

However, if this ethical reasoning is insufficient to dissuade critics from making false assumptions as to youth voting biases, then I would like to share another fact. In the recent national student vote mock election, which paralleled the federal election of September 2021, organized by CIVIX in partnership with Elections Canada, in which more than 780,000 students cast a ballot, guess which party received a larger percentage of the popular vote than the governing Liberal Party? Senator Plett, this one is for you — it was the Conservatives.

While there have been previous private members' bills to lower the voting age to 16, they have all originated in the other place. Bill S-201 gives senators a unique opportunity to frame this debate in its initial stages, which at its core concerns the modernization and revitalization of our democracy.

I wish to remind honourable senators of the argument raised previously that presupposed that the Senate is not the proper forum for this type of bill, and that legislation affecting the Canada Elections Act should originate in the other place. I refute the false premise of that assertion, and I spoke to it in my rebuttal at the time. But it was used erroneously as a major objection to the passage of the bill previously, and I really want to restate my argument with three clear points today.

First, the Senate has every right to introduce, debate, advance and study any type of legislation. Indeed, the Constitution Act, 1982 grants as much legislative power to the Senate as to the House of Commons, with the exception that the House of Commons has the exclusive power to originate appropriation and tax bills. Numerous bills seeking to amend the Elections Act in various ways have originated in the Senate in recent years. All of these were debated openly and went on to pass or fail based on their relative merits as part of the recognized legislative process, either in this chamber or in the other place. In like manner, the members of the other place will eventually have the same opportunity to weigh the merits of this present bill as they see fit, should we send it to them. The same applies for the bill that is currently in the other place. We too will have the opportunity to fully examine that bill, should it reach us.

Second, I would posit that the Senate is actually an ideal place to consider the federal voting age in Canada. By its very design, the Senate is meant to engage in the legislative process in a fashion that is removed from the pressures of the electoral cycle and the partisan politics of the day.

As one of our esteemed colleagues, Senator Harder, argued in the *National journal of constitutional law*, and I quote:

> . . . Because senators were appointed for a long tenure, it was originally expected that they would not place the interests and fate of political parties at the heart of its deliberations. Rather, senators would take an independent and dispassionate approach to the task of legislative scrutiny and debate, and apply their thoughtful judgment unimpeded by electoral or partisan pressure.

Freed as we are from the pressures, constraints and imperatives of the election cycle, we senators may be able to apply a level of nuance and dispassionate distance to voting age reform that may not be possible for a body of elected members who must deal with the biases and pressures, both known and unknown, that attend their elected positions.

Third, the Senate serves an invaluable purpose as a body that can lead substantive, in-depth studies and move forward debates and policy considerations that may well inform future government legislation and public policy. We have seen many examples of this in the last three sessions of Parliament, while I have been a senator. The Senate is a complementing not competing actor in the legislative process, providing value to Canadians. Senate public bills significantly influence public policy by simply being proposed and debated.

Engaging youth; youths are often accused of being disengaged, apathetic, absent. Honourable senators, that's not what I see. That's not what I hear. Young people are already engaged in their communities. They get involved in their high schools through clubs and student councils. They are involved in sports teams and drama theatres that put on fundraisers for community initiatives. They volunteer for political campaigns, organize rallies and advocate for causes.

• (1650)

I have encountered a lot of opposition from people who don't think that young people are thoughtful or knowledgeable enough, but give them the space to talk and you will see an astonishing amount of depth and sophistication in what they have to say. It amazes me to see the way our young leaders are enacting new visions from the grassroots. If you take the time to listen to the young people in your regions, you, too, will be persuaded by their convictions and insight.

Lowering the voting age can expose interested young people to organizations or activities that can produce habits of civic engagement. Creating more opportunities for young people to be exposed to how they can contribute their time and effort to develop their communities is something worth fighting for.

I also want to add here that we need to understand that, in many ways, volunteerism is a luxury that many young people cannot afford. We have a very significant poverty level in this country under which many young people must live.

When I began working with my youth advisors on the idea of lowering the federal voting age, they made it clear to me that a national campaign, galvanized by youth leaders, needed to be created. But they also pointed out to me that there were many young people who would want to be able to participate but who would not be able to participate.

This holds true in terms of community engagement and engagement in other ways in our democracy. Relatively speaking, the right to vote does not take that much time. This is a way, with an equal distribution of the right, for a wide range of young people to be engaged in their communities and in our democracy.

From across Canada, my youth advisors have been diligently researching, consulting and proposing outreach strategies to ensure Canadian youth are involved at all stages of the process of this bill. The #Vote16 steering committee, composed of my youth advisors, has been invaluable for providing thorough feedback and youth perspectives at every stage of this process.

This has been a long time coming from my first year as a senator in 2017, with numerous youth circles across Manitoba and, eventually, other parts of the country. I'm committed to consulting young leaders as this bill makes its way through Parliament and to invite youth, youth-led movements and youth-focused organizations to reach out.

[*Translation*]

Bill S-201 will improve Canada's democratic representation by giving a political voice to people who are affected by government policy, but who have no significant means to influence it. Lowering the voting age will revitalize Canadian democracy by creating an environment where more young Canadians will vote for the first time and will thus be more likely to continue to vote for the rest of their lives, which will increase voter turnout in the long term. This will strengthen youth engagement. If we want young people to be full members of our society, we must make room for them at the table.

[*English*]

The Hon. the Speaker pro tempore: Senator McPhedran, I'm afraid your time has expired.

Senator McPhedran: I ask for some additional time, please.

The Hon. the Speaker pro tempore: Senator McPhedran is asking for five more minutes. Is there any objection? Go ahead, Senator McPhedran.

[*Translation*]

Senator McPhedran: It's an honour for me to carry the torch once again for a fair and inclusive democracy.

[*English*]

Honourable colleagues, our young leaders are mature enough, engaged and informed members of our society. The decision-making table will be a more effective place if they are with us there. They are our partners and crucial contributors in the growth and vitality of our institutions. Extending to them the right to vote is a smart, low-cost, high-yield investment in strengthening our democracy. Please, let's hear what they and international experts have to share with us at committee. Please join with me in inviting young Canadians to our table. Thank you, *meegwetch*.

Hon. Rosemary Moodie: Honourable senators, I rise today to lend my support to Bill S-201, which would lower the federal voting age in Canada from 18 to 16.

Colleagues, Bill S- 201 reflects a growing movement to include the voices of young people in our democracy, and I thank my colleague Senator McPhedran for her championship of this bill in the Senate.

In reflecting on Canada's democracy and institutions, a foundational point has been that every citizen should have a voice. As such, one of the more powerful mechanisms that we can use to exercise this voice is through our ability to vote.

In Canada, voting is considered a right, not a privilege to be earned — a right that is not dependent on gender, race, religion, ethnicity or socio-economic background.

While there are reasonable limits placed on electoral rights, the question we must examine here is this: How does age, as one of the limits that we place on the right to vote, affect our young people in Canada today?

Throughout my work as a youth supporter, taking care of children both before and after joining the Senate, I have found that young people are ready, willing and able to engage in decision making and policy determination.

As Senator McPhedran has mentioned in several of her speeches on this topic, including today, 16- and 17-years-olds already have the capacity to gain employment, pay taxes, drive, join the military, give sexual consent, marry and have children. If we are already trusting young people with these responsibilities and rights, I would also argue that they are ready and able to assume the right to vote and that they are ready to assume the right to influence policy and to participate in a parliamentary process that directly impacts their lives.

Importantly, this movement to give 16- and 17-year-olds the right to vote here in Canada is being led by young people across Canada, not by Senator McPhedran, me or by other colleagues here in the Senate; by other professional groups; or by youth advocates. It is being done by our youth themselves. Their voices are engaging in this discourse. They are clear; they are decisive.

Let me give you some examples. I will quote two young women who are litigants in the court challenge to the Ontario Superior Court of Justice case regarding the unconstitutionality of the voting age. First I will quote Amelia Penney-Crocker, a 16-year-old from Halifax who said:

> Youth are the future. But as it stands, we can't vote for who gets to shape that future – and particularly in this unprecedented climate crisis, lack of youth voting rights might mean that we don't have a future at all.

Similarly, Katie Yu from Iqaluit says:

> Our voices should not be ignored, as we know what actions are needed to address these issues and better the world for future generations, and we are already making change in many ways . . . .

Colleagues, our youth are eloquent, they are confident and they are firmly asking to be included in our democratic process. They are asking to be consulted, and they are taking the lead here. They want to be engaged on the subject of voting, and it is our responsibility as parliamentarians, I would propose, and as policy makers that we elevate their voices in this discourse.

Let us consider in more detail the constitutionality of the current voting age from the perspective of youth themselves, which is the basis of the Ontario Superior Court of Justice court challenge. This court challenge, led by a group of 12- to 18-year-olds, proposes that two sections of the Canadian Charter of Rights and Freedoms, sections 3 and 15, are violated by the current voting age of 18 set out by the Canada Elections Act.

• (1700)

Section 3 of the Charter guarantees that all Canadian citizens have the right to vote in an election. It does not qualify age.

Section 15 highlights that all individuals are equal before and under the law, and guarantees every individual the right to equal protection and benefit of the law without discrimination based on race, national or ethnic origin, religion, gender, mental or physical disability or age.

Honourable senators, this is an important argument because it highlights the fact that the current voting age restriction is a direct result of the Canada Elections Act, and that this limitation has been subject to change in the past over the years — change that is based mostly on the progressive societal shifts in values that we have seen.

In truth, progressive enfranchisement — or the broadening of voting entitlement — has been a distinct part of the growth of our democracy as we have continually expanded our definition of the rights of the citizen. While we have reflected on those, we have also reflected upon who should remain excluded from this form of civic, political and social participation and, in this reflection, we continue to fail our youth.

I would argue that, as equal citizens of Canada, all youth deserve the right to vote, thereby including them in our move towards a democracy that is more inclusive, equitable and just.

Honourable senators, our youth, our young people under the age of 18, currently participate in other forms of political engagement in our democratic institutions and in our systems. For example, the Liberal Party of Canada, the Conservative Party of Canada, the Green Party of Canada and the New Democratic Party all allow entry of members as young as 14.

Our government has increasingly recognized the importance of elevating youth voices and consulting with young people on policy and programs. Even the Court Challenges Program — reinstated in 2017 and supports individuals and groups to bring cases that challenge perceived constitutional human rights violations before the courts — is accessible to Canadians, regardless of age.

Additionally, our government is actively consulting with youth, individually, in groups and in organizations to inform Canadian policy and decision making.

In February 2018, this government launched a national dialogue with youth to shape Canada's Youth Policy — a mandate of the Minister for Women and Gender Equality and Youth — yet another example of our growing recognition of young people as equal partners and leaders for tomorrow.

Now, more than ever, as we navigate a global pandemic — precarious financial and socio-political situations, and a recovery that will stretch likely years into the future — the right to participate in our democratic process is even more critical.

Young people have been handling this pandemic alongside us. They face the same challenges, including income insecurity, changing school conditions and precarious work. Young people have risen to the occasion on multiple fronts, working front-line jobs, keeping service industry businesses staffed, actively engaging and advancing our democracy.

We need to consider how we repay our youth for their commitment to family, country and Canada's democracy. How are we engaging them to become the leaders of tomorrow?

The best way to do this, colleagues, is by respecting their rights to participate fully in our democracy and to encourage their active contribution to our parliamentary process, to the creation of our laws, policies and systems that will affect them and their future.

Lowering the voting age is one of many steps forward that we need to take to support our young people. As we have heard, it will empower 800,000 — yes, 2.9% — 16- to 19-year-olds. This may not be a significant number overall, but it is a significant number of youth who are affected.

As senators, we need to elevate the voices and needs of our Canadian youth because, in our democracy, they are equal partners. They are willing. They are engaged. They are ready to vote.

Thank you, *meegwetch*.

Hon. Ratna Omidvar: Honourable senators, I, too, rise to speak to you on Bill S-201, an Act to amend the Canada Elections Act for the purposes of lowering the voting age from 18 years to 16. I want to commend Senator McPhedran for her persistency on behalf of young people so that they can have a say in our democracy and welcome our efforts in bringing this amendment for the third time to the chamber.

The history of who gets to vote in Canada has never been set in stone. In 1885, only male, property-owning, British subjects aged 21 and older were eligible to vote. Today, all Canadian citizens aged 18 or older, regardless of gender, income or ethnic origin have the right to vote. Evolution has been at the heart of electoral law.

However, every time voter eligibility has evolved, objections have been raised. For example, before some women were enfranchised in 1918, Senator Hewitt Bostock argued that:

> . . . women will be put in the position of receiving something that they do not appreciate, and consequently very probably they will not exercise their right to vote.

I'm sure many women cringe when they read and hear this point of view. I have heard many similar arguments against lowering the voting age to 16.

Instead of telling you the virtues associated with this idea, let me deal with the objections to it.

The first objection is that young people are too young to deal with complex matters such as voting. Plus, they are so young that we cannot reasonably expect them to make informed choices. In addition, their brains are not sufficiently developed at 16 to enable them to make logical choices. And, finally, what would be the point in any case, since young people would only vote the way their parents tell them to?

In other words, they are too young, too immature, too impressionable, too inexperienced to be granted the most valuable right of citizens: the ability to cast a vote.

Instead of giving you just my opinion, let me share the evidence from jurisdictions that have lowered the voting age.

In 2007, Austria enfranchised those aged 16 and older. There is a 13-year body of evidence to draw from. What the data tells us is that the turnout among 16- and 17-year-old Austrian voters has not been substantially lower than the overall turnout rate. Evidently, young people will vote if they are given the opportunity.

Let's deal with the objection related to immaturity.

Young people cannot be entrusted with the vote because they will make uninformed choices. If given the vote, they may cast their vote for the sake of voting without understanding the implications of the choices they are making. They don't have enough political knowledge and are not able to tune in to the political discourse of the day. Honourable senators, frankly, if this holds true for young people, I would submit it holds true for many adults as well.

Once again, I looked to countries that have enfranchised youth to determine if this argument holds water. A study conducted in Austria before the 2009 European Parliament election showed that young people voted based on their political preferences just as much as older voters. They were not ignorant of the context — quite the opposite. They had distinct political preferences which they exercised through their vote.

Then there's the argument that adolescent brains cannot manage the logical processes required for voting, even though they can drive cars. They can join the reserves. They can work. They can pay taxes. But apparently they cannot manage the logical processes required for voting.

According to neuroscientists, in scenarios where tasks are mainly cognitive, adolescents show competence levels comparable to those of adults. This means that when the level of stress is low and there is time to evaluate different choices, young people can make thoughtful decisions. Because voting is an activity that teenagers — and in fact all of us — can think about ahead of time, they are able to make just as reasonable decisions as adult voters.

• (1710)

Finally, regarding parental influence, people ask, "What's the point of allowing young people to vote, since they will surely vote the way their parents tell them to?" I don't know about your children, colleagues, but in my family the opposite is almost always true. Kids have perspectives, they have priorities, they have opinions, and they don't hesitate to tell us — especially us parents — what is wrong with our world. Plus, the influence does not go one way. Young people can and do affect their parents' civic engagement and attitudes as well. My children have been instrumental in influencing me about global warming and climate change.

Additionally, there are other reasons to look seriously at this proposal. It will have a positive impact on electoral participation in the long run. This is because young people under 18 are most likely to still be in school and to live with their families — two factors that have been shown to encourage voter turnout. In the long term, this higher level of participation at a young age, may then facilitate the development of a lifelong habit of voting. As Rick Mercer, he of the famous rants, has said, "Voting is learned behaviour and it is addictive." I am a big proponent of lowering the voting age to 16 because we know if people start voting, they will continue to vote their entire life.

It is also important to consider the impact allowing younger people to vote can have on their families, for those young people whose families are not politically engaged. Learning how to vote at school or in their community may help them to empower their family members to vote with them. Youth can be and are incredible behavioural change agents.

We make decisions in this chamber that have significant impacts on the lives of young people — decisions about cannabis, the labelling of food, assisted death, slave labour in our supply chains and, of course, climate change. A common complaint I hear from young people is that the older political elites control their future. Giving them the right to vote at this age will ensure that we hear their views and take them seriously.

Even though I have frequently referred to Austria as one of the jurisdictions that has enfranchised young people, I would also add that the voting age is 16 in Scotland, Brazil, Argentina, Cuba, Ecuador, Nicaragua, Malta, Jersey, Guernsey, Wales and the Isle of Man. There are also several countries where 16-year-olds can vote in certain regional or municipal elections, including Germany, Switzerland, Estonia and the United States. The idea of allowing young people to vote should not seem so unrealistic, considering it is already taking place in many parts of the world.

Young people are campaigning for the right to vote in not only federal elections in Canada but also provincial and municipal elections. The Vote16BC campaign has received broad support, gaining endorsement from the City of Vancouver, the Union of B.C. Municipalities, and the B.C. Teachers' Federation, among many others. The Samara Centre for Democracy finds that beyond voting, young people are the most active participants in Canada's civic and political life. They talk about politics more than anyone, are present in the formal political sphere, respond through activism and are leading their communities through civic engagement. Whatever happens at the ballot box, political leaders overlook the passion and engagement of young people at their own peril. It therefore makes sense to leverage this enthusiasm for politics into the ballot box.

I don't want to make the argument for lowering the voting age without linking it with civic education. I don't believe you can do one without doing the other. For example, in Austria, the lowering of the voting age was accompanied by awareness-raising campaigns and enhancing the status of civic and citizenship education in schools. In terms of citizenship education, all provinces and territories include this subject area in their curriculums. Some provinces, including Ontario, British Columbia, and Quebec, have even created separate civics or citizenship courses. The foundation for leveraging civic education in our system already exists.

Perhaps the best way to conclude my speech is to look to the future. It is young people who will inherit the future, uncertain as it is. It is young people who will live with the results of our choices today. It is young people who will need to fix the mistakes older generations have made. Lord knows, we have made many, and we will likely make many more. It only makes sense to let them into the ballot box, because the future is rightly theirs, not ours. Colleagues, let's send this bill to committee for thorough study as soon as we are able to. Thank you.

(On motion of Senator Galvez, debate adjourned.)

[*Translation*]

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Pierre-Hugues Boisvenu moved second reading of Bill S-205, An Act to amend the Criminal Code and to make consequential amendments to another Act (interim release and domestic violence recognizance orders).

He said: Honourable senators, I rise today to speak to second reading of Bill S-205, An Act to amend the Criminal Code and to make consequential amendments to another Act (interim release and domestic violence recognizance orders).

In 2020, 160 women were murdered in Canada, 60% of whom were killed by an intimate partner. In 2021, 26 women were murdered in Quebec, and two thirds of those cases were connected to domestic violence. That is the highest number recorded in Quebec since 2008. The 2021 statistics on spousal homicides in Canada will be available next month, but I can already assure you that based on what we have seen in Quebec, those numbers will top the 2020 numbers.

Honourable senators, I stand before you today with an open heart and a lot of hope as I present, for the second time, a bill that is very close to my heart. I have put all of my energy and strength into this bill over the past three years.

As you know, since my daughter Julie was killed, I have been deeply committed to fighting violence against women. Over the past three years, I have travelled the country and met with hundreds of women. With pain and dignity, they openly shared with me their stories and experiences with the violence they had to endure, often for years.

Their testimony was very emotional, sometimes hard to listen to and often sickening. These women survived attempted murder, aggravated assault, sexual assault and psychological violence. These things happened repeatedly over the course of their ordeal.

These women experienced some very scary moments. Most of them still bear the scars of that violence. Since 1970, we have seen a steady decline in homicide in Canada. However, what makes femicide different from homicide is that the majority of the women were murdered in a family violence situation, after reporting their abuser to the police. More often than not, these murders were foreseeable.

During my consultations, most victims made it clear that the justice system was not there for them when they decided to report their abuser. They took refuge in women's shelters and ended up in precarious situations where getting back to life in society is often very complicated. Left on their own, they have no confidence in our obsolete and ineffective justice system. They are not guaranteed any protection when they step outside their prison of silence. Some of them paid with their lives.

Diane Tremblay, a tremendously courageous victim of domestic violence, appeared before the Standing Committee on Legal and Constitutional Affairs. Her testimony was deeply moving. I will read an excerpt where she describes the ordeal she suffered for years. She said, and I quote:

• (1720)

> My abuser would put the dresser in front of my bedroom door to keep me from leaving so that he could force me to have sex while I screamed and cried. Sometimes, my children could hear me. . . .
>
> I told them that I was upset and that it wasn't serious. My abuser even put a lock on the door to keep the children out. He was showing them that he had control over their mother. Julien rebelled a great deal, and rightly so. However, I told him to go away and that I had everything under control. . . .
>
> My abuser threatened to kill us every day, so I kept quiet to protect my children.

This is just one example of the violence Ms. Tremblay experienced for four long years from 2003 to 2007, during which time her abuser sexually assaulted and tried to kill her numerous times, in front of her two children.

What stood out to me the most about her story is that, during those four years, Ms. Tremblay sought help from the justice system several times, but she did not receive any protection from her dangerous abuser. I have heard hundreds of stories like this one over the past three years.

When I had the idea of introducing a bill to combat domestic violence, I gave myself the objective of basing this bill on the testimony of victims. As I have said many times, they were the ones holding my pencil. As the father of a young woman who was murdered, I believe that victims are in the best position to educate the legislator on what needs to be done to effectively amend the existing legislation so that it meets their needs.

I'd like to quote some of what Elizabeth Sheehy, a distinguished professor of law at the University of Ottawa, told the committee during its study of Bill C-75. She said, and I quote:

> We see very few convictions for VAW in the criminal courts, for the reasons we are familiar with: women do not report for many good reasons; women's reports are not properly investigated or pursued; women withdraw from prosecution; men's excuses and defences prevail.

The testimony of these women certainly shows how ineffective the justice system is, but so do the statistics on family violence.

In its 2019 report, Statistics Canada painted a rather worrisome picture of the evolution of domestic violence in Canada. Intimate partner violence represents 30% of crimes committed in Canada and has gone up 6% in the past year. Of the victims of intimate partner violence, 80% said the violence they experienced was not reported to police; 16% of sexual assaults are committed by an intimate partner; 57% of cases in adult criminal court involve crimes against an intimate partner.

In 60% of intimate partner homicides, there was a history of intimate partner violence. In 50% of these spousal homicides, the perpetrators were repeat offenders already convicted by the justice system for similar crimes.

Most of the women killed in Quebec since the start of the pandemic had reported incidents to police.

Given the statistics I've just shared, the Senate of Canada must understand that family violence is a national priority and that we can only address it by thinking about how to reform our justice system to make it tougher on these criminals who destroy the lives of their partners and children.

To achieve this, the responsibility falls to us, the legislators, to reform this system because Canadians, especially Canadian women, have given us senators the power to change the laws in their name, in their interest, when necessary. It is up to us to

respect this privilege and to use it to respond to the calls from the thousands of women who desperately hope to see this change and whom we do not have the right to ignore. It is now up to us to act through this bill, which was written by women, for women.

Let me be clear. This bill is not about incarcerating more criminals, but rather about monitoring them when the justice system decides to release them.

On this matter, I'd like to quote the opinion of Justice Locke of the Supreme Court of Canada in *Goodyear Tire & Rubber Co. of Canada*, which was upheld in 2019 by Justice Rowe on behalf of the Supreme Court in *R. v. Penunsi*:

> The power to legislate in relation to criminal law is not restricted, in my opinion, to defining offences and providing penalties for their commission. The power of Parliament extends to legislation designed for the prevention of crime as well as to punishing crime.

My bill amends two sections of the Criminal Code that correspond to the beginning of the legal process, after a victim files a complaint with police, makes a submission in court or is preparing for a trial.

If we look at the spousal homicides committed in Quebec in 2021, we see that most of the time, these women notified the authorities and were killed for making that brave and even audacious choice.

When victims decide to seek justice, they are automatically in danger and become vulnerable to their spouses.

If that spouse is not incarcerated and is on interim release, there is a significantly higher likelihood of the violence escalating and resulting in death.

Furthermore, even if the accused agrees to sign an order to keep the peace, known as an 810, there is no way to guarantee the victim's safety. As I have often heard from these women, these victims, an order is just a piece of paper. We know this because accused individuals so often violate these conditions with impunity.

I would like to share some of the testimony of the father of Daphné Huard-Boudreault, who was killed by her boyfriend:

> On that tragic day, numerous warning signs should have alerted the authorities. Despite several police officers responding to Daphné's call for help, despite the fact that the man who would go on to murder my daughter had committed numerous offences, that man left by taxi without even being questioned . . . .
>
> Daphné was worried, so she went to the police station after her shift to explain the situation and get help or at least advice. Everyone knows how the story ends. Daphné was murdered.

The purpose of my bill is to be proactive, to save as many lives as possible, because, in the end, a person's conditions of release are not subject to any monitoring mechanism. That's why it's necessary to implement a surveillance mechanism that's fit for 2022, to provide a credible response.

In drafting this legislation, I reached out to Canadian provinces, in particular those with very high rates of violence. I worked with most of the justice ministers and public safety ministers in those provinces in order to tailor my bill to their realities. I can now count on the support of Quebec, Alberta, Saskatchewan, Manitoba, Ontario and New Brunswick.

These provinces support this bill because the approach I'm advocating provides them with effective tools to address this scourge.

On the issue of technical monitoring, I looked to countries like Spain and France, which have introduced electronic monitoring devices.

I commend the bill brought forward by the Province of Quebec, which requires offenders who have been found guilty of domestic violence and released from a provincial prison to wear an electronic monitoring bracelet.

In December 2022, 650 offenders released in Quebec will wear an electronic bracelet.

The federal government must now take responsibility and pass this bill in order to complement the provincial legislation. Quebec, for example, will require an electronic bracelet solely for those released from a provincial prison, so those awaiting trial who are released from a federal prison will not fall under Quebec's bill.

• (1730)

In my bill, I want to add the option for judges to require offenders to wear an electronic monitoring device at every stage.

Initially, when the police arrest a person suspected of committing an offence related to domestic violence, in most cases, they would have the option of releasing the accused pending his appearance before a judge. At this stage, the police have the option of issuing a promise to appear with certain conditions that the accused has to abide by. With the amendment of subsection 501(3) of the Criminal Code, the police will be able to include the wearing of an electronic monitoring device in these conditions, if they consider it necessary to protect the victim's life.

Furthermore, the bill would add the wearing of an electronic monitoring device to the conditions for making an interim release order pending trial, which corresponds to section 515 of the Criminal Code. When an accused makes their first appearance in court, the judge determines whether the case will go to trial. If the answer is yes and the judge decides to make an interim release order, this bill would allow the judge to require the accused to wear an electronic monitoring device, if the judge determines that the victim's safety and life are at risk.

Lastly, I want to add the condition of wearing an electronic monitoring device to the new section 810 peace bond that I am proposing and that I will describe later in my speech.

Electronic monitoring helps establish a safety perimeter between two intimate partners. In the event that the offender breaks the safety perimeter, the victim and the authorities are immediately alerted. This gives the victim a chance to get her children to safety and allows authorities to intervene quickly to prevent a tragedy. This information can also be invaluable for the police, in order to prove that the perpetrator did not respect the conditions of his order. Otherwise, it always comes down to the abuser's word against the victim's.

Spain, for example, adopted a policy to fight domestic violence in 1997 after a woman was burned alive by her partner. After various bills were introduced, Spain decided to bring in electronic monitoring bracelets in 2009.

I relied on the author Lorea Arenas Garcia, a well-known academic in Spain who has done extensive work on electronic monitoring. Her work showed us that Spain has an effective national strategy for combatting domestic violence. The Spanish legislation, the comprehensive law against gender-based violence, created specialized domestic violence courts with specially trained judges. Quebec's Bill 24 created a similar kind of court specializing in domestic violence. I would like to quote some of Ms. Garcia's comments:

> There is a widespread perception among police officers and legal experts and within departments that this measure may be an effective tool for combatting violence against women. Public debate on electronic monitoring has focused on its ability to prevent deaths. Practitioners find this tool to be 100% effective, and feminist organizations and some media are calling for even broader use of electronic monitoring tools.

Over a three-year period, Spain fitted almost 800 women and 800 men with electronic bracelets, and then supplied 800 warning devices for the women. There were three deaths, two of which were homicides, out of 800 women. The bracelets have already proven to be effective.

France's National Assembly has passed an act that is similar to the one Spain passed in late 2019 introducing the electronic bracelets. It was proposed by member Aurélien Pradié. Here is an emotional passage from the speech he gave to the French National Assembly:

> No politician, government official or legislator can make excuses and claim they are unaware. None of us can say that we need more time to think about solutions. The time has come for strong action. Not tomorrow, not the day after tomorrow, but today. This bill, which we have the honour of presenting to the National Assembly, certainly does not solve everything, but it can respond to the vital urgency, to the appeals of these women, of their loved ones, of associations on the ground, of experts who for months have been calling for and demanding new measures to protect women and keep them safe from being murdered by an intimate partner. Today we must answer those calls. Everyone here has a collective responsibility.

We also have a collective responsibility to take a stand on violence, which affects too many women in Canada.

The amendment to section 515 of the Criminal Code set out in this bill would change the law in several different ways.

First, it would ensure that victims are consulted and can express their needs and concerns about their safety and the conditions to be placed on the offender when he is released.

When a judge makes a decision about the conditions to be imposed on someone accused of an offence where violence was used, threatened or attempted against their intimate partner, they must consider the victim's opinion. The goal is to put the victim back at the centre of the judicial process in intimate partner violence cases, in accordance with the right to participate enshrined in the Canadian Victims Bill of Rights.

I would like to remind senators that it is often already very difficult for victims to take legal action. That's why guaranteeing their safety and listening to what they need when they decide to take that step is crucial.

This amendment is consistent with the directives for Crown prosecutors set out in the Public Prosecution Service of Canada Deskbook. Here is an excerpt:

> Crown counsel should be aware of the interest of victims and witnesses in the release of the accused on bail, particularly in situations where the conduct reflected in the charges may imply a potential threat to the victim or witness.

The second condition I wish to add will give the judge the option of ordering province-approved addiction treatment or treatment for family violence under the court's supervision. Each case is different, and we must give judges the necessary discretion to decide whether the accused needs treatment for a violence problem for the sole purpose of ensuring the safety of the victim and breaking the vicious circle of domestic violence.

The other proposal in the bill has to do with providing a copy of the order. The judge must first verify that the intimate partner of the accused has been informed of their right to request a copy of the interim release order provided for under subsection 515(14) of the Criminal Code.

This amendment would uphold the principles of the Canadian Victims Bill of Rights, namely, the right to be informed of the accused's conditions of release. The act already stipulates that the victim may be provided this information upon request.

However, based on the testimony I heard, I think the nuance here is that victims are often not made aware of their rights and, as a result, they are left to their own devices in a process that is difficult to understand. This point would address one of the recommendations made by the Office of the Federal Ombudsman for Victims of Crime.

The last element of my bill concerns peace bonds under section 810 of the Criminal Code, "sureties to keep the peace." A judge can order the accused to sign a peace bond, and the individual must agree to comply with the conditions set out in this bond.

In Canada, section 810 of the Criminal Code is a general instrument of preventive justice that dates back to 1918. It creates a source of criminal liability. Breaching any of the conditions imposed in the peace bond can result in the defendant being charged under section 811 of the Criminal Code and, if convicted, being sentenced to a maximum of four years in prison.

In 2020, the Regroupement des maisons pour femmes victimes de violence conjugale and researchers at the Université du Québec à Montréal presented a report on section 810 of the Criminal Code.

The report stated that section 810 of the Criminal Code is being used more and more in the context of domestic violence. The report made the troubling observation that using the 810 recognizance order would be a good compromise for settling cases of domestic violence by avoiding legal proceedings and, therefore, a trial. Section 810 is being used more and more, and trials are becoming shorter and shorter.

• (1740)

The section 810 peace bond is an order that can be used for general matters that do not at all reflect domestic violence. It is, by definition, not designed for a domestic violence situation involving a specific context where criminal acts are perpetrated. Consequently, misuse of this peace bond is dangerous to the safety of victims, as highlighted by this passage of the report:

> Regarding the usefulness of the conditions imposed by means of a section 810 order or in the context of a release pending trial, many women noted that they are useful only if non-compliance with the conditions is detected, taken seriously and punished. Otherwise, they are only symbolic, serving as a smokescreen that contributes to a false sense of security and cynicism with respect to the justice system.

I would like to continue by providing a very concrete example that took place two years ago. In December 2019, in Montreal, Ms. Khellaf, a 42-year-old mother, and her two children were murdered by the father, Nabil Yssaad. He will never be brought to justice because he took his own life.

Ms. Khellaf had been a long-time victim of domestic violence. She had finally sought justice. The year before, the murderer had been charged with assault and assault with a weapon against the victim. A few days before the tragedy, Mr. Yssaad signed a section 810 peace bond, but the conditions imposed on him were not sufficient to deter him from committing a triple homicide. This is a sad story that unfortunately happens far too often.

Manon Monastesse, the director of the Fédération des maisons d'hébergement pour femmes de la région de Québec, said that peace bonds often give victims a false sense of security. To rectify this problem with our justice system, I am proposing the creation of a new order specifically for family violence, which I think will enable judges to issue orders that are tailored specifically to the safety issues that victims face.

I'd like to add that I am not inventing anything new here. There are already other 810 orders in the Criminal Code for specific cases. There is an order associated with section 810.2 of the Criminal Code, "Where fear of serious personal injury offence," that is commonly used and is similar to the one I am proposing, and there is also an order under section 810.011 regarding terrorism.

The first change with respect to the general order has to do with the duration of recognizance orders. Under the Criminal Code, an accused can be under an order for one year. We will extend that to two years to prevent victims from having to apply for the order to be renewed the following year.

The second change applies to reoffenders. If a person was found guilty of a similar offence in the past, the order will last three years instead of the two provided for in the Criminal Code.

If an accused refuses to comply with the conditions of the order, he may be sentenced to two years in prison instead of the one year currently provided for in the Criminal Code.

We will also include the condition that the judge may impose the same measures as those we added to section 515, namely the electronic bracelet and court-supervised addiction treatment or family violence counselling programs.

Our last measure has to do with changes to the recognizance order conditions. We will include a section that will ensure the victim can be consulted in the event that any change is made to the recognizance order, at the request of the attorney general or the offender, that would affect the victim's safety and security. Until now, victims have not been consulted when the offender requested changes to his conditions. Several victims have seen their abuser reappear because he requested a change to his conditions that was approved by the court, unbeknownst to the victim.

Honourable senators, I think it is vital that this bill pass through the various stages of the parliamentary process to become a law that will guarantee that the voices of victims of family violence are clearly heard and that these individuals are better protected. The statistics show that there is an important and urgent need to reform our system. Let's not allow this situation to continue when we have the tools at our disposal to change things and all we have to do is use them. The legislation needs to be adapted to the realities. That is an objective that this new bill tries to meet. I therefore appeal to each senator's sense of responsibility.

Finally, I would like to quote Justice Laskin of the Ontario Superior Court in his ruling in *Budreo*. He said, and I quote:

> The criminal justice system has two broad objectives: punish wrongdoers and prevent future harm. A law aimed at the prevention of crime is just as valid an exercise of the federal criminal law power under s. 91(27) of the Constitution Act, 1867, as a law aimed at punishing crime.

Honourable senators, I will end my speech at second reading with this comment. In domestic violence trials, judges are basically facing potential murderers. In most cases, they decide to let these abusers go free.

The fundamental question that we must ask ourselves is this: What is the justice system's responsibility? If we look at what's been done in many other countries, I think this bill answers that question. Now, the responsibility is on you, and I urge you to quickly send this bill to the Standing Senate Committee on Legal and Constitutional Affairs for study in order to save lives.

Thank you very much.

Hon. Senators: Hear, hear!

(On motion of Senator Pate, debate adjourned.)

POST-SECONDARY INSTITUTIONS BANKRUPTCY PROTECTION BILL

SECOND READING—DEBATE

Hon. Lucie Moncion moved second reading of Bill S-215, An Act respecting measures in relation to the financial stability of post-secondary institutions.

She said: Honourable senators, I rise at second reading as the sponsor of Bill S-215, the Post-Secondary Institutions Bankruptcy Protection Act.

The post-secondary sector is an industry that generates $55 billion a year and represents roughly 2.4% of the national economy. The contribution of the post-secondary sector to Canada's economy is considerable, and for francophone minority communities, it is colossal. Post-secondary institutions play an indispensable role in the economic, social and cultural development of communities. We must act now to save communities from the same fate as northern Ontario, with the restructuring of Laurentian University under the Companies' Creditors Arrangement Act. The case of Laurentian University is a first. It sets a dangerous precedent, but above all, it is a call to action.

Well before the health crisis, many post-secondary institutions were in a precarious financial situation. We know that some of them have been suffering from chronic structural and operational underfunding for years. To cope with this situation, these institutions turn to volatile sources of funding and are often forced to make budget cuts that affect the programs they offer and jobs.

[*English*]

I am particularly concerned about the institutions serving francophone minority communities, which have the additional responsibility of fostering the vitality of the French language and francophone cultures across Canada. I'm thinking in particular of Laurentian University, Université de Moncton, the University of Alberta's Campus Saint-Jean, Université de Saint-Boniface, Université de l'Ontario français, University of Sudbury, Université de Hearst and so forth.

• (1750)

The cuts at Laurentian University are compromising access to post-secondary education in French in northern Ontario. French programs that have been cut include engineering, political science, law, education, history, philosophy, literature, drama and midwifery.

Despite the emergence of institutions by and for francophones such as the University of Sudbury, which has clear unified community support, governments have been slow to act. For example, the Government of Ontario took over one year to intervene in the case of Laurentian University and only intervened because it was compelled to. Laurentian University was losing its operational funding, which would have accelerated the actual bankruptcy. This waiting game lasted a year with the Government of Ontario. In the meantime, the francophone community's next generation is being undermined with devastating consequences to ensure that minority language communities have ownership and control over the institutions that support a strong and prosperous francophonie.

[*Translation*]

In an interview with ONFR+, Carol Jolin, president of the Assemblée de la francophonie de l'Ontario, reacted to the significant drop in applications to Laurentian University from francophones by saying, and I quote, "The message is clear: Our Franco-Ontarian youth have lost faith in Laurentian University."

People no longer say "francophones at Université Laurentienne;" they just say "Laurentian University." He also said, and I quote, "The exodus of northern youth to other parts of the province and the country has begun."

I recently spoke to the president and vice-chancellor of the Université de Moncton, Denis Prud'homme. He explained that his institution runs a structural and operational deficit every year. Because of inflation, the Université de Moncton has to pay an extra $2 million to $3 million per year, which is not covered by the provincial funding framework. The deficit is already starting to affect programs, human resources, infrastructure and student services, including mental health. The Université de Moncton needs a solid funding base because project-based funding may be good for governments, but it's not sustainable for small institutions. Competitions for federal subsidies have criteria that favour big universities because they have the capacity and resources to do large-scale projects.

For an institution that has few resources to begin with, project-based funding requires additional effort to prepare and manage the project. Plus, it's all temporary. He confided in me, saying:

> It's exhausting, destabilizing and unpredictable. We need core funding with cost-of-living indexing.

[*English*]

Looking at Laurentian's situation, President Prud'homme told me that the only thing keeping the University of Moncton from a similar fate is the fact that every year, they take the difficult decisions to make cuts.

Out West, the situation at the University of Alberta's Campus Saint-Jean is unsustainable. There, the money that the university gets in tuition is not based on actual enrolment numbers but instead on a quota. As a result, Campus Saint-Jean does not receive funding for at least one third of its enrolment. On top of the chronic operational and structural underfunding that has been going on for several years, the Alberta government announced budget cuts in 2019 and prohibits post-secondary institutions from using the reserve funds. For the University of Alberta, this is a cut of 34%.

For at least the past two years, the university has been going through a restructuring process and making several budget cuts that threaten Campus Saint-Jean's very survival.

[*Translation*]

I recently spoke with the dean of Campus Saint-Jean, Pierre-Yves Mocquais. He explained, and I quote:

> There is a real trend towards centralizing the university, and this is constantly encroaching on the campus' autonomy through a gradual erosion of its capacity to function as a francophone institution.

Campus Saint-Jean is treated as though it's just another department, which is completely unrealistic considering its francophone mandate.

This crisis, which continues to this day, has led to civic action. The community is mobilizing to put pressure on governments through the "Save Saint-Jean" campaign. The budget cuts required to maintain the financial viability of the institution threaten the existence of entire programs and may force students to complete their degrees in English. The university has already laid off more than 1,000 people, and the layoffs continue.

In what the president of the Association canadienne-française de l'Alberta, or ACFA, described as a David-versus-Goliath battle, ACFA is advocating on behalf of the community to save Campus Saint-Jean by suing the Government of Alberta and the University of Alberta. To illustrate how lopsided this battle is, ACFA requested between $1 million and $1.3 million for the 2020 school year, while the Alberta government spent $1.5 million on legal fees to avoid providing this funding.

Several sectors have been affected by the pandemic, but it is too early to determine its actual impact on the financial viability of the post-secondary education sector in Canada. However, we have noted certain effects, particularly on the share of revenue generated by foreign students' tuition fees, which dropped considerably because of the pandemic.

Bill S-215 seeks to prevent post-secondary institutions from becoming financially unstable and to improve the position of those on the brink in order to ensure the vitality and development of communities across the country.

[*English*]

In my speech today, I will first provide a general overview of post-secondary funding in Canada. I will then explain how funding issues are compounded when it comes to institutions providing French language minority education. I will bring attention to the problems with the legal status quo, including the ability of universities and colleges to make use of bankruptcy and insolvency law. This will provide context for my legislative proposal, Bill S-215, which calls for concrete and effective government action to address this crisis and prevent the use of inappropriate legal tools as part of the restructuring process. I will conclude by presenting some of the solutions proposed by stakeholders.

Funding the post-secondary sector. What does the sector's funding look like and why is it cause for concern? The *State of Postsecondary Education in Canada, 2021* report by Higher Education Strategy Associates reveals various trends seen in the sector over the past 20 years. Post-secondary funding comes from three main sources: government grants, tuition fees and private sources. Prior to the 2008-09 fiscal crisis, the three main sources of funding for post-secondary education grew by 5% per year on average. After the crisis, tuition fees, particularly those by international students, have played a significantly more important role. Tuition fees went from accounting for 19% of funding in 2000-01 to 29% in 2018-19.

What about government funding? Over the past 20 years, the portion of funding coming from provincial governments has decreased. Nationally, the provincial share, which was 43% in 2000-01, dropped to 35% in 2018-19. Federal funding has been stagnant since about 2008. In real dollars, funding for the Official Languages in Education Programs has been in steady decline.

• (1800)

The important thing to note is that proportionately, we are seeing the government steadily backing away from the post-secondary sector. The decline is largely what is behind the sector's precarious financial situation.

[*Translation*]

The Hon. the Speaker pro tempore: Senator Moncion, it is now 6 p.m. Pursuant to rule 3-3(1) and the order adopted on November 25, 2021, I'm obliged to leave the chair until 7 p.m. unless there is leave that the sitting continue.

Accordingly, the sitting is suspended until 7 p.m.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

• (1900)

[*English*]

POST-SECONDARY INSTITUTIONS BANKRUPTCY PROTECTION BILL

SECOND READING—DEBATE ADJOURNED

On the Order:

> Resuming debate on the motion of the Honourable Senator Moncion, seconded by the Honourable Senator Dean, for the second reading of Bill S-215, An Act respecting measures in relation to the financial stability of post-secondary institutions.

Hon. Lucie Moncion: Honourable senators, the important thing to note is that, proportionally, we are seeing the government steadily backing away from the post-secondary sector. This decline is largely what is behind the sector's precarious financial situation.

Institutions are increasingly vulnerable to the ups and downs of Canada's economy, and it is being left up to them to find reliable and sustainable sources of funding.

Then, on top of an already precarious financial situation, came the pandemic. According to the data collected by Statistics Canada and analyzed by the Library of Parliament, pandemic-related health measures have resulted in a significant decline in revenue for many universities, particularly from ancillary services. Examples include student housing, food services and parking.

Some universities anticipated deficits due to the pandemic and announced plans to cut operating costs. This was the case for the University of Ottawa, the University of Manitoba, Laurentian University, the University of Alberta and McGill University, among others.

In Ontario, tuition fees are replacing government funding as the primary source of revenue for colleges. In general, universities that rely heavily on international students for funding have suffered the most, such as those in British Columbia and Ontario.

In contrast, universities in Newfoundland and the territories are entirely publicly funded, shielding them from some of the negative impacts of the pandemic. Quebec's universities are also predominantly publicly funded.

Clearly, larger institutions with robust funding structures and longer histories in communities able to support them have been faring better despite the pandemic. Typically, these are institutions serving the English-speaking majority.

[*Translation*]

I will now talk about funding for institutions serving official language minority communities. Things get more difficult when it comes to institutions that provide French-language programming in minority communities.

Canada's 22 French-language colleges and universities face significant financial hardship. According to the Association des collèges et universités de la francophonie canadienne, or ACUFC, and I quote:

> Structural challenges mean that French-language post-secondary education in the FMCs does not benefit from conditions equivalent to those granted to the English-speaking majority.

The communities are waiting to see a move toward real equality in education.

Lynn Brouillette, Chief Executive Officer of the ACUFC, is asking us to come up with solutions to ensure the long-term sustainability of the sector. She said, and I quote:

> Ad hoc measures are no longer enough to ensure the strength and well-being of this sector, which makes an enormous contribution to the vitality of francophone minority communities. The time has come to bring together those who care about the French-language post-secondary education sector in order to come up with sustainable solutions.

The president and lead researcher at Sociopol, Mariève Forest, who studied the French-language post-secondary education sector, said, and I quote, "Funding is the biggest challenge to the sustainability of French post-secondary education in minority communities."

Volatile revenue is a threat to the sector's long-term survival and has a direct impact on community vitality. The researcher noted that, in 2018-19, an estimated 30,000 francophones did their post-secondary studies in English, in part because of lack of access. At Laurentian University, the number of students wanting to study in French fell by 52% — 52% is a lot at Laurentian University — and that is for the northern Ontario campus.

Institutions serving francophones in a minority context are more fragile because they're smaller. These institutions generally came along fairly recently, most of them in the 2000s, when the federal government introduced its Action Plan for Official Languages. Volatile revenue in that situation can mean the end of these institutions and especially the end of French-language programming.

Chiara Concini, a student in the second year of her B.A. at the University of Alberta's Campus Saint-Jean, put it like this in an interview with Radio-Canada:

> Now I can't even finish my B.A. entirely in French. . . . Next year I'll have to take some classes in English because they're mandatory but not available at Saint-Jean.

[*English*]

This gap in the minority language education continuum is tragic. For francophones who have studied in French all their lives, being forced to study in English because of a lack of access is troubling.

The government's increasingly hands-off approach forces a vision on post-secondary institutions that is strictly profit-driven, ignoring the other functions of post-secondary education that benefit communities. Institutions will, for example, focus on attracting greater numbers of international undergraduate students while neglecting to invest in research and less profitable programs, including French-language programs that typically have lower enrolment.

This growing privatization of post-secondary education is explained in the 2021 study on the *"State of Postsecondary Education in Canada, 2021"* by Higher Education Strategy Associates that I cited earlier. This is what the study says about the general trend towards privatization:

> . . . Canada is moving further from a Western European model of a largely publicly funded system towards the model of other anglophone countries where postsecondary education may be mostly publicly owned, but it is "publicly-aided" rather than "publicly-financed."

[*Translation*]

This growing trend of relying on sources of private funding and tuition fees disproportionately disadvantages French-language minority institutions, which necessarily serve a smaller client base.

Charles Castonguay reminds us of the importance of demographics for the French fact in Canada. He said the following in his article entitled "L'intérêt particulier de la démographie pour le fait français au Canada," or the significance of demographics for the French fact in Canada, and I quote:

> The number shapes . . . virtually every aspect of life in French in Canada, from the quality of the spoken language to the availability of services in French, to the rate of anglicization and even to the way francophones perceive themselves and act as such.

I will step away from my text and tell you my story. I studied French my whole life, and I fought hard to study at university. I was living in the regions where we did not always have access to French-language universities. I took correspondence courses, I studied at Laurentian University, I moved to Sudbury to study in French.

During my French courses, when I was given books in English, I always complained saying, "I am taking a French course and the material is in English. Why is this material not available in French?"

I worked in a francophone community my entire life. That is very rare. I am a bit of an anomaly in the Ontario system. I've worked all over Ontario and always in French. I've tried to instill these values in my family, in the hopes that they would come to respect and understand the importance of the francophonie and the French language and also the importance of supporting our French-language institutions, through education, buying books, and so on. It's such an important part of preserving a language. In my case, I was helping preserve the French language. I'm an anomaly in Ontario, I would say, since I've worked for 38 years exclusively in French. I don't know whether there is anyone else in Ontario who has done that.

• (1910)

Universities and colleges in francophone minority communities do extra work to support the survival of the francophonie. To ensure that students can learn in French, it's important that the university or college environment can foster linguistic security and that students can live a student experience in French outside the classroom.

However, the funding does not reflect the specific needs of minority communities and the long-standing catching up that needs to be done. In order to access additional funding, institutions must negotiate with their respective provincial governments. I will let you imagine how that works out with hostile governments or governments that don't understand the challenges that francophone minority communities face. If you only knew how many university and college presidents are forced to lobby decision makers to get a little money so that the schools can meet the bottom line — it's unbelievable.

Recruiting French-speaking students is also more complex. Francophone populations are often spread out and isolated. In terms of international recruitment, the centralized administrations of primarily anglophone institutions offering French-language programming do not always value or understand the importance of recruiting from francophone countries. This is a major challenge for Western Canadian institutions. The federal government also has a role to play here with respect to francophone immigration and recruitment.

Francophone communities are in the best position to understand their needs and challenges in post-secondary education. The example of Laurentian University has shown us that without the "by us, for us" approach, francophones risk being the worst hit when budget cuts need to be made. The restructuring of Laurentian University has been damaging in many ways, but francophones have suffered the most.

Let's now turn our attention to the blind spot in post-secondary funding.

Researchers who study the issue of post-secondary funding and other stakeholders have long denounced, and with good reason, a lack of transparency and accountability with respect to federal transfers and provincial funding under agreements seeking to enhance the vitality of francophone minority communities.

[*English*]

It is important to understand that the financial picture of the sector I have presented is only a summary. It is incomplete not just to keep my speech from running too long but also in terms of academic and stakeholder knowledge. There are a lot of unknown variables, making it difficult to come up with solutions. We lose

track of the funding when it is sent from the federal government to the provinces, and things get even murkier when it is sent to the various institutions.

For bilingual institutions in minority communities, we have no way of knowing whether, for example, federal money is actually being used to fund minority-language post-secondary education. Transfers from headquarters to the various programs or campuses are another unknown variable.

Funding earmarked for post-secondary education in the francophonie needs to be documented. The lack of transparency and accountability in federal transfers leaves many unanswered questions. This explains why the communities are reluctant to get excited about blank cheques sent to the provinces and why there were mixed reactions from the communities to the federal government's announcement last August of $121.3 million to be invested over three years in support of minority-language post-secondary education. Communities are calling for the ability to track the money and to hold governments accountable for the support they claim to provide.

[*Translation*]

Transparency and accountability are part of the solutions that can significantly help the financial viability of post-secondary institutions, and the federal government is fully aware of this. There is a way for the government to respect provincial jurisdictions while ensuring that its investments on behalf of the francophonie get to the right place, in accordance with its constitutional obligations.

At this time, I would like to speak to you about Bill S-215, which has two specific objectives.

First, it seeks to make the federal government responsible for finding solutions by requiring that it consult key stakeholders, specifically the communities and post-secondary institutions and, in particular, provincial governments.

Second, it seeks to prevent these institutions from having recourse to the Companies' Creditors Arrangement Act, the CCAA, or the Bankruptcy and Insolvency Act to prevent situations similar to what happened with Laurentian University.

The bill proposes to require the designated minister to develop federal initiatives designed to reduce the risk that an institution becomes bankrupt or insolvent; protect students, faculty and staff in the event that an institution becomes bankrupt or insolvent; and support communities that would be impacted, if necessary. The minister must develop solutions in consultation with institutions, provincial and municipal governments, groups and associations of students, faculty and staff, and parties advocating on their behalf. Development of the proposal must be completed as soon as practicable, but no later than one year after the day on which it comes into force. The proposal must be tabled both in the House of Commons and the Senate and it must be made public.

The federal government could do the minimum or it could exceed our expectations. The provincial governments and the institutions must also be prepared to work with the federal government to find solutions. Stakeholders must all assume their responsibilities and work together in the best interests of the sector and their communities.

Second, the bill prevents the use of inappropriate legal tools, such as the CCAA or the Bankruptcy and Insolvency Act.

[*English*]

Facing insolvency, Laurentian University filed for protection under the Companies' Creditors Arrangement Act on February 1 to begin a restructuring process. The fact that a publicly funded educational institution can use this act is appalling and sets a dangerous precedent.

However, Laurentian University's situation is not unique. The case of Laurentian University is a wake-up call because this underfunding threatens the economic, social and cultural vitality of the communities as well as the constitutional rights of official language minorities.

To address this issue, the bill amends the Bankruptcy and Insolvency Act in clause 5 and the Companies' Creditors Arrangement Act in clause 6 to exclude post-secondary educational institutions from the definitions of "corporation" and "company" under those acts respectively. The amendments to the BIA and CCAA only come into force on a day or days fixed by order of the Governor-in-Council, on recommendation of the minister that would be designated by the Governor-in-Council for the purposes of the act in clause 2. It would therefore prevent post-secondary institutions from using the BIA and CCAA when insolvent or bankrupt.

These legal tools are inadequate for this sector, more importantly, considering that their implementation — as we have seen with Laurentian University — is detrimental to the social, economic and cultural vitality of communities, especially in a minority context.

The bill provides a lot of flexibility to the government but forces it to act to address pressing issues. It also provides the government with a framework within to work and important elements to consider.

Among the possible solutions for the federal government to consider the ACUFC proposes the creation of a new permanent support program for francophone minority post-secondary institutions that would allow the federal government to intervene in needs categories related to areas under federal jurisdiction.

• (1920)

The government could also create a regime separate from the CCAA and the Bankruptcy and Insolvency Act to govern the restructuring of post-secondary institutions that run into difficulty. The restructuring process should consider the particular characteristics of the institutions concerned, including its role in serving official language minority communities and its importance to their vitality. It should promote a restructuring plan that considers the unique functions of post-secondary institutions and should include communities and other stakeholders in decision making. In other words, the interests of

an institution that delivers programming in French cannot be represented by a Bay Street law firm that has no understanding of the language rights at stake.

Campus Saint-Jean is the only institution in Alberta that trains French-language teachers, a function essential to implementing section 23 of the Canadian Charter of Rights and Freedoms. According to counsel for Campus Saint-Jean, the right to an elementary and secondary education of a quality truly comparable to that of the majority is rendered meaningless if, in practice, the post-secondary infrastructure in place does not make it possible to train teachers and other staff needed to actually implement section 23.

[*Translation*]

Section 23 of the Charter guarantees a sliding scale of rights to instruction in the minority language. In her ruling regarding the Rose-des-Vents school in Vancouver, Justice Andromache Karakatsanis stated, and I quote:

> What is paramount is that the educational experience of the children of s. 23 rights holders at the upper end of the sliding scale be of meaningfully similar quality to the educational experience of majority language students.

If we do not have teachers who have been trained in French-language post-secondary institutions, how can we guarantee the exercise of these rights? We need to do everything in our power to keep Campus Saint-Jean from meeting the same fate as Laurentian University. The constitutional rights of francophones are in jeopardy.

To conclude, the bill that I am proposing seeks to make the federal government accountable and responsible for finding solutions and making decisions to help a sector in difficulty. The post-secondary institutions of official language minority communities are fundamental to their sustainability and survival.

Esteemed colleagues, we must act now if we are to protect the gains we have made with post-secondary education and to enhance the vitality of the Canadian francophonie. The survival of the linguistic and cultural heritage of our communities depends on it. Too often we end up preaching to the choir about the francophonie. However, we all have a responsibility to the Canadian francophonie and to the future of post-secondary education in French. The Commissioner of Official Languages wrote the following in a report entitled *Learning from the Past, Shaping the Future: 50 Years of Official Languages in Canada*:

> Our unity is fragile, however. A lack of vigilance has led to complacency, which in turn has led to the erosion of language rights. And the less we talk about it, the more erosion will occur. But Canada needs to work on its own advancement as a nation. The recent actions of some governments are alarming, yet the greatest threat to Canada's linguistic duality is indifference.
>
> Linguistic duality is not just for Francophones, nor is it just for Anglophones in Quebec. It's a valuable asset that belongs to all Canadians.

Colleagues, as senators, we have a duty not to remain indifferent to the needs of minorities. My Bill S-215 is a response to the heartfelt pleas from francophone minority communities. I am sharing the burden our communities have been carrying for far too long. Thank you for your attention.

The Hon. the Speaker pro tempore: Senator Moncion, there appear to be two senators who wish to ask questions. Would you take some questions?

Senator Moncion: Yes.

Hon. Paula Simons: Thank you very much, Senator Moncion. I'm glad you mentioned Campus Saint-Jean, which is dear to my heart.

[*English*]

But I want to understand exactly how this bill would help an institution like Campus Saint-Jean which is part of a larger university. Federal funding for Campus Saint-Jean; funding levels were frozen in 2002-03. Since that time, the francophone population of Edmonton and Alberta has skyrocketed. I believe at the time the funding was frozen we had something like 3,500 or 4,000 students enrolled in francophone schools in Alberta. Now it is closer to 10,000.

So I'm struggling to understand precisely how this bill would help an institution like Campus Saint-Jean, which is part of a larger anglophone university. It is never going to go bankrupt. It is never going to go out of business. Is there something in the legislation, a subtlety I'm missing, that would compel the federal government to increase funding for francophone universities outside of Quebec?

[*Translation*]

Senator Moncion: In the case of Campus Saint-Jean, if we look at the enrolment, there are currently close to 750 students, but it gets funding for only 450 students. The campus gets no funding at all for the other 300 students. It is already underfunded by the provincial government.

The other thing you asked is how the Bankruptcy and Insolvency Act can help. That's the point of this bill. We want provincial governments to be accountable for their education responsibilities toward both anglophones and francophones.

Campus Saint-Jean's situation is unusual because there is a main campus, which is anglophone and provides funding for the francophone group, but when there are cuts to be made all across campus, they cut deeper for the francophone campus.

One thing the University of Alberta can do is gradually reduce the resources available to Campus Saint-Jean so that it can no longer function. In the comments received from Dean Mocquais, we learned that they had no money to invest in infrastructure, so their laboratories are aging. Students want modern labs. Once they enter the labour market, they'll be working in modern facilities. The campus doesn't even have the money to improve its labs and its library. There are infrastructure problems. Campus Saint-Jean is being squeezed as much as possible, while the university keeps its funds for the main campus.

What can the federal government do? One of the solutions we propose is that federal government funding for francophone institutions go directly to the institutions rather than through the provincial government.

How can the Bankruptcy Act help Campus Saint-Jean? I'm not sure that it can, since Campus Saint-Jean depends on the University of Alberta, but by no longer being subject to the Bankruptcy and Insolvency Act, universities would no longer be able to use that mechanism to walk away from their creditors. The goal is to make provincial governments accountable and responsible. We also want to ensure adequate funding so that universities function optimally, so they can offer all the required services and so francophone universities get the funding they are due.

[*English*]

Senator Simons: Believe me, I am very committed to trying to save Campus Saint-Jean, which I think is a tremendous asset to all of Western Canada and not just francophone Albertans but for all Albertans.

• (1930)

I just don't know that I see it as the federal government's role to tell the province how to fund the university when that is a provincial jurisdiction, while at the same time, the federal government capped its funding 20 years ago to a university that has expanded. I can't help but think the simpler solution here is to get the federal government to fund the university appropriately as it did in the past.

[*Translation*]

Senator Moncion: Thank you.

That is one of the elements. We would also like to ensure that the federal government is no longer able to use the mechanism through the provinces. There are certain areas, for example in health, where a sector receives federal money. A precedent was created, and we would like to see the federal government fund francophone initiatives such as Campus Saint-Jean so that the money is no longer channelled through the general campus.

That was one of the problems at Laurentian University, where there was a federation agreement. The main campus controlled the money and crumbs were given to partner campuses. There were three other campuses, including Huntington University and the University of Sudbury. The federation was dissolved and now four institutions are grappling with financial problems. However, Laurentian University continues to receive all the funding. We must find mechanisms for sending the money directly to the educational institutions.

We are also putting pressure on the federal government to ensure that funding for official languages programs is indexed annually so that post-secondary institutions will no longer be chronically underfunded.

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate): I tip my hat to you, Senator Moncion, for this initiative. Having worked in a university for more than 25 years, I understand the complexity and opacity of the way universities are funded, especially in the case of establishments that serve official language minority communities.

You effectively demonstrated that post-secondary education in the Canadian francophonie is in crisis. The collapse of Laurentian University, a bilingual institution, highlighted how vulnerable French language programs are across Canada.

Do you find that the structural challenges are preventing post-secondary education in French in francophone minority communities from enjoying the same conditions prevalent for the anglophone majority?

Senator Moncion: Absolutely. This has been going on for a long time. Education in francophone minority communities is underfunded. There are no equivalents, including when it comes to infrastructure.

Earlier I talked about research laboratories. There is not a lot of funding for specific research in French. It is a poor community. Post-secondary institutions that provide education in French or have a French campus have been getting by with very little for a long time. They perform miracles, as far as I am concerned, since they continue to offer top-notch courses. They have few resources for expanding and gaining the recognition of major universities. They are the poor relations of education.

(On motion of Senator Plett, debate adjourned.)

LANGUAGE SKILLS ACT

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Carignan, P.C., seconded by the Honourable Senator Housakos, for the second reading of Bill S-229, An Act to amend the Language Skills Act (Lieutenant Governor of New Brunswick).

Hon. René Cormier: I thank Senator Moncion for so eloquently speaking to the challenges facing universities in francophone minority communities.

Esteemed colleagues, I rise today to speak to Bill S-229, An Act to amend the Language Skills Act (Lieutenant Governor of New Brunswick), which was introduced in this chamber by Senator Carignan on December 1, 2021.

I want to acknowledge that I am speaking to you today from the unceded territory of the Algonquin Anishinaabe people.

Bill S-229 would guarantee that any person appointed to the office of Lieutenant-Governor of New Brunswick is able to understand and communicate clearly in the two official languages of our country, French and English.

In order to do so, Bill S-229 would amend section 2 of the Language Skills Act.

[*English*]

Section 2 of the Language Skills Act prescribes that a person must be able to speak and understand clearly both official languages to be appointed to some key offices, namely the Auditor General of Canada, the Chief Electoral Officer, the Commissioner of Official Languages of Canada, the Privacy Commissioner, the Information Commissioner, the Senate Ethics Officer, the Conflict of Interest and Ethics Commissioner, the Commissioner of Lobbying, the Public Sector Integrity Commissioner, the President of the Public Service Commission, and the Parliamentary Budget Officer.

Unquestionably, these various offices play a fundamental role in the governance of our country and in our Canadian socio-political landscape. In addition, while the individuals fulfilling these offices could rightly be considered as officers of Parliament — also called agents of Parliament — nothing in the Language Skills Act explicitly prevents Parliament from adding other positions. So, with Bill S-229, the position of Lieutenant-Governor of New Brunswick would simply be added to this illustrious list of important functions subject to the Language Skills Act.

[*Translation*]

As the critic for this bill, I looked at it from four different perspectives that I would like to share with you today: the historical context of the evolution of language rights in New Brunswick, the duties and responsibilities of the Lieutenant-Governor, the constitutional issues this bill raises, and the modernization and transparency of the appointment processes for the highest offices of this country.

In his speech at second reading on December 14, Senator Carignan gave various reasons why this bill should be passed. He talked about everything from the provisions of the Canadian Charter of Rights and Freedoms that confer unique status on New Brunswick in terms of language rights to the importance of promoting and protecting the French language by describing the specific historical context in which French acquired its status as one of New Brunswick's two official languages.

In so doing, he noted that the creation of language obligations specific to New Brunswick, namely those set out in the Charter, was a way of moving away from a situation of "advanced diglossia" in that province, which he explained as a situation in which French had a "lower sociopolitical status."

As an Acadian senator from New Brunswick, I obviously agree with this historical perspective and I support the intent behind Senator Carignan's remarks. I would like to sincerely thank him for introducing this bill, which raises the importance of ensuring and promoting bilingualism in high-level public positions. This is a necessary bill that is more than symbolic for our two official language communities in New Brunswick.

• (1940)

That being said, notwithstanding my unwavering support for the main principles of Bill S-229, I cannot help but notice that it raises some complex issues, of a constitutional nature in particular, with regard to the appointment process for this position. After carefully examining the bill, conducting research and consulting an eminent constitutional expert, I wish to express some concerns about the feasibility of the bill. However, before I talk about these important points to consider, I would like to talk about the main reasons I support this bill at second reading.

As a province, New Brunswick is home to a unique socio-cultural, political and constitutional reality when it comes to the protection and promotion of bilingualism and linguistic duality. Since it is the only officially bilingual province in the country, one need only look at sections 16 to 20 of the Canadian Charter of Rights and Freedoms to understand that New Brunswick holds a unique place in Canada's constitutional space. The Charter contains clear language provisions specific to New Brunswick. Among other things, it provides for the following:

> English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick.

> The English linguistic community and the French linguistic community in New Brunswick have . . . the right to distinct educational institutions and . . . distinct cultural institutions . . . .

> Any member of the public in New Brunswick has the right to communicate with . . . any office of an institution of the legislature or government of New Brunswick in English or French.

New Brunswick actually recognized the principles stated in the Charter in its own Official Languages Act in 2002.

Esteemed colleagues, this recognition of New Brunswick's special status in the Charter provisions did not happen by accident. It is the result of years of hard work and tenacity on the part of many New Brunswickers. I'd like to share two examples to illustrate that.

First, before 1981, the draft version of the Charter contained no paragraphs specific to New Brunswick. It was not until the Premier of Nova Scotia at the time, the Honourable Richard Hatfield, appeared before the Special Joint Committee of the Senate and House of Commons on the Constitution of Canada that the federal Justice Minister at the time, the Right Honourable Jean Chrétien, decided to put forward New-Brunswick-specific amendments on the linguistic issue.

[*English*]

In committee, then-Premier Hatfield stated the following:

> . . . it is possible and it is to the betterment and the advancement of the people to acknowledge and to enjoy the benefits of two languages and all that comes from that.

Although New Brunswick initially led the foundation for institutional bilingualism in 1969 with the enactment of its first Official Languages Act — a legislative initiative spearheaded by then-premier Louis Robichaud or, as we call him in Acadie, "Petit Louis" — it was the enactment of the Charter in 1982 that consolidated New Brunswick's place within Canada's constitutional framework — a remarkable feat by no stretch of the imagination.

[*Translation*]

However, esteemed colleagues, despite this progress, in 1982, the Charter still did not recognize the principles set out in the Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick, which had been passed in the province the year before and recognized the right of the francophone and anglophone linguistic communities to "distinct institutions." It took determination on the part of New Brunswick's premier at the time, Frank McKenna, to get the principles of this provincial statute enshrined in the Charter in 1993 with the addition of section 16.1.

[*English*]

Mr. McKenna once affirmed in committee that section 16.1 of the Charter would essentially make New Brunswick a distinct society. In my opinion, this notion of a distinct society is not only rooted in the Charter provisions but also embedded in the very fabric of New Brunswick society, socially and culturally.

[*Translation*]

The current demographic reality in New Brunswick clearly demonstrates this situation. In 2016, more than 31.9% of the New Brunswick population reported French as their first language, while English was the first language of 64.8% of the population. Some regions, like the Acadian Peninsula in the northeast of the province, have a high concentration of francophones, accounting for about 96% of the population, while other regions, for instance in the southwest of the province, are predominantly anglophone, accounting for about 98% of their population. In this respect, two distinct linguistic communities co-exist in New Brunswick. This still poses significant challenges, particularly with respect to the substantive equality of these two communities.

A recent report by the Canadian Institute for Research on Linguistic Minorities found that, and I quote:

> The language vitality indices signal that the gap between the two official languages continues to widen, at the expense of French.

The report later states, and I quote:

> The use of the official languages at work varied between the three levels of government present in the province in 2016 . . . . The higher the level of government, the more employees spoke mainly English, to the detriment of French. The percentage of public servants who spoke English most often increased from 74.5% among municipal and regional governments to 76.0% in the provincial government, and 79.2% in the federal government in New Brunswick.

[*English*]

While New Brunswick citizens have indeed acquired language rights, I should still remind this chamber that a right is not in itself a guarantee that both linguistic communities in that province will flourish equally in the future. A right by itself is meaningless without associated actions protecting and defending it.

The social contract binding New Brunswick citizens in their collective appreciation and understanding of bilingualism and linguistic duality needs to be sustained by direct actions. Like a living tree — if I may — it cannot survive entirely on its own.

Ensuring that the Lieutenant-Governor of New Brunswick speaks and comprehends both official languages is a critical step in maintaining and revitalizing the social cohesion among citizens of New Brunswick with respect to language rights.

Colleagues, it is with that reality in mind and through these very lenses that we should try to grasp the overarching objectives behind Senator Carignan's proposed bill.

[*Translation*]

In this context, what role does the Lieutenant-Governor of New Brunswick play? As elsewhere, the Lieutenant-Governor of New Brunswick is the provincial representative of Her Majesty the Queen and serves the two linguistic communities of this province by taking on a number of official duties or traditional activities. The Lieutenant-Governor opens, prorogues and dissolves the legislative assembly, grants Royal Assent to all bills, gives the Speech from the Throne, participates in official ceremonies honouring the achievements of New Brunswickers, and welcomes members of the Royal Family, heads of state, ambassadors and other representatives of foreign countries, to name just a few. In addition to these official duties, the Lieutenant-Governor of New Brunswick is also a unifying symbol of the province.

Former lieutenant-governors, such as the Honourable Jocelyne Roy Vienneau, Herménégilde Chiasson, Gilbert Finn and Hédard Robichaud, performed their official duties admirably and also fostered stronger ties between the province's two linguistic communities. Because they were able to speak and understand both official languages with all New Brunswickers, they helped strengthen the public's appreciation for this high office and built linguistic and cultural bridges between the province's French and English linguistic communities.

Also, in light of this reality, we can say that maintaining and promoting bilingualism and linguistic duality in New Brunswick represent true vectors of integration and democratization, which promote better social cohesion between citizens. That's why it is only natural for the people of New Brunswick, the only officially bilingual province in Canada, to expect anyone who fills the position of lieutenant-governor to be able to clearly speak and understand both official languages, as set out in Bill S-229.

That being said, as I mentioned from the outset, this bill raises some complex questions, particularly of a constitutional nature, regarding the appointment process for this position, and they merit further study in committee.

[*English*]

Currently the Lieutenant-Governor of New Brunswick is appointed by the Governor General-in-Council according to section 58 of the Constitution Act, 1867, and usually for a period of five years. The term "Governor-in-Council" simply refers to the Governor General acting by and with the advice of the Queen's Privy Council for Canada. Factually, the Privy Council's advice is generally understood as made by the cabinet by means of an order-in-council; and yet, the appointment of a lieutenant-governor is specifically one made through an instrument of advice from the Prime Minister to the Governor General rather than through a cabinet process.

• (1950)

This power of recommendation reserved to the Prime Minister could be described as a special prerogative, as duly recognized in a 1935 order-in-council. In fact, the legal instrument also lists other special prerogatives of the Prime Minister, such as recommending the appointment of senators or the Speaker of the Senate.

[*Translation*]

Colleagues, in light of this information, can we establish a distinction between the Prime Minister's power of recommendation, as stated in this order, and the Governor General's power to make official appointments, as set out in section 58 of the Constitution Act, 1867? At first glance, the answer could be yes.

Paul Daly, the University Research Chair in Administrative Law and Governance at the University of Ottawa, has suggested, based on a United Kingdom Supreme Court ruling commonly referred to as *Miller (No. 2)*, that it would be possible to make a distinction between the advice of a prime minister and the decision of a governor general, including when it comes to the process for appointing a lieutenant-governor.

In that case, how are we to interpret the scope of Bill S-229? Does it apply to the recommendation of the Canadian prime minister or the Governor General's power to make official appointments?

In other words, does this bill act on the Constitution or on the so-called "special" prerogative of the Prime Minister? That is the question I have, and I would like to address it with you through two possible interpretations that seem to lead to different conclusions.

The first assumes that this bill would guide the process for appointing a Lieutenant-Governor of New Brunswick, as set out in section 58 of the Constitution Act, 1867. Formally, it is the Governor General, not the Prime Minister, who appoints a person to the position of lieutenant-governor, although it is true, as the 6th edition of *Constitutional Law* states, "that the governors essentially engage in solemn acts that authenticate certain government decisions."

By making it a requirement that any person appointed to the office of Lieutenant-Governor of New Brunswick be bilingual, we could be undermining the office of the Governor General.

In order to make such a change at that level, we must consider subsection 41(a) of the Constitution Act, 1982, which states, and I quote:

> **41** An amendment to the Constitution of Canada in relation to the following matters may be made by proclamation issued by the Governor General under the Great Seal of Canada only where authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province:
>
> (a) the office of the Queen, the Governor General and the Lieutenant Governor of a province;

Benoît Pelletier, the eminent legal scholar, constitutional expert and professor of law at the University of Ottawa, said the following:

> . . . Her Majesty and her official representatives are an integral part of the composition of these institutions and have many powers associated with them. This status and these powers could only be assigned in accordance with subsection 41(*a*) of the *1982 Act*.

On that basis, is it possible that Bill S-229 could affect the powers of one of the official representatives of Her Majesty the Queen, namely the Governor General? At first glance and from what we just heard, that could be the case.

In his speech at second reading, Senator Carignan explained that section 12 of the Constitution Act, 1867, "clearly gives Parliament the power to amend, through simple legislation, the powers to appoint the Governor General."

In light of Professor Pelletier's observations concerning paragraph 41(a) of the Constitution Act, 1982, can we support Senator Carignan's interpretation? I think we need to ask that question and examine it more closely.

The second possible interpretation of Bill S-229 that I would like to discuss with you assumes that it would regulate the recommendation process used by the Prime Minister within the meaning of the 1935 order-in-council.

As I mentioned earlier, it is actually the Prime Minister, not the Governor General, who recommends someone for the position of lieutenant-governor. If we look at it that way, the bill would likely force the Prime Minister to recommend someone who is proficient in both official languages.

Again according to Professor Pelletier, it would be possible to limit the Prime Minister's discretion or prerogative because, while that discretion or prerogative is constitutional, it is still derived from conventions "which are not, strictly speaking, rules of law."

What exactly is a "constitutional convention?"

Appearing before the Special Senate Committee on Senate Modernization, law professor Kate Glover reminded us that constitutional conventions are, and I quote:

> . . . political creatures that have three features. First, there has to be a precedent. Second, it has to be experienced as normative or obligatory by the political actors. Third, there has to be a reason justifying the rule or practice.

In the same vein, Chief Justice Laskin of the Supreme Court of Canada and Justices Estey and McIntyre stated the following in *Re: Resolution to amend the Constitution*:

> . . . a fundamental difference between the legal, that is the statutory and common law rules of the constitution, and the conventional rules is that, while a breach of the legal rules, whether of statutory or common law nature, has a legal consequence in that it will be restrained by the courts, no such sanction exists for breach or non-observance of the conventional rules. . . . The sanction for non-observance of a convention is political in that disregard of a convention may lead to political defeat, to loss of office, or to other political consequences, but it will not engage the attention of the courts which are limited to matters of law alone.

"If" — and I do mean "if" — the Prime Minister's power to recommend arises from a constitutional convention as understood by Professor Pelletier, and "if" Bill S-229 truly does infringe on or limit the Prime Minister's discretion, the drawbacks of this bill would be more political than anything else.

Honourable senators, without seeking to undermine the purpose of Bill S-229, which is particularly advantageous for New Brunswick's two linguistic communities, I do have some questions that are worth going into and that should be studied in committee by subject-matter experts such as Professor Pelletier.

[*English*]

To put it mildly, I totally agree with the intention of Bill S-229, but we need clarity so as to avoid any unintended negative effects that would undermine its implementation. We must do it right, colleagues.

With that in mind, I'm now turning to the fourth and final point of my speech, which is that this bill raises the transparent nature of the appointment process of the lieutenant-governor. Again, colleagues, please indulge me for a few moments while I share my thoughts on the matter.

[*Translation*]

On December 15, 2021, while asking the Government Representative in the Senate a question about the upcoming Senate appointments, I reminded the chamber that an independent advisory board is mandated to "provide non-binding merit-based recommendations to the Prime Minister on Senate nominations."

I also said that:

> . . . the board members seek to support the Government of Canada's intent "to ensure representation of . . . linguistic, minority and ethnic communities in the Senate."

What about the process of appointing a lieutenant-governor? Should an advisory committee be struck to ensure a transparent and open process?

In 2012, Prime Minister Harper created the Advisory Committee on Vice-Regal Appointments, which would, and I quote:

> . . . provide non-binding recommendations to the Prime Minister on the selection of the Governor General, Lieutenant Governors and Territorial Commissioners.

One of the interesting features of this committee, which is similar to the process for appointing senators, was its composition. It was composed of individuals from outside of government, the idea being that when it came time to appoint a lieutenant-governor, there would be a selection of temporary members from the province in question, thereby adding a regional perspective.

However, that committee has not met since 2015. Instead, it is the Prime Minister's Office, in collaboration with the Privy Council Office, that searches for candidates for such appointments.

Colleagues, public trust is one of the cornerstones of our system of parliamentary governance. We must ensure that our decisions are made within a framework of openness, accountability and transparency. The vitality of our democratic institutions depends greatly on this.

• (2000)

These major principles are at the heart of my parliamentary commitments as the second vice-president of the ParlAmericas Open Parliament Network.

Canada is an important member of this network, which promotes legislative openness through efforts to increase transparency and access to public information, strengthen the accountability of democratic institutions, promote the participation of citizens in legislative decision-making, and ensure a culture of ethical behaviour and probity in the national legislatures of the Americas and the Caribbean.

Following up on these comments, it may perhaps be appropriate to formalize, with a law for example, a mechanism such as that of the 2012 advisory committee, to make it

permanent and stable. This tool would ensure that current and future prime ministers are accountable, and this mechanism could complement the objectives of Bill S-299.

[*English*]

In conclusion, honourable senators, I indicated at the beginning of the speech that I would approach the bill from four aspects. In fact, there is a fifth aspect underlying this analysis, which is more profound and central to our country's identity. This dimension touches on our ability as a country to truly recognize the place of Indigenous peoples in the foundation of Canada.

Unfortunately, this matter goes beyond debating a piece of legislation about the official language requirements of a lieutenant-governor. This is a complex issue that needs to be examined in depth in a broader context.

In the spirit of truth and reconciliation, I recognize that, as parliamentarians, we must strive to support and promote the use of Indigenous languages, as indicated in the Indigenous Languages Act, and it is the responsibility of all of us to do better, to do more, and to engage actively in real dialogue, in a space free of prejudice and judgment of one another. Honourable senators, I sincerely look forward to participating in that conversation with you and with all Canadians.

[*Translation*]

I will conclude by quoting the Commissioner of Official Languages, Raymond Théberge, who stated the following in an article published for the fiftieth anniversary of the Official Languages Act:

> Both official languages, English and French, are at the heart of our Canadian identity. They are at the core of our history. Together with Indigenous languages, Canada's true first languages, they are the foundation of the values of diversity and inclusion in our society. Indigenous languages are an important part of Canada's cultural landscape. In the spirit of reconciliation and in accordance with the fundamental values that unite us, all Canadians can support their country's first languages and their country's official languages.

Thank you. *Meegwetch*.

Hon. Senators: Hear, hear!

Hon. Michèle Audette: I will be brief.

[*Editor's Note: Senator Audette spoke in an Indigenous language*.]

We are on the unceded territory of several nations who speak the language of the Innu, the Atikamekw, the Maliseet, the Abenaki, the Wendat and the Wolastoqey.

Thank you very much, Senator Cormier, for talking about the importance of Indigenous languages. The recognition of these languages is a principle of reconciliation. Given that these are founding languages, how could we make sure to include the nations in your beautiful region, the Wolastoquey and the Maliseet and, of course, the Mi'kmaq, in this bill? I invite everyone to join the conversation, to consult and to debate this issue because, in many generations, you and I will be proud of the fact that we finally acknowledged that Canada has many other important languages, in particular the languages of the First Peoples.

Senator Cormier: Thank you very much for your comment and question, Senator Audette.

The answer to your question is both simple and complex, and it obviously lies in dialogue. I firmly believe, as I mentioned at the end of my speech, that this dialogue among all those who speak both Indigenous and official languages must occur in an atmosphere of joint reflection on our past and our future.

What I mean by that is that, as Canadians, we are currently living in a context where, thanks to our Constitution, we have two official languages and a law on Indigenous languages. I believe that we have tools that should not divide but rather serve to bring us closer together. It is obvious that this dialogue could continue in New Brunswick, senator.

My answer is both vague and specific. Why vague? I guess it is because I believe that this answer needs to come from both a francophone living in a minority community, like me, and from the Indigenous people who have been living on this land for millennia. It is my greatest wish that we can have an open and transparent dialogue while thinking about and showing respect for all of the languages of this country.

[*English*]

Hon. Dennis Glen Patterson: Thank you, Senator Cormier, for your support for Indigenous languages. You remind me, with your passion, of Senator Joyal.

Senator, you know I represent a region with the highest proportion of Indigenous people in the country; 85% or more of the people of Nunavut are Inuit, and they largely still speak Inuktitut. It's a bilingual radio station, newspaper, and I mean French and Inuktitut. Yet the federal government refuses to provide services in the Inuktitut language for its federal services in Nunavut, in contravention of the Nunavut government's own Official Languages Act and Inuit Language Protection Act.

Do you have any comments on that in relation to your bill? Thank you.

Senator Cormier: Thank you so much for your question. I will try to answer in English.

The answer, for me, maybe does not reside in the Official Languages Act. I think the answer is that the federal government must do more to implement the Indigenous Languages Act; that's for sure. The federal government — and all citizens, by the way — should do more to ensure that citizens receive the services they deserve in their part of Canada.

I sincerely and honestly feel that this is not in opposition with the official languages. I think that taking care of the Indigenous languages, taking care — making sure that in Canada, those rich languages can be revitalized — is a responsibility of the federal government and it is a responsibility for all of us.

• (2010)

So concerning this bill, it is specifically on the Language Skills Act. I talked about the Official Languages Act, but mainly this bill is about the Language Skills Act. I say "may be," but I'm not sure even if this actual bill — what I said in my speech — I'm not sure if it is the right vehicle for that. But what I can assure you, Senator Patterson, is that much more must be done for the different languages in Canada, and we must find the right tools, the right place and the right hour to do that.

I'm not sure I am answering your question, but I'm trying to express the importance of making sure that in Canada we do help and respect all cultures and that their languages can also be celebrated. Thank you.

[*Translation*]

Hon. Percy Mockler: First, Senator Cormier, coming as you do from New Brunswick, you have given an excellent presentation of the challenges we face today, and I congratulate you on your fine speech.

I would be remiss if I did not also acknowledge Senator Audette's comments on another chapter for improving the lives of Canadians.

My question is about the bill in question, and I need your help here, Senator Cormier. What vehicle would be the best and most appropriate way to move forward on such an issue with greater clarity?

For instance, should we refer it to committee, or should we wait until the bill to modernize the Official Languages Act is introduced and include it in another debate? This might allow us to more fully examine some of what Senator Audette raised as well as some of the things in your presentation.

Senator Cormier: Thank you for your question, Senator Mockler.

Obviously, as I said in my speech, I believe that this issue must be debated in committee.

I would first turn to colleagues like Senator Dalphond, who is certainly better equipped to understand the constitutional complexity of this issue, but I strongly believe that there are constitutional issues that affect the feasibility of the bill. If we want to require the lieutenant-governors of New Brunswick to speak both official languages, we need to address some issues — I spoke about them briefly — so it would be a good idea to examine the bill in committee.

My simple answer to your question is yes, I think this deserves to be examined in committee by experts who can enlighten us about the constitutional issues with this bill.

Which committee? I am not sure at this point whether the Standing Senate Committee on Official Languages would be best equipped to do it, but it would obviously be up to the chamber to decide where to send this bill. However, I believe that it should be examined in the context of the Constitution of Canada.

Hon. Renée Dupuis: Senator Cormier, I have a question related to the one posed by Senator Mockler.

Do you think that the study of this type of bill could be shared by more than one Senate committee, for example, the Committee on Official Languages and perhaps the Legal Affairs Committee? Do you think it would it be possible to split the study of this bill, as we have done on other occasions?

Senator Cormier: Thank you for the question, senator.

Possibly, and why not? I do not actually have a clear answer for you on this.

To be very honest with you, addressing these functions is an issue that is fundamental to our country. This is a matter that affects the Constitution of Canada and forces us to ask where the Constitution of Canada stands today and how it reflects current affairs and today's Canada.

I do not have a specific answer for you, but I believe that this could be studied under different angles. I believe that the bill raises constitutional questions, as I was saying, but that may also be broader in scope and invite us to question ourselves about the state of Canada today and how that is reflected in the uppermost functions of the state.

Regarding New Brunswick, the only officially bilingual province in Canada, I sincerely believe that the people of New Brunswick want the person filling this position to be able to communicate in both official languages and to reach the entire population of New Brunswick

That is my answer to you, Senator Dupuis. Thank you.

(On motion of Senator Dalphond, debate adjourned.)

[*English*]

NATIONAL FINANCE

MOTION TO AUTHORIZE COMMITTEE TO STUDY A ROAD MAP FOR POST-PANDEMIC ECONOMIC AND SOCIAL POLICY TO ADDRESS HUMAN, SOCIAL AND FINANCIAL COSTS OF ECONOMIC MARGINALIZATION AND INEQUALITY—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Pate, seconded by the Honourable Senator Duncan:
>
> That the Standing Senate Committee on National Finance be authorized to examine and report on a road map for post-pandemic economic and social policy to address the

human, social and financial costs of economic marginalization and inequality, when and if the committee is formed;

That, given recent calls for action from Indigenous, provincial, territorial and municipal jurisdictions, the committee examine in particular potential national approaches to interjurisdictional collaboration to implement a guaranteed livable basic income; and

That the committee submit its final report no later than December 31, 2022.

Hon. Rosa Galvez: Honourable senators, I rise to speak in support of Motion No. 6, introduced by my colleague Senator Pate, requesting that the Standing Senate Committee on National Finance be authorized to examine and report on a road map for post-pandemic economic and social policy and potential national approaches to interjurisdictional collaboration to implement a guaranteed livable basic income.

I wish to thank Senator Pate for proposing this study as it will be extremely timely and useful for the upcoming economic recovery from the COVID-19 pandemic.

As you all know, I published over a year ago a white paper on a clean and just recovery in an effort to document the work of experts advocating for a holistic approach to rebuilding Canadian society to achieve greater overall, collective well-being. It is available in three languages. I'm proud to say that the document has been enthusiastically cited by parliamentarians in the Americas and Europe.

• (2020)

The paper provided a set of 11 recommendations and a toolbox of key policies to stimulate an economic recovery that would put people first, focus on furthering human and ecosystem well-being, ensure the costs and benefits will be distributed equitably and shift our measure of economic success toward sustainable prosperity.

Namely, the federal government should review all its policies through a climate lens that will consider the impacts on future generations, as well as a social justice lens to ensure the benefits and costs of the recovery are distributed equitably; impose enforceable and verifiable accountability measures on all financial assistance provided to large corporations; implement practicable methods of recouping their costs, such as through a tax on the wealthiest Canadians; and establish a guaranteed livable income and other measures focused on helping people rather than corporations.

These recommendations and many other potential post-pandemic economic and social policies have the potential to increase the quality of life for all Canadians during a period where financial inequality is on the rise.

Research has shown that the degree of equality within a society is linked to its health and happiness. Almost every modern social problem — be it poor health, violence, lack of community life, early life pregnancy or mental illness — is more likely to occur in a less equal society. Higher levels of inequality correlate with lower levels of life satisfaction, and countries whose income inequality is decreasing grow faster than those with rising inequality.

This past December, the Parliamentary Budget Officer published — by my request — an updated High-net-worth Family Database ". . . to study the trends in the distribution of Canadian net wealth." Beyond, once again, confirming the concerning trend of the greater accumulation of wealth for the richest Canadians, it also points to Statistics Canada's under-reporting of the share of wealth of high-net-worth families. This is concerning given the need for precise and adequate data for effective policy-making.

[*Translation*]

Canadians are aware that the pandemic exacerbated wealth inequality in Canada. An August 2021 survey by Abacus Data showed that most Canadians believe our tax system is unfair. In fact, 82% of them feel it is time to tackle wealth and income inequality. The post-pandemic recovery means a lot of support is available for new, novel, bold ideas. The Standing Senate Committee on National Finance is in a good position to study the matter and make recommendations to the federal government.

When the committee decided to examine the government's response to the pandemic in 2020, it also raised the possibility of expanding the study to the future green recovery. Unfortunately, that plan was derailed because Parliament prorogued.

As Senator Pate pointed out in her speech, the committee had recommended that the Government of Canada, with provinces, territories and Indigenous governments, give full, fair and priority consideration to a basic income guarantee.

Then, in April 2020, 50 senators urged the Prime Minister to transform the Canada Emergency Response Benefit into a guaranteed basic income program. Honourable colleagues, the post-pandemic social and economic policy possibilities are numerous, and Canadians have proven that they are hungry for new ideas and effective action. I'm sure you all have big ideas for reopening our economy. Thanks to our committee, this study has the potential to carry out a comprehensive review of the proposed social and economic policies to ensure a speedy, efficient and prosperous recovery for all Canadians. I'm happy to support this motion, and I strongly encourage you do the same. Thank you. *Meegwetch*.

Hon. Senators: Hear, hear!

(On motion of Senator Plett, debate adjourned.)

[*English*]

THE SENATE

MOTION TO RECOGNIZE THAT CLIMATE CHANGE IS AN URGENT CRISIS—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Galvez, seconded by the Honourable Senator Forest:

That the Senate of Canada recognize that:

(a) climate change is an urgent crisis that requires an immediate and ambitious response;

(b) human activity is unequivocally warming the atmosphere, ocean and land at an unprecedented pace, and is provoking weather and climate extremes in every region across the globe, including in the Arctic, which is warming at more than twice the global rate;

(c) failure to address climate change is resulting in catastrophic consequences especially for Canadian youth, Indigenous Peoples and future generations; and

(d) climate change is negatively impacting the health and safety of Canadians, and the financial stability of Canada;

That the Senate declare that Canada is in a national climate emergency which requires that Canada uphold its international commitments with respect to climate change and increase its climate action in line with the Paris Agreement's objective of holding global warming well below two degrees Celsius and pursuing efforts to keep global warming below 1.5 degrees Celsius; and

That the Senate commit to action on mitigation and adaptation in response to the climate emergency and that it consider this urgency for action while undertaking its parliamentary business.

Hon. Mary Coyle: Honourable senators, I speak to you today from Mi'kma'ki, the unceded territories of our Mi'kmaq people. I rise today in the first week of our 2022 Senate proceedings to speak in support of Senator Galvez's motion, which calls on us to recognize that climate change is an urgent crisis, that the Senate declare that Canada is in a national climate emergency and that we commit to urgent action on mitigation and adaptation.

Senator Galvez's motion also asks us to recognize that we, humans, are responsible for the warming of the lands, the oceans and the atmosphere that is causing the climate problems; to recognize that if we fail to address climate change, there will be catastrophic consequences; and to recognize that climate change is having a negative impact on our health and safety, along with the financial stability of our country, Canada.

Colleagues, as I said, I'm here to speak in support of Senator Galvez's motion and, hopefully, to move this debate closer to a vote. But I want you to know that I honestly had no intention of speaking to this motion. As Senator Galvez can attest, I had expressed some hesitation about introducing this motion in the first place.

My concern was not at all about the validity of the evidence behind the assertions articulated by the motion. There is overwhelmingly reliable, scientific evidence to back the fact that we are in a climate emergency and that it is only going to get worse. We've heard our colleagues debating this motion outline that evidence in detail. My concern was also not about the fact that urgent action is required and that, in fact, the costs of inaction will be much higher than those of action.

My hesitation, really, was about the potential impact of the motion itself. I hesitated because I wasn't sure the motion would have its intended effects. Would it or could it draw our collective attention as members of Canada's upper house to the importance of the climate challenge? Could it signal to the government and the people of all ages, especially youth, in our respective regions that senators take climate change seriously? Finally, could this motion help to motivate us as senators to come together to better understand the climate challenge, to collectively appreciate the urgency to take action and to encourage us to seek solutions and hold the government to account on its promises?

Well, colleagues, I believe it could. That is why I am here today speaking in favour of this motion, adding my voice to those of Senators Miville-Dechêne, Forest, Griffin, Black, Dasko, McPhedran and Galvez. We know a motion declaring a climate emergency in the other place was passed almost three years ago on June 17, 2019. We know many jurisdictions and institutions — some 2,000 plus across Canada and throughout the world — have passed motions declaring climate emergencies.

Of course, the Canadian Senate doesn't just want to jump on any fast-moving bandwagon. We are the chamber of sober second thought, after all. At the same time, we know we must always be alert to matters of critical importance and make sure that we play our role, as trusted parliamentarians, in guiding Canada in the right direction for the well-being of our citizens.

• (2030)

Colleagues, an assessment of the United Kingdom's motion on climate concluded:

> The declaration . . . has the potential to unify and coordinate action at a national scale. . . . Its weakness currently is the uncertain relationship between rhetoric and action. . . .
>
> Government inaction reduces its credibility . . . .

That's about the U.K. motion.

As I looked deeper into the literature on the challenges for inspiring action on climate, five main challenges kept coming up. Those challenges are skepticism; complexity; uncertainty; the sheer scale of it; and, of course, emotion. These challenges are real and should never be dismissed. In order to bring people together and make progress, those issues need to be fully addressed.

Because we don't yet have a clear idea of all the specific actions, their sequence and pace that Canada and other jurisdictions and actors will have to take to deal with our climate challenges, it is understandable that Canadians feel unsettled and are concerned about a whole variety of issues. Of course we worry about being able to maintain our standard of living. We worry about putting food on the table and keeping a roof over our heads. We worry about overall economic insecurity in our communities and our nation; the reliability of our energy supply; and the possible disparagement and disadvantaging of certain groups of workers, industries or regions. We worry about our personal health and safety, about the myriad of impacts of extreme weather events, the melting of the Arctic sea ice and permafrost, and sea levels rising. We worry about what kind of a world and what challenges we will leave behind for our children, our grandchildren and future generations.

Colleagues, as we know, these concerns and fears are naturally heightened at this time of the global COVID pandemic, which has been so hard on so many. Former governor of the Bank of Canada and the Bank of England, Mark Carney, is on record as saying:

> When you look at climate change from a human mortality perspective, it will be the equivalent of a coronavirus crisis every year from the middle of this century, and every year . . . .

It's hard to imagine living with the level of devastation experienced throughout the pandemic every year. Colleagues, are we late to the table with this climate motion or are there very good reasons to embrace this motion right now?

Environment Canada senior climatologist David Phillips, in recounting the 2021 extremes of heat domes, wildfires, droughts, floods, tornadoes and hurricanes in Canada, said:

> This year showed how climate change can exaggerate and extenuate the normal extremes of Canadian weather into dangerous and destructive events.

He went on to say:

> What I'm hopeful for is that it becomes the turning point and confirmation for the majority of Canadians that there's clear and present danger to climate change and extreme weather. This year has really woken people up to that fact.

Honourable colleagues, let me repeat his words: "This year has really woken people up." He hopes it becomes a turning point.

Colleagues, the year is 2022. Canadians are more awake than ever to the perils of climate change, for many because it is actually nipping right at their heels. It is eight short years until 2030, an important milestone in Canada's climate commitments and those of our international counterparts. Next month, we will see the government release its emissions reduction plan showing how Canada will meet its targets for reducing greenhouse gas emissions by 40% to 45% by the year 2030. This is a requirement of the Canadian Net-Zero Emissions Accountability Act we passed in this chamber in June of last year. Also required is the inclusion of an interim emissions target for 2026, just four years down the road.

In the fall of this year, the government will also release its first national adaptation strategy, establishing a vision and direction for climate resilience in Canada.

So, yes, colleagues, I believe it is a good time for us to pass this motion in the Senate of Canada. I believe it's time to demonstrate our unity on this critical matter and encourage all Canadians to do the same thing. With our independence as senators, our connections to our regions and our ability to see and act beyond electoral cycles, the Senate of Canada is uniquely positioned to respond.

I hope we will soon vote on this motion. I believe the time has come to place our Senate stake in the ground on this critical issue of climate. It is also time to make sure Canada moves swiftly and with clear evidence to find the best solutions and to act on them. This will reinforce the credibility of this motion and our credibility as engaged parliamentarians.

Colleagues, as I move toward the conclusion of my remarks, I also want to emphasize that I believe that Canada's imperative to act on climate is also its opportunity. This is something we know we will have a chance to delve into during this Parliament.

Honourable senators, it's time to demonstrate leadership. That word, "leadership," is so important: Leaders see and pursue opportunity when that is the right thing to do. I believe that passing this motion at this time is the right thing to do. It is one of the actions we can take among many.

Colleagues, Prime Minister Mia Mottley of Barbados, in speaking to her fellow world leaders at COP26 in Glasgow in November, asked the following:

> Will we act in the interest of our people who are depending on us or will we allow the path of greed and selfishness to sow the seeds of our common destruction?
>
> Leaders today, not leaders in 2030 or 2050, must make this choice.
>
> It is in our hands. Our people and our planet need it.

Honourable colleagues, as leaders today, let's seize this moment and come together in unity in this chamber to pass this motion for the sake of our people and our planet. Let's show them they can count on us and then let's get on with the work.

Thank you, *wela'lioq*.

(On motion of Senator Duncan, debate adjourned.)

MOTION TO CALL ON THE GOVERNMENT TO ADOPT ANTI-RACISM AS THE SIXTH PILLAR OF THE CANADA HEALTH ACT —DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator McCallum, seconded by the Honourable Senator LaBoucane-Benson:

> That the Senate of Canada call on the federal government to adopt anti-racism as the sixth pillar of the *Canada Health Act*, prohibiting discrimination based on race and affording everyone the equal right to the protection and benefit of the law.

Hon. Wanda Elaine Thomas Bernard: Honourable senators, I speak today from the unceded territory of Mi'kma'ki, the traditional land of Mi'kmaq people.

I stand in support of Senator McCallum's Motion No. 11, calling on the federal government to adopt anti-racism as the sixth pillar of the Canada Health Act. The existing five pillars do not adequately protect racialized Canadians. Indigenous and Black people in Canada experience health inequities and report experiences of racism within the current medical system. Adding antiracism as a pillar would lay the foundation for much-needed systemic change.

• (2040)

In short, honourable colleagues, racism is bad for health. According to the Black Health Alliance, Black people in Canada are more likely to live in poverty and are subject to more health disparities than the rest of Canadians, including chronic illnesses such as heart disease, diabetes and issues related to mental health.

During the study of forced and coerced sterilization of persons in Canada, the Senate Standing Committee on Human Rights heard many accounts of racism and mistreatment within the medical system, resulting in forced and coerced sterilization. Dr. Josephine Etowa stated:

> As is the case for Indigenous communities, a history of structural racism, discrimination and exclusion in Canada has created inequities in the health and well-being of African Canadians.

When race intersects with gender, disability, age, sexual orientation, sexual identity or immigration status, we can see even more barriers that the default policies and practices cannot reach, and at times seem invisible.

Honourable colleagues, I invite you to be a "story catcher" today as I take on the role of storyteller. Imagine you are walking to work and you slip on a patch of ice. Later that night, you wait in the emergency room with searing pain in your hip and shoulder. After waiting for 10 hours, barely seen by any medical staff, you are sent for X-rays. When the attending physician finally appears, they do not actually examine you. They simply read your X-rays, say nothing is broken and they prescribe a treatment of ice, ibuprofen and acetaminophen. They say you should be feeling better in a few days. After you leave the hospital, you realize then that the doctor never even asked to rank your pain on a scale of 1 to 10, and you realize it is a 12. You continue to move through the pain because you were told to return to work. Eventually the pain is so unbearable that you cannot dress yourself. Two weeks later, you are correctly diagnosed with a shoulder fracture. However, the initial misdiagnosis and lack of treatment have aggravated the fracture and led to multiple other injuries to your shoulder.

Three years later, you still feel that pain in your shoulder and each day are reminded of being dismissed and misdiagnosed. You feel anger, rage and helplessness because a slip on some ice should not have led to years of pain, medical appointments and now possibly surgery. What if this had been a life-threatening illness with no time to get a second opinion?

Honourable colleagues, my story catchers, this story is not fiction. This happened to me in April of 2019, and it continues to impact my life every single day. My experience is not an isolated incident. When I share my story with other African-Canadians, they nod, understanding my experience because they too have experienced the racism and discrimination in the Canadian medical system.

I have witnessed the similar treatment of my spouse, other family members and community, across the country with different conditions, different health care providers, but the same medical system that dismisses our pain.

A study conducted in 2016 in the United States showed the presence of racial disparities in pain assessment and treatment by medical doctors. Racial bias and false beliefs, originating with slavery times, impact the way Black patients are treated by medical professionals.

Hopefully, with the collection of more disaggregated data in Canada, we can see how Canada compares for systematically untreated pain. My prediction is that our experience is similar. These types of experiences are too common for Indigenous and Black people, especially those of us who live with intersecting oppression.

In November of 2021, Nova Scotia witnessed a groundbreaking dialogue during the Desmond inquiry about the connection between race and health. Lionel Desmond was a young, Black man who served in Afghanistan and was suffering from PTSD. When he sensed his mental health was declining, he sought medical attention. The day after he was discharged, he

ended his own life after fatally shooting his wife Shanna, their 10-year-old child Aaliyah and his mother Brenda. Leading up to this tragedy, the Desmond family must have been in a crisis. A Black veteran dealing with PTSD was not able to find the help he needed at the time he needed it the most.

During the inquiry there has been a glaring absence of recognition of the systemic racism faced by Lionel Desmond in the lead up to the murder-suicide. That is until the landmark testimony presented by a panel of representatives from the Health Association of African Canadians. They identified the crucial need to address race and racism in this inquiry and, indeed, in the health system in Nova Scotia.

In theory, antiracism should be woven throughout the other five pillars, but as my story and the Lionel Desmond story highlight, the existing pillars do not always "protect, promote and restore the physical and mental well-being" as they are meant to.

Honourable senators, we cannot afford to wait for another tragedy before making serious changes to the federal health system. It is time for us to be bold for change. Including antiracism as a pillar is about ensuring health equity for those who are victims of systemic racism. Health equity is a way of recognizing and accounting for the barriers that exist and working towards removing those barriers. Accessibility and universality, two of the five existing pillars, are not guaranteed for people on the margins. As Senator McCallum asked:

> How can health care be accessible and universal when people are afraid to go to the health centres because of racism?

Until we get to a place where universality and accessibility are a reality, it must be a conscious decision and deliberate action.

Honourable colleagues, Indigenous and Black people do not feel safe in the current medical system. In this chamber, we make evidence-based decisions, and we consider the experiences of marginalized Canadians. Accordingly, I support Motion No. 11, and I thank Senator McCallum for bringing it forward again. This motion will lay the foundation for a future in which equitable access to safe and culturally responsible health services is truly available to all Canadians.

Passing this motion enables us to be bold for change, and to lead the changes we want to see in the health care system. *Asante*. Thank you.

(On motion of Senator Duncan, debate adjourned.)

• (2050)

FISHERIES AND OCEANS

COMMITTEE AUTHORIZED TO STUDY ISSUES RELATING TO FEDERAL GOVERNMENT'S CURRENT AND EVOLVING POLICY FRAMEWORK FOR MANAGING FISHERIES AND OCEANS

Leave having been given to proceed to Motions, Order Nos. 25, 26, 34, 35, 36, 37, 38, 39, 40, 41 and 42:

Hon. Fabian Manning, for Senator Busson, pursuant to notice of December 14, 2021, moved:

> That the Standing Senate Committee on Fisheries and Oceans be authorized to examine and report on issues relating to the federal government's current and evolving policy framework for managing Canada's fisheries and oceans, including maritime safety; and
>
> That the committee submit its final report to the Senate no later than June 30, 2025.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

COMMITTEE AUTHORIZED TO STUDY THE IMPLEMENTATION OF INDIGENOUS RIGHTS-BASED FISHERIES ACROSS CANADA AND REFER PAPERS AND EVIDENCE FROM THE SECOND SESSION OF THE FORTY-THIRD PARLIAMENT

Hon. Fabian Manning, for Senator Busson, pursuant to notice of December 14, 2021, moved:

> That the Standing Senate Committee on Fisheries and Oceans be authorized to examine and report on the implementation of Indigenous rights-based fisheries across Canada, including the implementation of the rights of Mi'kmaq and Maliseet communities in Atlantic Canada to fish in pursuit of a moderate livelihood;
>
> That the Committee study how Indigenous rights-based fisheries have been implemented by the federal government thus far, and that the Committee identify the most appropriate and effective ways to ensure the recognition and implementation of Indigenous rights-based fisheries going forward;
>
> That the papers and evidence received and taken and work accomplished by the Standing Senate Committee on Fisheries and Oceans during the Second Session of the

Forty-third Parliament as part of its study of issues relating to its mandate as set out in the relevant subsection of rule 12-7, be referred to the committee; and

That the Committee report to the Senate no later than December 31, 2022, and that the committee retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

COMMITTEE AUTHORIZED TO STUDY ISSUES RELATING TO FOREIGN RELATIONS AND INTERNATIONAL TRADE GENERALLY

Hon. Peter M. Boehm, pursuant to notice of February 8, 2022, moved:

That the Standing Senate Committee on Foreign Affairs and International Trade, in accordance with rule 12-7(4), be authorized to examine such issues as may arise from time to time relating to foreign relations and international trade generally; and

That the committee report to the Senate no later than June 30, 2025.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

COMMITTEE AUTHORIZED TO STUDY ISSUES RELATING TO SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY GENERALLY

Hon. Ratna Omidvar, pursuant to notice of February 8, 2022, moved:

That the Standing Senate Committee on Social Affairs, Science and Technology, in accordance with rule 12-7(9), be authorized to examine and report on such issues as may arise from time to time relating to social affairs, science and technology generally; and

That the committee submit its final report on this study to the Senate no later than June 12, 2025.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

AGRICULTURE AND FORESTRY

COMMITTEE AUTHORIZED TO STUDY ISSUES RELATING TO AGRICULTURE AND FORESTRY

Hon. Robert Black, pursuant to notice of February 8, 2022, moved:

That the Standing Senate Committee on Agriculture and Forestry, in accordance with rule 12-7(10), be authorized to examine and report on such issues as may arise from time to time relating to agriculture and forestry; and

That the committee report to the Senate no later than December 31, 2023.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

COMMITTEE OF SELECTION

JOINT COMMITTEES AUTHORIZED TO HOLD HYBRID MEETINGS

Hon. Michael L. MacDonald, pursuant to notice of February 8, 2022, moved:

> That, notwithstanding any provision of the Rules, previous order or usual practice and pursuant to the order of the Senate on November 25, 2021, authorizing Senate committees to hold hybrid meetings, the Senate authorize standing joint committees to hold hybrid meetings;
>
> That:
>
> (a) hybrid committee meetings be considered, for all purposes, to be meetings of the standing joint committee in question, and senators taking part in such meetings be considered, for all purposes, to be present at the meeting;
>
> (b) for greater certainty, and without limiting the general authority granted when this order is adopted by the Senate, when a standing joint committee holds a hybrid meeting:
>
> (i) all members of a standing joint committee participating count towards quorum;
>
> (ii) such meetings be considered to be occurring in the parliamentary precinct, irrespective of where participants may be; and
>
> (iii) the standing joint committees be directed to approach in camera meetings with all necessary precaution, taking account of the risks to confidentiality inherent in such technologies; and
>
> (c) subject to variations that may be required by the circumstances, to participate by videoconference senators must:
>
> (i) participate from an office or residence within Canada;
>
> (ii) use a desktop or laptop computer and a headset with integrated microphone provided by the Senate for videoconferences;
>
> (iii) not use other devices such as personal tablets or smartphones;
>
> (iv) be the only people visible on the videoconference;
>
> (v) have their video on and broadcasting their image at all times; and
>
> (vi) leave the videoconference if they leave their seat; and
>
> That a message be sent to the House of Commons to acquaint that House accordingly.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*Translation*]

OFFICIAL LANGUAGES

COMMITTEE AUTHORIZED TO STUDY FRANCOPHONE IMMIGRATION TO MINORITY COMMUNITIES

Hon. René Cormier, pursuant to notice of February 8, 2022, moved:

> That the Standing Senate Committee on Official Languages be authorized to examine and report on Francophone immigration to minority communities;
>
> That, given that the federal government plans to develop an ambitious national Francophone immigration strategy, the committee be authorized to:
>
> a) review the progress on the target for French-speaking immigrants settling outside of Quebec;
>
> b) study the factors that support or undermine the ability of French-speaking immigrants to settle in Francophone minority communities;
>
> c) study the factors that support or undermine the ability of Canada’s current immigration programs and measures to maintain the demographic weight of the French-speaking population;
>
> d) study the measures and programs implemented by the Government of Canada to recruit, welcome and integrate French-speaking immigrants, refugees and foreign students;
>
> e) study the impact of these measures and programs on the development and vitality of English-speaking communities in Quebec; and
>
> f) identify ways to increase support for this sector and to ensure that the Government of Canada’s objectives can be met; and
>
> That the committee submit its final report to the Senate no later than March 31, 2023, and that the committee retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*English*]

NATIONAL SECURITY AND DEFENCE

COMMITTEE AUTHORIZED TO STUDY ISSUES RELATING TO NATIONAL DEFENCE AND SECURITY GENERALLY

Hon. Tony Dean, pursuant to notice of February 8, 2022, moved:

> That the Standing Senate Committee on National Security and Defence be authorized to examine and report on matters relating to national defence and security generally, including veterans' affairs, as stated in rule 12-7(15); and
>
> That the committee submit its final report no later than June 30, 2023, and that the committee retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

COMMITTEE AUTHORIZED TO STUDY VETERANS AFFAIRS

Hon. Tony Dean, pursuant to notice of February 8, 2022, moved:

> That the Standing Senate Committee on National Security and Defence be authorized to examine and report on:
>
> (a) services and benefits provided to members of the Canadian Forces; to veterans who have served honourably in the Canadian Armed Forces in the past; to members and former members of the Royal Canadian Mounted Police and its antecedents; and all of their families;
>
> (b) commemorative activities undertaken by the Department of Veterans Affairs Canada, to keep alive for all Canadians the memory of Canadian veterans' achievements and sacrifices;
>
> (c) continuing implementation of the *Veterans Well-being Act*; and
>
> That the committee report to the Senate no later than June 30, 2023, and that the committee retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

COMMITTEE AUTHORIZED TO STUDY ISSUES RELATING TO SECURITY AND DEFENCE IN THE ARCTIC

Hon. Tony Dean, pursuant to notice of February 8, 2022, moved:

> That the Standing Senate Committee on National Security and Defence be authorized to examine and report on issues relating to security and defence in the Arctic, including Canada's military infrastructure and security capabilities; and
>
> That the committee report to the Senate no later than June 30, 2023, and that the committee retain all powers necessary to publicize its findings until 180 days after the tabling of the final report.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*Translation*]

TRANSPORT AND COMMUNICATIONS

COMMITTEE AUTHORIZED TO STUDY ISSUES RELATING TO TRANSPORT AND COMMUNICATIONS GENERALLY

Hon. Julie Miville-Dechêne, for Senator Housakos, pursuant to notice of February 8, 2022, moved:

> That the Standing Senate Committee on Transport and Communications be authorized to examine and report on matters relating to transport and communications generally, including:
>
> (a) transport and communications by any means;

(b) tourist traffic;

(c) common carriers; and

(d) navigation, shipping and navigable waters; and

That the committee submit its final report no later than September 30, 2025, and that the committee retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*English*]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

MOTION TO AUTHORIZE COMMITTEE TO STUDY THE CUMULATIVE IMPACTS OF RESOURCE EXTRACTION AND DEVELOPMENT—DEBATE

On the Order:

Resuming debate on the motion of the Honourable Senator McCallum, seconded by the Honourable Senator LaBoucane-Benson:

That the Standing Senate Committee on Energy, the Environment and Natural Resources be authorized to examine and report on the cumulative positive and negative impacts of resource extraction and development, and their effects on environmental, economic and social considerations, when and if the committee is formed; and

That the committee submit its final report no later than December 31, 2022.

Hon. Rosa Galvez: Honourable senators, I rise again today to speak in support of Motion No. 12 introduced by Senator McCallum requesting that the Standing Senate Committee on Energy, the Environment and Natural Resources be authorized to examine and report on the cumulative positive and negative impacts of resource extraction and development, and their effects on environmental, economic and social considerations.

In the last parliamentary session I also spoke in favour of this motion, and I thank Senator McCallum for bringing this study proposal to the floor of the Senate. Her continued passionate work on community impacts, especially on Indigenous communities, is admirable and needs to be supported.

I believe this study could bring great value in understanding the overall impacts of resource extraction and development in Canada. I say "overall impacts," because Canadians — and especially parliamentarians — are often bombarded by the one-sided promotion of the positive contributions of resource extraction on Canada's GDP, employment and government revenues. Next to these amplified voices, communities, NGOs, academics and scientists can barely pierce through the noise to present other aspects — positive or negative — and have to resort to protests to get media attention.

I have been teaching engineering students how to conduct and complete environmental impact assessments for almost 30 years. A project that considers and integrates the needs of a host community from its early conception and design will result in a project that is technically sound, cost-efficient, safe, prosperous for all and healthy for the community and the environment. On the contrary, a project that is conceived independently without considering community issues puts at risk the implementation of the entire project and will most certainly create irritants and opposition which can lead to wasting important and valuable investments. Nobody wants this, yet it still happens so often.

Effective and successful decision making requires in-depth analysis.

[*Translation*]

The Hon. the Speaker pro tempore: Senator Galvez, I must interrupt you. You will have 12 minutes remaining in the next sitting.

Senator Galvez: Okay.

(*At 9 p.m., pursuant to the order adopted by the Senate on November 25, 2021, the Senate adjourned until Tuesday, February 22, 2022, at 2 p.m.*)

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