SENATE SÉNAT

CANADA

DEBATES OF THE SENATE

1st SESSION • 44th PARLIAMENT • VOLUME 153 • NUMBER 97

OFFICIAL REPORT
(HANSARD)

Tuesday, February 7, 2023

The Honourable GEORGE J. FUREY,
Speaker

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Publications Centre: Publications@sen.parl.gc.ca

Published by the Senate
Available on the Internet: http://www.parl.gc.ca

THE SENATE

Tuesday, February 7, 2023

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

Prayers.

SENATORS' STATEMENTS

THE LATE HONOURABLE JOAN BISSETT NEIMAN, K.C.

Hon. Gwen Boniface: Honourable senators, I rise today to pay homage to the Honourable Joan Bissett Neiman. She died on November 27, 2022, at the age of 102, after living a unique and rich life. At the time of her death, she had been the oldest living Canadian who served in this Senate.

Joan was born in 1920 in Winnipeg to Catherine and Dr. Edgar Bissett. Her father served as Member of Parliament for Springfield, Manitoba, between 1926 and 1930. Joan's formative years were marked by spending time outdoors with their family at their beloved Willard Lake and voraciously reading all the books in her father's library. She began her university studies at the tender age of 16 at Mount Allison University, earning a Bachelor of Arts in English. She was active in the students' union, theatre society and newspaper. Soon after graduation, she served in the Women's Royal Canadian Naval Service during World War II, retiring in 1946 as a lieutenant-commander.

Joan met the love of her life, Clem, at Osgoode Hall Law School, and they went into practice together in downtown Toronto. Together they raised four children and were married for 66 years.

Joan was appointed to the Senate in 1972, making her the fourteenth female senator at the time. She served for 23 years until her retirement. On the topic of female senators, she was quoted as saying:

> . . . it is nice that 15 of us are in the Senate today. That is a beginning. I think it has made a tremendous difference to have women in the Senate . . .

Her work as a senator included chairing both the Legal and Constitutional Affairs Committee and the Special Senate Committee on Euthanasia and Assisted suicide. She was very proud to have been the first Canadian to chair the human rights committee of the Inter-Parliamentary Union.

Following her retirement from the Senate, she continued to contribute to the issues she held dear, such as penal reform, women's and Indigenous rights and universal health care. She was a member of the Dalhousie Health Law Institute end-of-life project, the Citizens Panel on Increasing Organ Donations and the Patron's Council of Dying With Dignity Canada.

I had the pleasure of getting to know Joan in her retirement years, which she and Clem spent in our region. They were a formidable team. She was preceded in death by Clem and daughter Martha, and is survived by her children, Dallas, Patti and David, six grandchildren and two great-grandchildren.

A memory shared by a friend summed up Joan perfectly:

> Joan loved to giggle, especially at Clem's jokes, and could express a point of view with the logic of a lawyer, the warmth of a mother and friend, and the experience of a WAC. She made a tenacious and inspired commitment to issues of public policy, and it must have been as rewarding to Joan as it has been to many others, for her pioneering ideas to now have the force of law.

Rest in peace, dear Joan, a trailblazer for all of us who stand in this chamber.

Thank you.

CANADIAN UNDER-18 CURLING CHAMPIONSHIPS

Hon. Donald Neil Plett: Honourable senators, last May I rose in this chamber to bring you the story of an outstanding junior women's curling team who went on to become gold medal winners in the Under-18 Canadian Girls Curling Championships. Now I know you've been waiting anxiously for an update on the team's success this year, and I'm happy to be able to bring you that today.

This year, Team Plett consists of my granddaughter Myla Plett as skip, Alyssa Nedohin as third, Chloe Fediuk as second and Allie Iskiw as lead. Together with their coaches, Blair Lenton and David Nedohin, they have had a very busy winter.

From November 25 to 27, Team Plett competed in the Canada Winter Games Trials. They went 4-2, playing the other three teams twice, and then went on to the final to emerge victorious with a score of 8-2. This means that Team Plett will be representing Alberta at the Canada Winter Games in Prince Edward Island from February 18 to March 5.

Right after Christmas, Myla's team headed to the Under-18 provincials, which were held January 4 to 8 in Cochrane, Alberta. The team went 6-1 during a round robin, giving them first place, which meant they had a bye straight to the final. They won the final 4-3, making them the Under-18 Alberta provincial champions for the second straight year.

Team Plett is in Timmins, Ontario, this week, representing Alberta and defending their title at the 2023 Canadian Under-18 Curling Championships. They are 2-0 so far.

Two weeks after winning the Under-18 provincial championships, the team was on the road to Ellerslie, Alberta, for the Under-20 provincials, which were held January 25 to 29. There, they had a record of 5-2 and advanced to the semifinals, which they won by a score of 7-3. In the final, they faced their long-time nemesis Team Booth and came out victorious with an 8-6 victory, becoming the Under-20 Alberta provincial champions. Team Plett is now headed to Quebec on March 25 for the 2023 New Holland Canadian Under-21 Men's and Women's Curling Championships.

Colleagues, as you can imagine, I am a very proud grandpa. But I am not only proud of my granddaughter Myla and her team. I'm also extremely proud of all the athletes in Canada who work very hard at their sport, often without securing those coveted spots on the podium.

I salute their discipline, determination, dedication and good sportsmanship. I invite you to join me in congratulating not only my favourite curling team, but all of our athletes who make us proud as they pursue their dreams.

Thank you.

Hon. Senators: Hear, hear.

• (1410)

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Brian Warr, Deputy Speaker of the Newfoundland and Labrador House of Assembly.

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

Hon. Senators: Hear, hear!

[*Translation*]

THE QUEEN'S PLATINUM JUBILEE MEDAL

CONGRATULATIONS TO RECIPIENTS

Hon. Rose-May Poirier: Honourable senators, I am pleased to rise today to share with you the stories of five recipients of the Queen's Platinum Jubilee Medal. As a senator from New Brunswick, I had the honour and privilege of awarding medals to five deserving people in my region in recognition of their contribution to their community and in commemoration of the seventieth anniversary of the accession of Her Majesty Queen Elizabeth II to the throne.

I would like to take this opportunity to thank the New Brunswick Office of Protocol for giving us the opportunity to recognize our community builders. In total, 3,000 medals were awarded in the province.

Let me begin by saying that four of the five recipients of the Queen's Platinum Jubilee Medal are veterans of the Second World War. All four were chosen by their respective legions to recognize not only their role and sacrifice in the Second World War, but also the contribution they made to their community when they returned home from the war.

In alphabetical order, they are Léonard Boucher from Bouctouche, a member of the Richibucto Legion; Edmond Daigle from Richibucto, the oldest member of the Richibucto Legion; Paul Maillet, from Coal Branch, who has provided a great deal of support to the region of Hartcourt and helped with many community activities; and Léonard Pitre, age 97, formerly of Rogersville and current resident of Miramichi, who served in the Canadian Armed Forces for 12 years.

The fifth recipient, Jonathan Richard, has been a teacher at École Mgr-Marcel-François-Richard for the past three years. He shares his passion and enthusiasm for Acadian history and culture with his students through community projects, such as cleaning headstones, creating a work of art in memory of soldiers who died on the battlefield, organizing an appreciation day for former school principles and more. Through projects like these, the students are learning about teamwork, communication, leadership and, of course, Acadian culture.

The Queen's Platinum Jubilee Medal is a tangible way for New Brunswick to honour Her Majesty's service to Canada, as well as that of residents of New Brunswick who, like Her Majesty, have been exemplary in their service to others. I had the privilege of paying tribute to Mr. Boucher, Mr. Daigle, Mr. Maillet, Mr. Pitre and Mr. Richard for their services to their community and thanking them for everything they have done and continue to do.

Honourable senators, join me in congratulating them on receiving the Queen's Platinum Jubilee Medal and thanking them for everything they have done for the Kent region and their communities. Thank you.

[*English*]

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Sylvia Parris-Drummond, the CEO of the Delmore "Buddy" Daye Learning Institute in Halifax. She is the guest of the Honourable Senator Bernard.

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

Hon. Senators: Hear, hear!

BLACK HISTORY MONTH

THE HONOURABLE WANDA THOMAS BERNARD, O.C., O.N.S.

Hon. Nancy J. Hartling: Honourable senators, during Black History Month, Canadians celebrate the achievements and contributions of Black Canadians and their communities who — throughout history — have done so much to make Canada a diverse, compassionate and prosperous country. This year's theme is "Ours to tell."

Today, I would like to celebrate and honour our dear colleague Senator Wanda Thomas Bernard, and thank her sincerely for her many achievements and her unwavering commitment to Black history and culture.

We have many things in common: We both grew up in Nova Scotia in the 1950s; we both became social workers and social justice advocates; we both experienced early losses; we both had a sister named Valerie; and we both pushed forward under difficult circumstances.

One major difference is that I have never experienced racism or discrimination for being a Black woman. However, I have witnessed microaggressions. I'm grateful to Senator Bernard and my other colleagues in this place for teaching me ways to be an ally whenever I can.

In 2016, we were appointed to the Senate, and met for the first time at a television interview about our appointments. After coming to Ottawa, we became allies in the Senate around many issues related to human rights. I have admired first-hand her work first as Chair and now as Deputy Chair of our Human Rights Committee. In addition, every March for the past five years, during National Social Work Month, we have partnered with the Canadian Association of Social Workers to bring events to the Hill, both in person and virtually.

Before coming to the Senate in 2016, Senator Bernard was the first African-Nova Scotian woman to hold a tenure-track position at Dalhousie University in Halifax, Nova Scotia, and then promoted to full professor. She is a founding member of the Association of Black Social Workers. She has been awarded many honours for her work and community leadership — notably, the Order of Nova Scotia and the Order of Canada. As an academic, she has published several works and continues to provide educational sessions.

Senator Bernard is the first Nova Scotian woman of African descent to serve in the Senate. Her role in the Senate has added value to our work, bringing an intersectional lens focused on diversity and inclusion. Senator Bernard has been a long-time supporter for the official recognition of Emancipation Day on August 1 in Canada.

Senator Bernard has recently become the Liaison of the Progressive Senate Group — a perfect fit given her skills and respect with which she treats all of us.

Congratulations on your many achievements.

Her life in East Preston, Nova Scotia, is busy with community and church. She is actively involved with her family and two lovely grandsons, along with her political engagement on important issues.

I am proud to call Wanda a friend, and to honour and celebrate her during this very important month. In closing, I leave you with a quote by Senator Bernard:

> Some people wait for things to happen but I say we must all be willing to lead the change you want to see in your world.

Thank you, Wanda, for continuing to lead the change and for being you.

Hon. Senators: Hear, hear!

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Kateri Coade, the Executive Director of the Mi'kmaq Confederacy of PEI and daughter of the Honourable Senator Francis.

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

Hon. Senators: Hear, hear!

[*Translation*]

THE HONOURABLE DENNIS DAWSON

Hon. Clément Gignac: Honourable senators, today I'd like to pay tribute to my sponsor. Although that word can have different meanings, I'm referring to the person I chose as my sponsor when I was sworn into the Senate. I'm obviously referring to my friend and Senate colleague, the Honourable Dennis Dawson.

I'm doing so today because, like several colleagues from the Standing Senate Committee on National Security, Defence and Veterans Affairs, I will be travelling tomorrow as part of our visit to NORAD headquarters in Colorado. That said, I look forward to spending tomorrow evening watching the recording of all the tributes and stories you will share about him.

Instead of talking about his political career and all his accomplishments here in the Senate and at the other place as a member, I'd instead like to talk to you about how I got to know Senator Dawson and how our friendship developed over the years.

Senator Dawson was already a well-known political figure in Ottawa and Quebec City when we first met in the summer of 2009 during one of the memorable cocktail hours at the Club nautique du Lac-St-Joseph in the Quebec City area. The general manager of Lac-Saint-Joseph was proud to introduce me, a new resident, to the Honourable Senator Dawson. Although our first conversation was very courteous, I have to admit that our respective interests and political affiliations at the time were polar opposites.

Although I was newly elected as a Liberal to the National Assembly of Quebec, at the time I was a longstanding Conservative supporter at the federal level. Moreover, I'd just arrived from Ottawa where I'd had the privilege of working for several months alongside then finance minister, the Honourable Jim Flaherty, as a special adviser during the 2008-09 financial crisis. No need to say that I quickly moved to another table at the start of the cocktail hour when Liberal Senator Dawson began talking politics and more specifically about the Harper government in what I thought to be an overly partisan manner. That said, I gradually warmed up to Senator Dawson and my attitude changed over the course of subsequent years.

Having noticed that the Canadian flag flying at the top of the pole on my property had lost its luster, Senator Dawson left a beautiful new Canadian flag on my dock the following summer as he passed by in his boat, a gesture that I greatly appreciated and that he repeated over the next 12 years, until I was appointed to the Senate.

• (1420)

To be clear, honourable colleagues, I can reasonably say that the Canadian flag was the catalyst for us finding at least one thing in common and, later on, for developing a beautiful friendship through reciprocal invitations and dinners at the homes of common friends.

In the summer of 2021, after receiving the call from the Prime Minister of Canada with the news that the selection committee had recommended me to become a senator, I immediately called Senator Dawson to meet with him. During a nice pontoon ride on the lake with a few beers in the cooler, I had the privilege to ask Senator Dawson about the Senate and how it works, and to get his advice. If some of you found that I was able to integrate quickly into the Senate, I must give full credit to my sponsor, mentor and friend, the Honourable Dennis Dawson.

Thank you, dear friend, for agreeing to sponsor me here in the Senate and for facilitating my integration. In the coming years, it will be my turn to offer you a beautiful Canadian flag when our paths cross again during the summer.

Hon. Jean-Guy Dagenais: I'll be away tomorrow, so I wanted to say a few words today ahead of my colleagues to mark, in my own way, the Honourable Dennis Dawson's retirement.

I have to admit that I think 73 is pretty young to be retiring, especially since I actually turned 73 last Thursday and I don't feel even remotely ready to leave, much to the chagrin of some.

Senator Dawson's decision to retire now is a very personal one, but it certainly doesn't mean he'll stop being active and never make an appearance in the back rooms again. He's not the type to sit around doing nothing. He never backs down from a fight, even the fight he won against throat cancer.

Senator Dawson is a politician through and through. It's what he did for almost 50 years.

Let's talk about his life. After graduation, Dennis Dawson was elected school board trustee and later became chair of the Commission des écoles catholiques de Québec. At 27, he was one of the youngest Liberal MPs in Canada, and he represented the riding of Louis-Hébert for seven years before losing his seat to the Progressive Conservative candidate, a teacher from Chicoutimi by the name of Suzanne Fortin-Duplessis, who later joined him here as a fellow senator.

This harsh setback was certainly not about to extinguish the Honourable Dennis Dawson's political passion. Our colleague and friend had already figured out that one could be very, very, very active in politics without being elected, so he reinvented himself as a government relations specialist, better known as a lobbyist. He never once stopped serving his party, the Liberal Party, even going so far as to attempt a comeback 20 years later in the 2004 election in the riding of Beauport. Defeated by the Bloc Québécois, this star candidate was asked by Prime Minister Paul Martin to serve Canadians in the Senate.

I have to say that he has done it very well for 18 years.

Today, I think it's important to specifically recognize Senator Dawson's commitment to the never-ending fight to have the French language respected in our country, here in Ottawa, and in certain international diplomacy arenas where French and English are equal official languages. Bravo and thank you for your commitment.

Outside of this chamber, the Honourable Dennis Dawson was always one to bring together francophones working together here on Parliament Hill.

I'll never forget the memorable luncheons where he warmly welcomed me into his select group of politicians, political staff and friends. Around the table at Le Parlementaire restaurant, which the Honourable Dennis Dawson presided over with deftness and humour, everyone could let go and drop their political affiliations for a moment in the name of forging friendships.

Thank you for these magical moments that produced fantastic exchanges and even political ribbing like we saw in 2014 when Justin Trudeau removed Liberal senators from the party's caucus. I'm sure that was a difficult moment for a Liberal who was forced to end his career under the progressive banner, which suits him very well I might add.

Thank you very much, Dennis, for your commitment, your devotion and especially your friendship. I wish you good health and good luck in your future endeavours.

In closing, if you don't come back to see us here in Ottawa — which I doubt — then rest assured that we'll see you in Quebec City.

Thank you, my friend.

[*English*]

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Matt Pike. He is the guest of the Honourable Senator Ravalia.

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

Hon. Senators: Hear, hear!

[*Translation*]

ROUTINE PROCEEDINGS

RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

FOURTH REPORT OF COMMITTEE PRESENTED

Hon. Diane Bellemare, Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented the following report:

Tuesday, February 7, 2023

The Standing Committee on Rules, Procedures and the Rights of Parliament has the honour to present its

FOURTH REPORT

Pursuant to rule 12-7(2)(a), your committee recommends that the *Rules of the Senate* be amended by:

1. adding the following new rule immediately after current rule 1-1(2):

"Accessibility

1-1. (3) If a provision of these Rules or a practice of the Senate constitutes a barrier to a senator's full and equal participation in proceedings solely due to a disability, as defined in the *Accessible Canada Act*, the Speaker, or the chair of a committee, may authorize reasonable adjustments to the application of the rule or practice.**";**

2. replacing rule 2-8 by the following:

"Disruption during sitting

2-8. When the Senate is sitting, it is not permitted:

(a) for Senators to engage in private conversations inside the bar, and if they do, the Speaker shall order them to go outside the bar; and

(b) to use an electronic device that produces any sound in any part of the chamber, including the public galleries, unless the device is used as a hearing aid.**";**

3. replacing rule 5-1 of the English version by the following:

"Notice given orally and in writing

5-1. A Senator who wishes to move a substantive motion or initiate an inquiry shall prepare a written notice and read it aloud during Routine Proceedings. The Senator shall then sign the notice and send it immediately to the Clerk at the table, who shall cause it to appear on the *Order Paper and Notice Paper*.**";**

4. replacing rule 5-5 by the following:

"One day's notice for certain motions

5-5. Except as otherwise provided, one day's notice is required for any motion, including the following motions:

(a) to suspend a rule or part of a rule;

(b) for the third reading of a bill;

(c) to appoint a standing committee;

(d) to refer the subject matter of a bill to a standing or special committee;

(e) to instruct a committee;

(f) to adopt a report of a standing committee or the Committee of Selection;

(g) to adjourn the Senate to other than the next sitting day;

(h) to correct irregularities in an order, resolution or vote;

(i) to rescind a leave of absence or suspension ordered by the Senate; or

(j) to consider a message from the House of Commons not related to a Commons amendment to a public bill; or

(k) any other substantive motion.

EXCEPTIONS
Rule 5-6(1): Two days' notice for certain motions
Rule 5-7: No notice required
Rule 5-12: No motions on resolved questions, five days' notice for rescission
Rule 8-1(2): Giving notice for emergency debate
Rule 12-32(1): No notice required for Committee of the Whole
*Rule 13-3(1): Written notice of question of privilege Rule 13-4: Question of privilege without notice***";**

5. replacing rule 10-3 by the following:

"Introduction, first reading and publishing

10-3. The introduction and first reading of a bill are decided without debate or vote. Immediately after the first reading, the bill shall be published.**";**

6. replacing rule 10-10 by the following:

“Non-substantive corrections to a bill

10-10. (1) The Law Clerk may, as required at any stage in the legislative process, make minor non-substantive corrections to a bill, including corrections to:

(a) remove technical, typographical, grammatical or punctuation errors;

(b) modify the table of provisions, the summary or the marginal notes to take into account substantive amendments made to the bill during the legislative process;

(c) renumber provisions as a consequence of amendments made to the bill during the legislative process;

(d) update cross-references as a consequence of corrections made under paragraphs (a) or (c);

(e) modify, add or remove headings as a consequence of amendments made to the bill during the legislative process, to ensure that the headings correspond with the provisions that follow them; and

(f) revise or remove coordinating amendments as a consequence of the enactment of any provision referred to in those amendments.

Report of corrections

10-10. (2) At the request of the Clerk, the Law Clerk shall report any corrections made under subsection (1) to the Clerk.**”;**

7. replacing rule 11-3(1) by the following:

“Appointment of Examiner

11-3. (1) The Clerk Assistant of Committees, or another official designated by the Clerk of the Senate, shall be the Examiner of Petitions for Private Bills.**”;**

8. deleting rule 11-4 and renumbering current rules 11-5 to 11-18 accordingly;

9. deleting rule 12-21 and renumbering current rules 12-22 to 12-33 accordingly;

10. replacing rule 12-22(6) of the French version with the following:

« Débat sur un rapport déposé

12-22. (6) Lorsqu’une motion portant adoption d’un rapport déposé est présentée après que le débat sur celui-ci a débuté, les sénateurs qui ont pris la parole dans ce débat sur le rapport obtiennent un temps de parole d’une durée maximale de cinq minutes dans le débat sur la motion. **»;**

11. deleting rule 12-23(6);

12. replacing rule 12-25 by the following:

“Payment of witnesses’ expenses

12-25. The Clerk is authorized to pay witnesses invited or summoned before a Senate committee a reasonable sum for their living, travelling and such other expenses authorized by the Standing Committee on Internal Economy, Budgets and Administration, upon the certificate of the clerk of the committee.**”;**

13. deleting rules 12-26(2) to 12-26(4) and renumbering current rule 12-26(1) as 12-26;

14. replacing rule 14-1(6) by the following:

“Tabling through the Clerk

14-1. (6) Except as otherwise provided, when there is a requirement that a return, report or other paper be laid before the Senate, the document may be deposited with the Clerk, in either print or electronic form, and it shall then be considered tabled in the Senate.

EXCEPTIONS
Rule 15-1(2): Failure to attend two sessions
*Rule 15-6(2): Tabling of declarations by Clerk***”;**

15. replacing the definition of “Committee of Selection” in Appendix I by the following:

“(a) **Committee of Selection:** A Senate committee appointed at the beginning of each session to nominate Senators to serve on the standing committees and the standing joint committees. (*Comité de sélection*)**”;**

16. adding, in alphabetical order, the following new definition in Appendix I:

“Law Clerk

The Law Clerk and Parliamentary Counsel of the Senate as appointed by resolution of the Senate. (*Légiste*)**”; and**

17. updating all cross-references in the Rules, including the lists of exceptions, accordingly.

Respectfully submitted,

DIANE BELLEMARE

Chair

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

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

INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

SEVENTH REPORT OF COMMITTEE PRESENTED

Hon. Lucie Moncion, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Tuesday, February 7, 2023

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

SEVENTH REPORT

Your committee, which is authorized by the *Rules of the Senate* to consider financial and administrative matters, pursuant to the *Senate Administration Rules*, to prepare estimates of the sum that will be required from Parliament for the services of the Senate, has approved the Senate Main Estimates for the fiscal year 2023-24 and recommends their adoption.

A summary of these Estimates is appended to this report. Your committee notes that the proposed total is $126,694,386.

Respectfully submitted,

LUCIE MONCION

Chair

(*For text of budget, see today's* Journals of the Senate*, p. 1225.*)

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

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

[*English*]

QUESTION PERIOD

CANADIAN HERITAGE

LEGISLATION ON ONLINE STREAMING SERVICES

Hon. Leo Housakos: My question is for the government leader in the Senate.

Senator Gold, we just completed a marathon study of a piece of legislation overhauling the Broadcasting Act in what the Trudeau government stated was an effort to bring online streamers in line with Canadian broadcasters, including the public broadcaster, the CBC.

This morning, there was an interview featuring the head of the network who stated that CBC is getting out of the broadcasting business and moving its operations entirely online. She proudly boasted about the CBC's efforts thus far toward that goal which, by the way, would be in violation of the CBC's broadcasting licence that requires that they provide service to all Canadians and to all regions.

Essentially, government leader, the head of the CBC is acknowledging that traditional broadcasting is dying.

• (1430)

How much of the CBC's current funding is being inappropriately allocated toward these efforts to circumvent the conditions of the very licence that provides that public funding? Will your government do the right thing and freeze funding until this practice ceases by the CBC?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question. It's very nice to be back in the saddle.

As we know from reading the report this morning, colleagues, the CBC has no plans to move to full streaming any time in the near future. It's simply beginning to speculate as to what the future will bring and it's trying to anticipate the changes that are under way given the proliferation and ubiquitousness of digital technology. Right now, there are lots of Canadians and communities who rely upon traditional broadcasting and radio, and they can continue to rely on the CBC and others in that regard.

This is a conversation about the future of broadcasting and the CBC that the government expects to have in the years to come. But for the time being, the government will continue to ensure that the CBC/Radio-Canada maintains its reputation as a world-class national broadcaster and that it continues to serve Canadians.

Senator Housakos: Government leader, your answer does not correlate with the facts. Over the last decade, we've seen the CBC reducing regional service to an enormous degree, simultaneously spending millions of dollars toward the digital platforms, and that is a fact. The only thing we can't really determine is how much of taxpayers' money they are actually spending to convert to digital.

Let's try another question. Senator Gold, the minister responsible for your government's online censorship bill, Bill C-11, has written a letter to the chair of the CRTC, whom the minister himself had just appointed, expressing concerns that his bill could be used to infringe on freedom of expression. Shocking. The bill is still before Parliament, so I'm not so sure why the minister would write a letter instead of just writing something in the actual bill to protect against the very thing we have been raising concerns about all along, which is the trampling of the freedom of expression.

Senator Gold, are the members of your government, the Trudeau government, unaware that they are in government and that it's not being done to them, but it's being done to Canadians by them? Why is the minister sending a letter to his appointee?

Senator Gold: I guess Bill C-11 is the gift that keeps on giving, doesn't it, Senator Housakos?

Look, the question of how any legislation affects our fundamental rights and freedoms is a serious one, so I will answer seriously. I'm not aware of the letter, so I can't comment on that, but it's sufficient to say and it's the responsible thing for any government to ensure that those who are charged with enforcing the law — once this law does come into force — understand their obligations to respect our fundamental freedoms as guaranteed by the Charter of Rights and Freedoms. In that regard, there is no need to do anything further in the law.

The government's position has always been that the law is not a censorship bill, despite how many times you keep repeating it, senator. Moreover, anything that we pass in Parliament is subject to the terms of the Canadian Charter of Rights and Freedoms. There has been no "notwithstanding" clause invoked in Bill C-11 or in any other bill this government has introduced.

[*Translation*]

JUSTICE

APPROPRIATE SENTENCING

Hon. Pierre-Hugues Boisvenu: Welcome to the Senate, Senator Gold. Since Bill C-5 came into force, two violent sex offenders, a drug trafficker possessing a prohibited and loaded firearm, and a stepmother who beat and starved her 11-year-old stepson received a sentence to be served at home rather than in prison. Senator Gold, I'd like to remind you of what you said in this place when we debated Bill C-5.

> We absolutely agree that serious criminal behaviour should be met with serious sanctions. Under Bill C-5, the offences listed in this amendment will continue to result in a prison sentence almost all of the time.

Do you believe that sexually assaulting someone, beating and starving a child and drug trafficking with prohibited firearms constitute serious criminal behaviour?

Hon. Marc Gold (Government Representative in the Senate): The actions you described are deplorable, but as I've said several times during the debates on the bill you mentioned, we must have confidence in the judges to assess the circumstances on a case-by-case basis and determine the appropriate sentence. The Government of Canada has confidence in its judges and in its judicial system.

Senator Boisvenu: It would appear that the Supreme Court doesn't trust its judges. As recently as the last few years, the Supreme Court has asked judges to treat sexual assault cases more harshly. This means that the sentences weren't severe enough in the past.

Minister Lametti told us publicly in committee that Bill C-5 ". . . does not affect mandatory minimum sentences for sexual assault." Two violent sex offenders received house arrest; in that case, the Crown attorney stated the following: ". . . Justin Trudeau and [Minister of Justice] David Lametti probably have some explaining to do to victims . . . ." Once again, victims' trust in the justice system is shattered. I remind you that the four cases cited are in Quebec.

Senator Gold, will your government explain itself to victims of crime sooner rather than later?

Senator Gold: I want to thank the honourable senator for his question. The Government of Canada takes the needs and feelings of victims very seriously. Everyone needs to live in safety, but I want to reiterate that a judge's decision in applying the law must be understood and respected as an important part of our justice system. The Government of Canada has confidence in our justice system, including the appeal processes that are carefully regulated in our legislative system.

[*English*]

FOREIGN AFFAIRS

HUMAN RIGHTS IN IRAN

Hon. Ratna Omidvar: Welcome back, Senator Gold. It's good to see you looking fit and healthy.

I want to shift our attention to global affairs and, in particular, the feminist revolution in Iran. "For women, for life, for freedom" has become the rallying slogan, not just for the people of Iran but, in fact, around the world — so much so that the song won a Grammy a few days ago for Best Song for Social Change.

We know the social change and slogans must be accompanied by political action. Canada — I'm very pleased to say this — has already imposed sanctions on 127 Iranian individuals and 189 entities. My question to you is whether and when the government will move to the next logical step, which is to seize the assets of some of these individuals and repurpose them back to support the people of Iran in different ways. Thank you.

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. The Government of Canada and all Canadians are horrified at the actions of the Iranian regime that have culminated in violations of human rights and, in particular, the tragic killings of Mahsa Amini and hundreds of brave protesters.

The Government of Canada has announced new measures that go even further than the ones previously imposed. The government is banning officials of the Islamic Revolutionary Guard Corps, the IRGC, from Canada forever, creating a new sanctions bureau and continuing to increase their sanctions on Iran and expanding the ability to seize and freeze assets. Indeed, the Government of Canada has some of the toughest measures of any country in the world against the Iranian regime. Impunity for those in the regime is not an option. Canada stands with the Iranian people and is considering and will always consider further measures to ratchet up the pressure.

Senator Omidvar: Thank you, Senator Gold. That's very good to hear. As Canada is considering other measures, will it also turn its eyes not just on sanctioned entities and the owners of sanctioned entities but also on directors, who are apparently present in Canada without any retribution for their association with these sanctioned entities? Will the government also take a broader look at who is sanctioned?

Senator Gold: Thank you for the question, senator. I certainly will bring this particular matter to the attention of the appropriate minister. But, again, the chamber should rest assured that the government is considering all measures appropriate in the face of these atrocities.

• (1440)

[*Translation*]

ISLAMIC REVOLUTIONARY GUARD CORPS

Hon. Julie Miville-Dechêne: Welcome to the Senate, Senator Gold. In Iran, the Islamic Revolutionary Guard Corps has for months been functioning as the strong arm of a regime that imprisons and executes its political opponents. For years, this group has been destabilizing the entire Middle East with its terrorist activities. The United States designated the Islamic Revolutionary Guard Corps as a terrorist group long ago, but Canada is waffling over what would be a strong signal to an Iranian regime that systematically violates its citizens' rights. Why not take action on this very issue by designating the Islamic Revolutionary Guard Corps as a terrorist group?

Hon. Marc Gold (Government Representative in the Senate): I thank the honourable senator for her question. As I've said a number of times here, the government holds the Iranian regime accountable and, as I said, has imposed a broad range of very strong sanctions. Any decision to designate a particular group must take into account the advice of several national security entities. The government is considering the matter, but for the time being, it feels that the current sanctions against many individuals and a number of entities are appropriate. However, as I said to my colleague, Senator Omidvar, the matter is under review.

Senator Miville-Dechêne: Even though you're still considering the matter, Canada claimed in the past that it was reluctant to impose this designation because it was worried about penalizing conscripts. However, according to security expert Michel Juneau-Katsuya, that argument doesn't hold water because rank-and-file fighters are not the ones who would be affected. It would be the highest ranking officers who have assets and who could engage in interference in Canada or try to cross our borders. I would remind you that there are already 73 other groups on the list of terrorist organizations and that many of them are not very well known or not very active. Isn't it time to add the Islamic Revolutionary Guard Corps to that blacklist?

Senator Gold: Thank you for the question. As I just tried to explain, this decision must be made based on the counsel and advice of our national security agencies. To date, that isn't what our experts have recommended that we do. Thank you.

[*English*]

TREASURY BOARD SECRETARIAT

FEDERAL PUBLIC SERVICE JOBS

Hon. Jane Cordy: Senator Gold, recent data released by Statistics Canada shows some positive progress when it comes to higher education levels for Black Canadians, and this is good news. Statistics also show that the percentage of Black Canadians who achieved a bachelor's degree or higher from a university is on par with the national average, and this is also good news. However, when it comes to employment, the statistics show that 16% of Black Canadians are overqualified for their job, so, Senator Gold, they're underemployed. Black Canadians are still facing real barriers within the labour market.

Senator Gold, in the Government of Canada's capacity as the largest single employer in Canada, with close to 320,000 public service employees across the country, what steps have been taken to remove these systemic barriers to equal access and equal opportunities within the public service for Black Canadians?

Hon. Marc Gold (Government Representative in the Senate): Thank you, Senator Cordy, for raising that. The government knows that there are still barriers, biases and systemic obstacles in the way of Black Canadians and others. It's too regular a feature of life, frankly, for too many of our citizens. These have taken root over generations, and eradicating them will take some time.

To your question, the government has launched programs to support departments in addressing barriers to recruitment and promotion at every level, including the executive level. In that regard, the government is releasing disaggregated data on equity-seeking groups, which will help us to understand the

nature of the problem and, I hope, over time, to track progress in addressing the problem. Indeed, the government has amended the Public Service Employment Act to strengthen its provisions to address potential biases and barriers in the staffing processes, and the Clerk of the Privy Council recently issued a call to action for public service leaders to fight racism within the public service. One hopes that this is at least the beginning of progress in that important area.

Senator Cordy: Thank you, Senator Gold. I think these are steps that are going in the right direction, and tracking is certainly a strong first step.

You spoke about government departments, but has a specific government department or departments been tasked with tracking the progress on these initiatives to eliminate what are real barriers that Black Canadians face in the labour market? Are they being assessed regularly to determine their effectiveness? Sometimes we have programs that no one is ever assessing, so we don't know whether they're working or not. To follow up with that, are there specific markers, milestones or timelines that the public service is aiming for in meeting employment equity?

Senator Gold: Thank you for the question. I don't know the answer to the specifics. The data is important. Measuring performance and tracking progress are important. All of those things are necessary if we're going to actually sustain progress over time. I'll have to make inquiries and report back as soon as I can get an answer.

[*Translation*]

IMMIGRATION, REFUGEES AND CITIZENSHIP

ILLEGAL IMMIGRATION

Hon. Jean-Guy Dagenais: My question is for the Leader of the Government in the Senate. I want to come back to the problem of Roxham Road, which is still very accessible, allowing for illegal border crossings into Canada and allowing unscrupulous smugglers to make money by extorting poor people. Despite the lofty promises your government has been making over and over again for over a year, stating that it is negotiating a new agreement with the Americans, we can only say that nothing has changed. Despite millions in questionable spending to obtain immigration advice from the McKinsey firm, nothing has changed.

On December 14, the Minister of Public Safety, Marco Mendicino, said that an agreement had been reached with the Americans. Two weeks ago, the Minister of Immigration, Sean Fraser, said the opposite. Somebody is going to have to tell us the truth. I have some questions. Who's telling the truth and who's lying? Where do we stand?

Hon. Marc Gold (Government Representative in the Senate): I thank the honourable senator for his question. It is my understanding that the Government of Canada has been in regular contact with its U.S. counterparts for some time to discuss all issues related to the Safe Third Country Agreement. Based on the information I have, the discussions have been positive but have not concluded. The discussions are ongoing.

Senator Dagenais: This morning, the Parliamentary Budget Officer appeared before the Standing Senate Committee on National Finance, of which I'm a member, and told us that he was unable to calculate how much your government is spending on welcoming immigrants because Immigration, Refugees and Citizenship Canada has classified that information as secret. The fact that the government is hiding the amount of this spending from Canadians only raises questions in my mind as to whether there's something underhanded or improper happening here. To my knowledge, no state secrets are at stake. I'd like to know how your government justifies keeping this spending a secret.

Senator Gold: Obviously, the situation at Roxham Road is having a financial impact, but there's a much broader issue at play here. This also involves our international obligations to refugees and our commitment as a country with fundamental values, which means that those who come here are treated in an appropriate and humane manner. The Government of Canada is working with the Government of Quebec and also, as I said in response to your earlier question, the U.S. government in this regard to find a fair and equitable solution for everyone, including both Canadian taxpayers and those seeking asylum here in Canada.

• (1450)

[*English*]

Hon. Donald Neil Plett (Leader of the Opposition): Leader, let's continue in the same vein of the question that Senator Dagenais raised about Roxham Road.

The Trudeau government has done nothing — absolutely nothing — to fix the Safe Third Country Agreement with the United States and has presided over massive backlogs at the immigration department for people waiting patiently to come to Canada legally.

Last weekend, leader, the *New York Post* reported that U.S. National Guard soldiers have been distributing free bus tickets at the Port Authority Bus Terminal in Manhattan to asylum seekers in order to take them to our border so they can illegally enter Canada at Roxham Road in your province and that of Senator Dagenais.

When did the Trudeau government learn that American authorities are giving free bus tickets to people seeking to cross into Canada at Roxham Road? If you don't have the answer, please get it for us. Has your government raised that practice with the Biden Administration, and if not, why not?

Senator Gold: Thank you for the question. I do not know the exact date at which point the government became aware of this practice. We all became aware of it only recently in the media. I will certainly make inquiries.

But, Senator Plett, I can assure you and every senator in this chamber, as I've done before, that the government has been working and continues to work with its counterparts in the Government of the United States in order to address the issue of illegal migration generally and the causes of that migration, which go beyond simply the Canada-U.S. border, as you well know.

Senator Plett: In December, leader, the RCMP intercepted 4,689 people at Roxham Road. This is more than the total number of people who entered Canada at Roxham Road in all of 2021 combined. The situation is getting worse, yet the Trudeau government told Canadians last month not to expect a resolution to this when the Prime Minister meets with President Biden in March.

If you're not going to fix the agreement with the Americans anytime soon, what exactly is the Trudeau government's answer to Roxham Road, leader? Is it for the immigration department to keep giving taxpayer money to Liberal-friendly consultants at McKinsey?

Senator Gold: There is a lot in that question. I'll try to parse it out.

Canada's relationship with the United States is a long-standing and important one, and issues between the two countries often take some time to work through — our interests do not always converge — but the relationship between this government and the administration of the United States is a strong one.

When the Prime Minister says not to necessarily expect a resolution, the Prime Minister is being transparent, honest and open with Canadians because, as those of us who have been in business and in politics understand, negotiation is not a one-way street but a two-way street. In that regard, the government continues to work with the United States.

The other point that I think is important to make, colleagues, is that the demonization of these illegal immigrants is somewhat unfortunate and misleading. If someone arrives in Canada through whatever means and claims refugee status, we have an international legal obligation to treat them and afford them due process, both under Canadian law and international law. The large expenditures that both the Province of Quebec and the Canadian government have made in order to make sure that those who arrive seeking refuge are treated humanely and properly are appropriate expenditures under the circumstances. That is not at all to belittle the burden on the Province of Quebec and the burden on our system with this large number of folks arriving.

The Government of Canada is working with the United States and it's working with the Province of Quebec, and it will continue to work to find a proper solution to this problem.

FINANCE

RECOVERY OF FRAUDULENT COVID-19 SUPPORT PAYMENTS

Hon. Denise Batters: Senator Gold, the Auditor General noted in her recent COVID pandemic spending report that, "As of September 2022, the agency and the department had identified employees that claimed COVID-19 benefits."

In that quote, "the agency" is the Canada Revenue Agency, and "the department" is Employment and Social Development Canada.

When MPs last week questioned officials from these two federal government entities that ran the CERB program about this, they were informed that 49 employees at the employment department were fired for claiming the benefit for themselves. The tax agency official would not state how many cases of employee CERB fraud had occurred at that government agency, saying only that it was "not many."

Neither department referred these federal government employees found in such flagrant violations to law enforcement. Why not?

Hon. Marc Gold (Government Representative in the Senate): Well, I'm not aware of what the government has or has not referred to law enforcement. That is something that would not be appropriate in this chamber.

The government has put in place mechanisms to identify fraud in CERB. The government was open on day one, when the pandemic hit and this measure was introduced, that there would be a trade-off between making sure that benefits were available quickly, efficiently and effectively to the great majority of Canadians needing them and the recognition that there were going to be aspects of the program that would need to be corrected going forward.

The government is now in the process of doing just that, but again, those who fraudulently or wrongly claimed CERB should be ashamed of themselves and should suffer the appropriate consequences under the circumstances. The government remains committed and proud of the contribution it made to keeping Canadians afloat, keeping our economy afloat and helping Canada weather the worldwide crisis that we have lived through.

Senator Batters: Senator Gold, this was a considerable news story last week, and as the Leader of the Government in the Senate, with all the staff and budget that entails, and as a member of Privy Council, there is no reason you shouldn't be briefed about this and ready to give a government-wide answer on this issue.

My question is simple: In total, across all government departments, how many federal government employees applied for the CERB benefit, how many of them have been fired, and how many have been referred to law enforcement?

Senator Gold: Thank you for noting my position. Regarding the budget to which you refer, I wish it were as vast as you imply.

But seriously, Senator Batters, I was not briefed in particular on this issue. I will take those questions and make inquiries, and in due course, I will have an answer for you.

TRANSPORT

CANADIAN AIRLINE CREW DETAINED ABROAD

Hon. David M. Wells: My question is for the Leader of the Government in the Senate.

Senator Gold, in early December, shortly after the Pivot Airlines crew was released after more than seven months of Dominican detention, I said in this chamber that I would be following up with the government's commitment to a full investigation of the event. Colleagues, today is that follow-up.

Senator Gold, in the first week of November, Minister Alghabra's office committed to a full investigation. When will the public see the terms of reference for this investigation? When will the process begin? Who will be conducting the investigation?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question, Senator Wells. I will have to make inquiries and report back to the chamber.

Senator Wells: Senator Gold, assuming that the government and Transport Canada may be the subject of this investigation, can we assume that the review or the investigation will be independent of the department and the government?

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

DELAYED ANSWERS TO ORAL QUESTIONS

Hon. Marc Gold (Government Representative in the Senate): Honourable senators, I have the honour to table the answers to the following oral questions:

Response to the oral question asked in the Senate on May 10, 2022, by the Honourable Senator Martin, concerning medical assistance in dying.

Response to the oral question asked in the Senate on June 16, 2022, by the Honourable Senator Cormier, concerning support for LGBTQ2+ people.

Response to the oral question asked in the Senate on June 23, 2022, by the Honourable Senator Seidman, concerning the *Cannabis Act*.

Response to the oral question asked in the Senate on September 21, 2022, by the Honourable Senator Plett, concerning the Parole Board of Canada.

Response to the oral question asked in the Senate on September 21, 2022, by the Honourable Senator Boisvenu, concerning the Parole Board of Canada.

Response to the oral question asked in the Senate on September 27, 2022, by the Honourable Senator Wells, concerning support for victims of Hurricane Fiona.

Response to the oral question asked in the Senate on September 27, 2022, by the Honourable Senator Tannas, concerning federal public service jobs.

Response to the oral question asked in the Senate on September 27, 2022, by the Honourable Senator Batters, concerning the Saskatchewan multiple stabbings incident.

Response to the oral question asked in the Senate on September 27, 2022, by the Honourable Senator Carignan, P.C., concerning illegal production of cannabis — Health Canada.

Response to the oral question asked in the Senate on September 27, 2022, by the Honourable Senator Carignan, P.C., concerning illegal production of cannabis — Public Safety Canada.

Response to the oral question asked in the Senate on September 28, 2022, by the Honourable Senator Loffreda, concerning international students.

Response to the oral question asked in the Senate on September 28, 2022, by the Honourable Senator Mégie, concerning the Canada Border Services Agency — migrant detention.

Response to the oral question asked in the Senate on September 29, 2022, by the Honourable Senator Klyne, concerning the Canada Water Agency.

Response to the oral question asked in the Senate on October 4, 2022, by the Honourable Senator Marshall, concerning Public Accounts.

Response to the oral question asked in the Senate on October 4, 2022, by the Honourable Senator Audette, concerning the creation of Indigenous Ombudsperson Position.

Response to the oral question asked in the Senate on October 19, 2022, by the Honourable Senator Omidvar, concerning support for victims of Hurricane Fiona.

Response to the oral question asked in the Senate on October 19, 2022, by the Honourable Senator Klyne, concerning Indigenous participation.

Response to the oral question asked in the Senate on October 20, 2022, by the Honourable Senator Plett, concerning the ArriveCAN Application.

Response to the oral question asked in the Senate on October 20, 2022, by the Honourable Senator Coyle, concerning biological diversity — Fisheries and Oceans Canada.

Response to the oral question asked in the Senate on October 20, 2022, by the Honourable Senator Coyle, concerning biological diversity — Environment and Climate Change Canada.

Response to the oral question asked in the Senate on October 20, 2022, by the Honourable Senator Boisvenu, concerning illegal immigration.

Response to the oral question asked in the Senate on October 25, 2022, by the Honourable Senator Francis, concerning mandatory training for the federal public service.

Response to the oral question asked in the Senate on October 25, 2022, by the Honourable Senator McPhedran, concerning midwifery supports.

Response to the oral question asked in the Senate on October 26, 2022, by the Honourable Senator Carignan, P.C., concerning public servants disclosure protection.

Response to the oral question asked in the Senate on November 1, 2022, by the Honourable Senator Marshall, concerning Public Accounts.

Response to the oral question asked in the Senate on November 2, 2022, by the Honourable Senator Cordy, concerning drug shortages.

Response to the oral question asked in the Senate on November 17, 2022, by the Honourable Senator Francis, concerning children's drug shortage — Indigenous Services Canada.

Response to the oral question asked in the Senate on November 17, 2022, by the Honourable Senator Francis, concerning children's drug shortage — Health Canada.

Response to the oral question asked in the Senate on November 17, 2022, by the Honourable Senator Plett, concerning the regulatory review of Georgina Aerodrome — CAR-307 regulations.

Response to the oral question asked in the Senate on November 22, 2022, by the Honourable Senator Miville-Dechêne, concerning health care transfers.

Response to the oral question asked in the Senate on November 22, 2022, by the Honourable Senator Francis, concerning performance indicators — Indigenous Services Canada.

Response to the oral question asked in the Senate on November 22, 2022, by the Honourable Senator Francis, concerning performance indicators — Crown-Indigenous Relations and Northern Affairs Canada.

Response to the oral question asked in the Senate on November 23, 2022, by the Honourable Senator Plett, concerning Canada's emissions targets.

Response to the oral question asked in the Senate on November 23, 2022, by the Honourable Senator Bovey, concerning marine protected areas.

Response to the oral question asked in the Senate on November 23, 2022, by the Honourable Senator McPhedran, concerning Canada's emissions targets.

Response to the oral question asked in the Senate on December 6, 2022, by the Honourable Senator Plett, concerning the Canadian Transportation Agency.

JUSTICE

MEDICAL ASSISTANCE IN DYING

(*Response to question raised by the Honourable Yonah Martin on May 10, 2022*)

Health Canada

Health Canada recognizes the importance of meaningful engagement and ongoing dialogue with Indigenous peoples to support culturally safe implementation of MAID. The government is committed to working with Indigenous partners to identify and support distinctions-based priorities with respect to an engagement process at the federal level. Recognizing that meaningful engagement and ongoing dialogue needs to respect the timelines and priorities of Indigenous partners, work on pre-engagement is underway, with roundtables expected to begin in early 2023. Health Canada will complement this engagement process with existing feedback received from Indigenous organizations, including from the ongoing process of revising the MAID monitoring regulations, the engagement process prior to the introduction of Bill C-7, and Indigenous Services Canada's engagement process on the holistic continuum of care and Indigenous Health Legislation.

On the question of the Expert Panel on MAID and Mental Illness, the panel was not mandated to conduct consultations, but rather to rely on the vast professional expertise and experience of its members. Three of the panel members self-identified as Indigenous. Recognizing the importance of Indigenous perspectives on MAID and mental illness, the panel recommended consultation between provincial/territorial health regulators and First Nations, Métis, and Inuit on practice standards for MAID.

FOREIGN AFFAIRS

SUPPORT FOR LGBTQ2+ PEOPLE

(*Response to question raised by the Honourable René Cormier on June 16, 2022*)

Insofar as Immigration, Refugees and Citizenship Canada (IRCC) is concerned:

Canada has a proud history of helping to resettle the world's most vulnerable groups. That includes the lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI) community.

The Humanitarian Program for Afghan nationals focuses on resettling women leaders, human rights defenders, members of the LGBTQI community, and people from ethnic and religious minorities.

The Rainbow Refugee Assistance Partnership was expanded in response to the Afghanistan crisis to provide an additional 150 spaces for Afghan LGBTQI refugees between 2022 and 2024. This expansion will also strengthen collaboration between LGBTQI organizations and the sponsorship community.

Ukrainians may also stay, work, or study in Canada as temporary residents for up to three years under the Canada-Ukraine Authorization for Emergency Travel (CUAET). Persons arriving under this special measure are provided with information about LGBTQI services in their province of destination.

Although sexual orientation may be a reason for which an individual requires protection, IRCC is unable to collect this information because it relies on refugees disclosing their LGBTQI status to Canadian visa officers. Disclosure of this information may risk their safety in their country of asylum. We encourage the sponsorship of refugees who face persecution, including due to their sexual orientation, gender identity, or gender expression.

JUSTICE

CANNABIS ACT

(*Response to question raised by the Honourable Judith G. Seidman on June 23, 2022*)

Health Canada

On September 22, the Minister of Health and the Minister of Mental Health and Addictions and Associate Minister of Health announced the launch of the legislative review of the Cannabis Act. On November 24, the Minister of Health and the Minister of Mental Health and Addictions and Associate Minister of Health announced the members of the Expert Panel on the legislative review of the Cannabis Act. The ministers have mandated the Expert Panel to engage with the public, governments, Indigenous peoples, youth, marginalized and racialized communities, cannabis industry representatives, and people who access cannabis for medical purposes, to gather perspectives on the implementation and administration of the Cannabis Act. The independent Expert Panel is also expected to meet and consult with experts in relevant fields, including, but not limited to, public health, substance use, criminal justice, law enforcement, Indigenous governance and rights and health care. To help inform the panel's work, Health Canada has extended their online engagement process for Indigenous peoples. First Nations, Inuit, and Métis peoples are invited to read and provide feedback on the Summary from Engagement with First Nations, Inuit, and Métis Peoples: The Cannabis Act and its Impacts, which is open until January 15, 2023.

PUBLIC SAFETY

PAROLE BOARD OF CANADA

(*Response to question raised by the Honourable Donald Neil Plett on September 21, 2022*)

Parole Board of Canada (PBC)

The Correctional Service of Canada and Parole Board of Canada have convened a National Joint Board of Investigation (BOI) into this case, guided by requirements set out in the *Corrections and Conditional Release Act* (CCRA). It is an administrative investigation that will thoroughly analyze all of the facts and circumstances, including whether laws, policies and protocols were followed, and identify any recommendations and corrective measures, as needed. Once the BOI is completed, CSC and PBC will publicly share its findings and any recommendations.

In accordance with the CCRA, the PBC maintains a registry of its decisions and the reasons for those decisions. Its purpose is to contribute to public understanding of conditional release decision-making and promote openness and accountability. Anyone may write the PBC to request a copy of a decision made in a specific case. In reviewing requests for access to the Registry of Decisions, the CCRA requires the PBC to withhold information that could reasonably be expected to jeopardize the safety of any person; reveal a source of information obtained in confidence; or adversely affect the reintegration of an offender into society, if released publicly. Each determination is made on a case-by-case basis, in accordance with legislative criteria.

PAROLE BOARD OF CANADA

(*Response to question raised by the Honourable Pierre-Hugues Boisvenu on September 21, 2022*)

Correctional Service of Canada (CSC)

The Correctional Service of Canada (CSC) continues to take meaningful action to help keep our communities safe.

Since April 1, 2022, CSC has implemented all recommendations from the Joint Board of Investigation following the tragic death of Marylène Levesque. This includes new, mandatory Intimate Partner Violence training for staff; strengthening its community supervision policies and direct supervision model; and completing a review of its information collection policy to clearly define a serious offence.

Similarly, in response to the Auditor General's Report, CSC has implemented all recommendations. This includes the creation of a national long-term community accommodation plan; ensuring District Directors monitor compliance with the frequency of contact and special conditions on a monthly basis; a policy review about the sharing of health care information; working with provincial

and territorial partners to remove barriers to accessing health care and other identification cards. Additionally, CSC is collaborating with the Department of Public Safety on work in the area of recidivism rates, including information held by provinces and territories on adult re-convictions.

CSC regularly reviews its policies to ensure the implementation of those that have been demonstrated to enhance public safety.

SUPPORT FOR VICTIMS OF HURRICANE FIONA

(*Response to question raised by the Honourable David M. Wells on September 27, 2022*)

Public Safety Canada (PS)

Hurricane Fiona was a devastating event for many communities in Atlantic Canada, causing widespread damage to the places people call home.

In the aftermath of the storm multiple provinces reached out for help with the immediate response, and we quickly deployed Canadian Armed Forces (CAF) and other federal resources.

As we turn towards recovery, we continue to offer support through the Disaster Financial Assistance Arrangements (DFAA), which helps provinces cover up to 90% of eligible rebuilding costs.

The Hurricane Fiona Recovery Fund will also provide $300 million to fund projects in the Atlantic that aim to repair critical infrastructure such as wharves, and to help restore the local economy.

We know that there is a long road to recovery ahead, and our government is committed to being a strong federal partner throughout this process.

• (1500)

PRIVY COUNCIL OFFICE

FEDERAL PUBLIC SERVICE JOBS

(*Response to question raised by the Honourable Scott Tannas on September 27, 2022*)

Treasury Board of Canada Secretariat (TBS):

The federal public service brings together people from a variety of backgrounds, skills and professions.

Most public servants work outside of the National Capital Region (NCR). As of March 31, 2022, there were 335,957 federal public service employees (i.e., core public administration and separate agencies). Of those, 42.2% or 141,747 were located in the NCR based on the location of the position. This percentage has remained steady over the last six years.

Prior to the pandemic, most public servants worked almost exclusively from federal worksites. Alternative work arrangements were rare. COVID-19 showed us that we could work differently. With the opportunity to reimagine our work, the government has chosen a hybrid model.

On December 15th, we announced that the federal public service is adopting a common hybrid work model that will see employees working on site at least 2 to 3 days each week, or 40% to 60% of their regular schedule.

While many public servants are already working on site at least 2 to 3 days a week, this new approach will represent a change for others. To allow a smooth transition to a common hybrid model, a phased introduction will begin January 16, 2023, with full implementation by March 31, 2023.

PUBLIC SAFETY

RESPONSE OF THE ROYAL CANADIAN MOUNTED POLICE

(*Response to question raised by the Honourable Denise Batters on September 27, 2022*)

Royal Canadian Mounted Police (RCMP)

The RCMP investigation into the September 4 tragedy continues. An October 6, 2022, Saskatchewan RCMP press conference detailed the following:

Around 04:00 September 3, 2022, Melfort RCMP received a report that Damien Sanderson stole a vehicle on James Smith Cree Nation. At 04:15, two Melfort RCMP officers responded. They spoke with the caller, who explicitly requested to remain anonymous and refused to provide a statement, numerous times throughout this investigation.

Officers located the vehicle parked at a residence and obtained consent to search the residence. Seven people were inside, one later determined to be Damien, who provided a false name to police. Officers viewed a 2014 photo of Damien prior to responding; however, Damien's appearance changed and they didn't recognize him.

After searching for three hours, no evidence or witnesses existed to support a stolen vehicle charge. Officers returned to other policing duties. Never during the first 911 call or following conversations between the RCMP and caller was Myles Sanderson's name, actions or threats of violence reported.

Further information will be released in the future. A 2023 public Coroner's Inquest is scheduled. Additionally, the Saskatchewan RCMP has initiated an internal review, being conducted by an outside division.

PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

ILLEGAL PRODUCTION OF CANNABIS

(*Response to question raised by the Honourable Claude Carignan on September 27, 2022*)

Health Canada

Prior to the *Cannabis Act* coming into force on October 17, 2018, Health Canada had 44 inspectors designated under the *Controlled Drugs and Substances Act* and its regulations for the cannabis for medical purposes regime. As of October 2022, there are 63 inspectors designated under the *Cannabis Act* and its regulations for the cannabis for medical and non-medical purposes regime.

(*Response to question raised by the Honourable Claude Carignan on September 27, 2022*)

Public Safety Canada (PS)

In an effort to curb the production of illicit cannabis, the government announced up to $274 million in 2017 to support law enforcement (LE) and border efforts to enforce the cannabis legalization framework and to detect and deter drug-impaired driving. Of this amount, up to $113.5 million in federal funding (over 5 years) was committed to PS, the Royal Canadian Mounted Police (RCMP), and the Canada Border Services Agency (CBSA) to develop policy, ensure organized crime does not infiltrate the legalized system, and keep cannabis from crossing our borders.

The government also works with provincial and territorial partners, including law enforcement agencies, on efforts to intercept illicit packages through the mail system, limit online visibility of illicit stores and increase public awareness of the dangers of cannabis use. Most provinces and territories maintain an official list of authorized cannabis retailers in their respective jurisdiction to better inform Canadians on where they can purchase legal cannabis.

In addition, Health Canada (HC) works with stakeholders to help reduce abuse of the access to the medical cannabis regime. RCMP contributes to the effective implementation of the Cannabis Act by preventing, disrupting and investigating serious criminal activity in partnership with law enforcement across Canada.

IMMIGRATION, REFUGEES AND CITIZENSHIP

INTERNATIONAL STUDENTS

(*Response to question raised by the Honourable Tony Loffreda on September 28, 2022*)

Insofar as Immigration, Refugees and Citizenship Canada (IRCC) is concerned:

The government has taken measures to attract and retain international students, allowing them to obtain valuable work experience that may be counted for permanent residency.

1. A temporary public policy will lift the 20-hour-per-week cap on hours post-secondary students are allowed to work while in school. From November 15, 2022, until December 31, 2023, international students who are in Canada, whose study permit application was submitted by October 7, 2022, and who have off-campus work authorization will not be restricted by the 20-hour-per-week rule. With more than 500,000 international students in Canada available to work additional hours, this change reflects the important role international students have in addressing our labour shortage while continuing their studies.

2. A temporary public policy that came into effect on July 28, 2022, provides foreign nationals holding post-graduation work permits (PGWP) with the opportunity to work for an additional 18 months by either extending their permit or applying for a new one. The policy also affords those in Canada with the ability to work in the interim while their permit is being extended or a new one is being issued. Up to 93,000 current and former PGWP holders may be eligible to benefit from this measure.

PUBLIC SAFETY

CANADA BORDER SERVICES AGENCY—MIGRANT DETENTION

(*Response to question raised by the Honourable Marie-Françoise Mégie on September 28, 2022*)

Canada Border Services Agency (CBSA)

Detention is only used as a measure of last resort and alternatives to detention are always considered. The CBSA does not isolate detainees by way of solitary confinement; however, detainees may be separated from the general population where it is deemed necessary to ensure their health, safety or that of other detainees, or where it has been specifically requested by the individual concerned.

Bill C-20, An Act establishing the Public Complaints and Review Commission and amending certain Acts and statutory instruments, was introduced in the House of Commons in May 2022. The Bill proposes to enact a standalone statute, the Public Complaints and Review Commission (PCRC) Act authorizing the Commission to serve as an enhanced independent review and complaints body for both the CBSA and the Royal Canadian Mounted Police (RCMP).

The CBSA provides input to the Government of Canada, who is the signatory to the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and signatory to the Convention on the Rights of Persons with Disabilities.

ENVIRONMENT AND CLIMATE CHANGE

CANADA WATER AGENCY

(*Response to question raised by the Honourable Marty Klyne on September 29, 2022*)

Environment and Climate Change Canada (ECCC) began public engagement on freshwater priorities and the Canada Water Agency in 2020. Over 2700 Canadians shared their views on the role the Canada Water Agency can play to help manage fresh water across the country. The vast majority of Canadians consulted support the creation of the Canada Water Agency. They supported federal policies that promote effective management and protection of freshwater resources and ecosystems; engagement with Canadians; an increased role for Indigenous Peoples; enhanced availability of data to support decision-making at all levels, and cutting-edge science to tackle freshwater challenges that include climate change impacts. The Government of Canada has also engaged with provinces, territories, and Indigenous peoples.

Budget 2022 included $43.5 million over five years, starting in 2022-23, to create a new Canada Water Agency. ECCC is working on developing the structure and precise mandate for the new Agency.

FINANCE

PUBLIC ACCOUNTS

(*Response to question raised by the Honourable Elizabeth Marshall on October 4, 2022*)

Treasury Board of Canada Secretariat (TBS) on behalf of the Government of Canada:

Under Section 64 of the *Financial Administration Act*, the President of the Treasury Board is required to table the Public Accounts by December 31. Subsequent to the exchange which took place in the Senate of Canada on October 4, 2022, the Public Accounts of Canada were tabled on October 27, 2022, and are available online at https://www.tpsgc-pwgsc.gc.ca/recgen/cpc-pac/index-eng.html.

While there are no legislative requirements for Departmental Results Reports, they are generally tabled once all necessary financial and results information have been finalized. The Department Results Reports were tabled on December 2, 2022, and are available online at https://www.canada.ca/en/treasury-board-secretariat/services/departmental-performance-reports.html.

CROWN-INDIGENOUS RELATIONS

CREATION OF INDIGENOUS OMBUDSPERSON POSITION

(*Response to question raised by the Honourable Michèle Audette on October 4, 2022*)

The Government is taking action on Call for Justice 1.7, which calls for the establishment of an Indigenous and Human Rights Ombudsperson and Tribunal, to ensure recourse, remedy and accountability. This is an important component for ending the violence against Indigenous women, girls and two-spirit, trans, lesbian, gay, bisexual, transgender, queer, questioning, intersex and asexual people (2SLGBTQQIA+).

On January 10, 2023, the Minister of Crown-Indigenous Relations announced the appointment of Jennifer Moore Rattray as the Ministerial Special Representative who will provide advice and recommendations, through engagement with survivors, families, partners and organizations, in support of Call for Justice 1.7 to create an Indigenous and Human Rights Ombudsperson.

Call for Justice 1.7 is a shared responsibility between governments at all levels (federal, provincial, territorial, and Indigenous), the private sector, civil society, and all Canadians. It is also related to work being undertaken on the implementation of the United Nations Declaration on the Rights of Indigenous Peoples and other initiatives at the national, provincial and territorial levels.

Crown-Indigenous Relations and Northern Affairs Canada, in close collaboration with Justice Canada, has also started to discuss this issue with partners, including the National Family and Survivors Circle to obtain their input. This work will continue over the Winter.

PUBLIC SAFETY

SUPPORT FOR VICTIMS OF HURRICANE FIONA

(*Response to question raised by the Honourable Ratna Omidvar on October 19, 2022*)

Public Safety Canada (PS)

The Canadian Red Cross is part of the largest humanitarian network in the world and has significant experience supporting relief efforts. The organization has a long history of contributing to domestic response and recovery in partnership with many different regional and federal governments, including efforts related to the 2016

Fort McMurray wildfires and the 2021 British Columbia wildfire and atmospheric events. As part of these and similar efforts, the organization has worked closely with many partners, including other community-based organizations, to address the immediate needs of residents.

We are seeing events like Hurricane Fiona become more frequent and severe due to climate change, making it more important than ever that we invest in our emergency response capacity. Recognizing the importance of supporting diverse organizations, the Government of Canada is providing up to $150 million over two years to support NGOs, including The Salvation Army, St. John Ambulance and the Search and Rescue Volunteer Association of Canada, in building and maintaining a humanitarian workforce. With this funding, organizations are maintaining a group of highly skilled and qualified emergency responders and emergency management professionals, developing emergency management systems, delivering training and acquiring equipment needed for rapid mobilization.

PUBLIC SERVICES AND PROCUREMENT

INDIGENOUS PARTICIPATION

(*Response to question raised by the Honourable Marty Klyne on October 19, 2022*)

The Government of Canada is committed to increasing the participation of Indigenous businesses in federal procurement. Through the Procurement Strategy for Indigenous Business (PSIB) Indigenous Services Canada (ISC) is working with Indigenous businesses, Indigenous economic development organizations and federal departments to support indigenous businesses with procurement opportunities.

The mandatory requirement for federal departments and agencies to ensure that Indigenous businesses hold a minimum of 5% of the total value of contracts is being implemented over three phases beginning this fiscal year (2022-2023).

It is expected that 32 departments and agencies will meet or exceed this minimum target in this phase. ISC will collect data from all participating departments and agencies after the end of each fiscal year and will publish a report on government-wide performance towards meeting this requirement within 12 months.

The 5% target seeks to leverage government spending to help grow Indigenous businesses and improve the socio-economic conditions of Indigenous communities.

PUBLIC SAFETY

CANADA BORDER SERVICES AGENCY

(*Response to question raised by the Honourable Donald Neil Plett on October 20, 2022*)

Canada Border Services Agency (CBSA)

CBSA used several professional services contracts for the development and maintenance of ArriveCAN based on their expertise, and contractors were compensated within the terms of their contract. All payments related to ArriveCAN were made in line with the Government of Canada's policies and directives on financial management and the maintenance of the internal controls framework.

CBSA provided information on ArriveCAN contracts and, unfortunately, one vendor was incorrectly reported as Think On Inc. CBSA did not have a contract with Think On Inc. and no payment has been made to the company. The amounts attributed to Think On Inc. were paid to Microsoft who performed work under two separate contracts in support of ArriveCAN.

ENVIRONMENT AND CLIMATE CHANGE

BIOLOGICAL DIVERSITY

(*Response to question raised by the Honourable Mary Coyle on October 20, 2022*)

The conservation of all aquatic species is a top priority for Fisheries and Oceans Canada and the Department makes full use of the legislative and regulatory tools at its disposal to fulfill its responsibilities and support federal sustainable development targets as they pertain to protecting biodiversity.

In addition, Fisheries and Oceans Canada is taking action to respond to all audit recommendations put forward by the Commissioner of the Environment and Sustainable Development. The Department agrees that timely and evidence-based listing decisions are critical to ensuring that aquatic species can benefit from the appropriate protections. The Department will look at ways to streamline and strengthen its listing processes wherever possible, relying on sound scientific information, socio-economic analysis, collaboration with other jurisdictions, and public consultations to develop recommendations that are in the best interests of all Canadians. The Department is actively taking steps to increase the number of Fishery Officers to fill nationwide vacancies.

Fisheries and Oceans Canada's next Departmental Sustainable Development Strategy will include a comprehensive and updated suite of actions and associated performance measurements that will showcase all the elements of the important work underway to support the protection and recovery of aquatic species at risk.

(*Response to question raised by the Honourable Mary Coyle on October 20, 2022*)

The Government of Canada is committed to fulfilling its obligations under the *Species at Risk Act* (SARA). These include developing recovery plans in collaboration with provinces and territories to conserve and protect species at risk.

We seek to achieve species benefits in all our conservation efforts, be that establishing new protected areas, working with our colleagues in the United States on our shared migratory bird priorities or demonstrating leadership for biodiversity conservation on the international stage.

At the international level, Canada is committed to getting an agreement at the Convention on Biological Diversity 15th Conference of the Parties in Montreal, which will focus collective efforts to protect nature and halt biodiversity loss around the globe.

Halting and reversing biodiversity loss requires real collaboration and partnership among countries, across society and with Indigenous Peoples; real transformative change; and a proper accounting for the true value of nature in decision making.

PUBLIC SAFETY

ILLEGAL IMMIGRATION

(*Response to question raised by the Honourable Pierre-Hugues Boisvenu on October 20, 2022*)

Canada Border Services Agency (CBSA)

CBSA officers regularly undertake proactive investigations to locate individuals wanted for removal. Investigations are triaged to ensure high-risk cases, such as those involving serious criminality or violence, are prioritized.

Since April 1, 2020, the CBSA conducted 1,550 investigations against individuals subject to removal proceedings who were found inadmissible for criminality.

From April 1, 2020, to October 28, 2022, the CBSA removed 1,351 foreign nationals that were found inadmissible for safety or security reasons. Of this number, 1,042 were found inadmissible under sections 36 (1)(a) and 36 (2)(a) of the *Immigration and Refugee Protection Act* and had removal orders issued against them for criminal convictions in Canada.

TREASURY BOARD SECRETARIAT

MANDATORY TRAINING FOR THE FEDERAL PUBLIC SERVICE

(*Response to question raised by the Honourable Brian Francis on October 25, 2022*)

Treasury Board of Canada Secretariat (TBS):

Deputy Heads have the authority to determine the learning, training and development requirements for their organizations. TBS, as the department responsible for the *Directive on Mandatory Training* across the core public administration, is exploring options for a government-wide approach to encourage training on Indigenous issues, as well as on equity, diversity and inclusion more generally, in response to the Clerk of the Privy Council's Call to Action on Anti-Racism, Equity, and Inclusion in the federal public service. This training would include the Canada School of Public Services' Indigenous Learning Products.

The Government of Canada remains committed to achieving reconciliation with Indigenous peoples and building a renewed relationship based on the recognition of rights, respect, cooperation and partnership.

HEALTH

MIDWIFERY SUPPORTS

(*Response to question raised by the Honourable Marilou McPhedran on October 25, 2022*)

Health care for Indigenous people, including midwifery, is a shared responsibility across all levels of government. Recognizing the urgent need for culturally safe services for Indigenous women, the federal government is investing in midwifery in First Nations, Inuit and Métis communities to bring birthing back, or closer to, home.

In Budget 2021, we announced $126.7 million to address anti-indigenous racism, and invested in increased access to culturally safe health services.

This includes $33.3 million over 3 years to expand on Indigenous midwives and doulas, provide funding to National Indigenous Women's Organizations, regional and grassroots organizations, and to strengthen youth sexual health networks. This is in addition to $2.1 million ongoing for select midwifery demonstration projects, including Sturgeon Lake First Nation which celebrated its first midwife-assisted birth in 50 years.

Indigenous-led projects collaborate with provincial partners to identify and address legislative or regulatory barriers to restoring midwifery and birth to communities, registration and licensing requirements, and models of employment.

Given the shortage of Indigenous midwives and barriers to accessing university programs, federal funding is being used to establish culturally safe training and funding is supporting multidisciplinary and collaborative models of care.

TREASURY BOARD SECRETARIAT

PUBLIC SERVANTS DISCLOSURE PROTECTION

(*Response to question raised by the Honourable Claude Carignan on October 26, 2022*)

Treasury Board of Canada Secretariat (TBS) on behalf of the Government of Canada:

The Government Response to the 2017 report of the House of Commons Standing Committee on Government Operations and Estimates (OGGO) agreed "that improvements are required," and committed to implementing improvements to the administration and operation of the internal disclosure process, recognizing that various government-wide initiatives are required, as legislative change alone would not be sufficient to effect change in workplace culture.

Since 2017, the government has implemented:

- improvements to the operation of the internal disclosure process through the development and distribution of additional guidance on its administration;
- activities to increase awareness of the disclosure regime and public servant's rights within it, including promoting ethical practices and a positive environment for disclosing wrongdoing across the public service, and additions to the Canada School of Public Service mandatory values and ethics training for all public servants; and
- the engagement of a government-wide community of practice to share strategies and best practices concerning disclosure of wrongdoing and reprisal protections.

On November 29, 2022, the President of the Treasury Board, announced an external task force to explore possible revisions to the *Public Servants Disclosure Protection Act* which will consider the OGGO report as well as Canadian and international research and experience.

FINANCE

PUBLIC ACCOUNTS

(*Response to question raised by the Honourable Elizabeth Marshall on November 1, 2022*)

Treasury Board of Canada Secretariat (TBS):

The 2021–22 Departmental Results Reports were tabled in the House of Commons on December 2, 2022.

Although there are no legislative requirements for the release of Departmental Results Reports, they are ordinarily tabled in Parliament following the Public Accounts for the fiscal year that ended and once TBS has concluded its own quality assurance review of these reports.

TBS staff conduct a review of Departmental Results Reports to ensure consistency of information and high quality standard across departments and agencies, in line with the recommendations from the Fifteenth Report of the House of Commons Standing Committee on Public Accounts (https://www.ourcommons.ca/DocumentViewer/en/40-3/PACP/report-15/response-8512-403-93)

This includes working with departments to address common issues, such as ensuring that the table of contents is aligned with the template provided; validating that hyperlinks to additional information are functional; addressing inconsistencies between the English and French versions; and confirming that explanatory narratives to support financial information have been included.

HEALTH

DRUG SHORTAGES

(*Response to question raised by the Honourable Jane Cordy on November 2, 2022*)

Health Canada

In spring 2022, reports of supply constraints emerged in parts of Canada. Manufacturers have informed Health Canada that the current shortages of pediatric/infant and children's fever and pain-reducing medicines are primarily due to unprecedented demand for these products, including an unusual spike in demand this past summer. Companies have increased production in response to the situation but have reported that demand continues to outpace supply. Health Canada is working closely with industry and key stakeholders to mitigate the shortages of pediatric analgesics. A primary focus of this work has been to increase the supply of these products. Over 1.9 million units of ibuprofen and record levels of acetaminophen have been released into the market by domestic suppliers in November and December. To date, nearly 1.9 million units of foreign-labelled products have also been imported to supply hospitals, community pharmacies and retailers.

Health Canada is actively working with distributors and retailers to promote fair distribution of supply across Canada and to verify that product is in fact being dispensed and sold across all communities in Canada where there is a shortage.

CHILDREN'S MEDICATION SHORTAGE

(*Response to question raised by the Honourable Brian Francis on November 17, 2022*)

At Indigenous Services Canada (ISC), First Nations and Inuit Health Branch, the health and well-being of Indigenous Peoples and communities in Ontario and across Canada continues to be a high priority. The use of medications past the approved expiry date is not a practice that is supported. ISC will always work to ensure First Nations children in Ontario continue to receive a high standard of care, comparable to the rest of Canada. The department has worked with regions, communities and key partners to develop patient safety tools and implement a process that supports health care providers in delivering safe and quality services.

ISC is committed to promoting a culture of safety throughout its health care facilities and to have patient and family-centred care.

In extraordinary circumstances (e.g. critical drug shortages), it is not uncommon that organizations may keep expired medications on hand in the event of an extension to the product shelf life (expiry) following Health Canada's approval.

ISC does not provide advice to other departments with respect to managing inventory of expiring medications.

(*Response to question raised by the Honourable Brian Francis on November 17, 2022*)

Health Canada

Health Canada is using all tools at its disposal to help mitigate this shortage. This includes actively working with companies and other stakeholders to identify options to increase supply. Domestic manufacturing is now at record levels and nearly 1.9 million units of foreign-labelled product have been authorized for importation to Canada. This is in addition to over 3.8 million units of product released into the market by domestic suppliers in November and December.

Health Canada is actively working with distributors and retailers to promote fair distribution of supply across Canada. A particular focus of this effort has been to ensure that rural, remote, and Indigenous populations have access to these needed medicines. Indigenous Services Canada (ISC) is engaged in meetings focused on the current shortage of children's analgesics, including those with provincial and territorial governments, and supply chain stakeholders, expressing the needs of Indigenous people.

Health Canada is in regular communication with industry, provincial and territorial counterparts and ISC to monitor the roll out of new product and advocate for fair distribution.

TRANSPORT

ONTARIO AERODROME

(*Response to question raised by the Honourable Donald Neil Plett on November 17, 2022*)

Transport Canada

Transport Canada (TC) is responsible for developing and overseeing the Government of Canada's transportation policies and programs which, in the context of civil aviation, are primarily exercised through the *Aeronautics Act* and the *Canadian Aviation Regulations* (CARs).

Ministerial approval for the Baldwin East aerodrome development was not required; the Minister of Transport does not provide approval on any aerodrome development, issue building permits or approve land-use applications.

Aerodrome developments subject to Part III, Subpart 7 (307) of the CARs requires proponents to consult with those likely to be affected. The intent is to improve communication among interested parties in advance of construction, allowing for concerns to be proactively raised and mitigated. TC's *Advisory Circular (AC) No. 307-001* elaborates on the consultation requirements which is available at: https://tc.canada.ca/en/aviation/reference-centre/advisory-circulars/advisory-circular-ac-no-307-001. TC officials review the summary report against the regulations but compliance with CAR 307 does not constitute an authorization.

A CAR 307 summary report for the Baldwin East aerodrome, dated May 2022 (Version 3), was reviewed by TC officials who determined that the proponent was compliant with applicable requirements of CAR 307 as of July 6, 2022.

HEALTH

HEALTH CARE TRANSFERS

(*Response to question raised by the Honourable Julie Miville-Dechêne on November 22, 2022*)

Health Canada

The COVID-19 pandemic highlighted the importance of data for all levels of government to inform public health decisions and improve health outcomes.

To create a world-class health data system, individuals should have access to their own health record, health data should be shared across health settings to improve patient safety and care, it should support health workers and administrators to better manage health systems and it can be

key to informing planning and investments. Canada must overcome long-standing barriers that prevent timely data sharing, such as lack of common standards and approaches to health data management.

Federal, provincial and territorial governments agree that more work is needed to modernize the health data system, and we have been working together on a pan-Canadian health data strategy which would leverage existing governance and organizations such as Canada Health Infoway and the Canadian Institute for Health Information, rather than create new structures.

Continued cooperation will help address key issues like better planning for our workforce, ensuring Canadians can access their own health records and allowing Canadians to see the result of an improved health system.

CROWN-INDIGENOUS RELATIONS AND NORTHERN AFFAIRS
INDIGENOUS SERVICES

PERFORMANCE INDICATORS

(*Response to question raised by the Honourable Brian Francis on November 22, 2022*)

Following the dissolution of Indigenous and Northern Affairs Canada (2017), the department has seen significant changes to its mandate including the transition of additional programming which necessitated a systematic review of program alignment and expected outcomes.

In consultation with its stakeholders, Indigenous Services Canada (ISC) has renewed its Departmental Results Framework to better align services and resource allocations with the high-level results the organization is striving to achieve with its Indigenous Partners. In determining if indicators are fit for their defined purpose, the Departmental Results Framework renewal initiative assessed whether indicators were measurable, granular, timely, clear, meaningful, moveable, accurate and consistent.

Being data dependent, indicators have potential limitations related to factors such as data quality and timeliness, stakeholders' capacity to provide data, and unforeseen disruptive events. Failure to meet indicator targets may also reflect the effectiveness of the policies and approaches used to influence results or results that exceed the department's ability to influence them.

ISC is working to improve the quality and relevance of data and indicators by seeking input from partners, aligning indicators with partners' priorities, and leveraging Indigenous-led data sources where possible and appropriate.

(*Response to question raised by the Honourable Brian Francis on November 22, 2022*)

The *Policy on Results* (2016) sets out the fundamental requirements for Canadian federal departmental accountability on performance through the Departmental Results Framework as the foundational structure for public reporting. While core responsibilities, results and indicators are meant to be enduring to show progress overtime, the associated targets are expected to be set annually through the Departmental Plan.

Following the dissolution of Indigenous and Northern Affairs Canada (2017), the department has been undergoing significant organizational changes which have inevitably impacted the durability of its Departmental Results Framework.

While goals as they relate to high-level outcomes have remained relatively consistent, departmental indicators have fluctuated to respond to transformation as well as to the evolving nature of the mandate, resulting in some indicators being discontinued or transferred to Indigenous Services Canada accordingly.

Crown-Indigenous Relations and Northern Affairs Canada is currently working on renewing and stabilizing its Departmental Results Framework. Adjustments are to be expected in future years as the department is continuously renewing and developing new initiatives to respond to Indigenous partners.

AGRICULTURE AND AGRI-FOOD

CANADA'S EMISSIONS TARGETS

(*Response to question raised by the Honourable Donald Neil Plett on November 23, 2022*)

Canadian Food Inspection Agency

The Canadian Food Inspection Agency (CFIA) recognizes that climate change is a Government of Canada priority and is aware of the approval in other jurisdictions of products containing 3-nitrooxypropanol (3-NOP) that have the potential to reduce environmental methane emissions when fed to ruminants. The CFIA and the Government of Canada can offer the following insights into the product submission process.

Any new feed ingredient is required to undergo a pre-market assessment and be granted approval or be registered by the CFIA prior to manufacture, sale, or import into Canada. The pre-market assessment is conducted to ensure a feed is safe to animals, humans, and the environment and is efficacious for its intended use.

Proponents of new feeds must submit an application complete with data to characterize their product specification, safety, and efficacy. Information used to approve a product in other jurisdictions can be included in a feed application for consideration.

The CFIA will work closely with product proponents as they prepare their submissions and through the evaluation process to enable efficient assessment of these applications.

FISHERIES AND OCEANS

MARINE PROTECTED AREAS

(*Response to question raised by the Honourable Patricia Bovey on November 23, 2022*)

The Government of Canada (GoC) has increased the amount of Canada's ocean area conserved from about 1% in 2015 to 14.66% in 2022, including 14 *Oceans Act* marine protected areas (MPAs) and 59 *Fisheries Act* marine refuges under the authority of Fisheries and Oceans Canada.

The GoC recently reaffirmed its leadership on marine conservation, committing domestically to conserve 25% of Canada's ocean by 2025 and 30% by 2030, and to champion this goal internationally.

Efforts to establish new protected and conserved areas are ongoing. We continue to collaborate with provincial, territorial, and Indigenous governments, as well as engage with industry stakeholders and coastal communities to consider the feasibility of establishing new areas. The MPA establishment process is designed to provide meaningful consultation opportunities for partners and stakeholders and to ensure that decisions are based on science, Indigenous knowledge, and local perspectives.

The mandate letter for the Minister of Fisheries, Oceans, and the Canadian Coast Guard also directs the modernization of the *Oceans Act* to explicitly consider climate change impacts on marine ecosystems and species in regional ocean management. The timing of the introduction of these proposed amendments is to be determined.

ENVIRONMENT AND CLIMATE CHANGE

CANADA'S EMISSIONS TARGETS

(*Response to question raised by the Honourable Marilou McPhedran on November 23, 2022*)

The 2030 Emissions Reduction Plan is Canada's first federal plan under the *Canadian Net-Zero Emissions Accountability Act*. Provinces and territories, Indigenous peoples, the Net-Zero Advisory Body, the public and key stakeholders were all engaged when establishing the plan.

Consultations continue on key measures included in the plan such as the $2.2 billion recapitalization of the Low Carbon Economy Fund, Carbon Capture Utilization and Storage, methane emissions from oil and gas operations and Clean Electricity Regulations. The government is also working to identify and accelerate opportunities to transform Canada's traditional resource industries and advance emerging ones.

Provinces and territories were engaged during the development of the National Adaptation Strategy that was released on November 24 and is now open for a final 90 days of engagement on the strategy's common goals and specific measurable targets and objectives.

TRANSPORT

CANADIAN TRANSPORTATION AGENCY

(*Response to question raised by the Honourable Donald Neil Plett on December 6, 2022*)

Transport Canada

The Government of Canada is continuing to work with the Canadian Transportation Agency (agency) in taking steps to ensure air passenger complaints are addressed quickly and that the agency has the proper tools and resources it needs to fulfill its mandate, including consumer protection for air travellers.

Additional resources were provided to the agency in Budgets 2018 and 2019, to account for anticipated increases in air passenger complaints. The agency was further allocated $18.5 million in new funding for 2020-21 and 2021-22 ($8.3 million in 2020-21 and $10.2 million in 2021-22). Budget 2022 also allocated $11.5 million to the Agency to address unprecedented capacity and resourcing challenges.

The creation of the Air Passenger Protection Regulations provides an important framework for travellers' rights in Canada. This system has been tested beyond anything imaginable and like any new regime requires refinement.

Transport Canada continues to work in close collaboration with the agency to examine further opportunities to improve the rules, including incentives for industry to settle cases quickly before they become formal complaints to the agency; greater transparency and clarity from industry regarding their performance on passenger rights; and adjustments to the regulations themselves as required to make them more effective.

ANSWERS TO ORDER PAPER QUESTIONS TABLED

EMPLOYMENT, WORKFORCE DEVELOPMENT AND DISABILITY INCLUSION—CANADA DISABILITY BENEFIT

Hon. Marc Gold (Government Representative in the Senate) tabled the reply to Question No. 150, dated April 26, 2022, appearing on the *Order Paper and Notice Paper* in the name of the Honourable Senator Plett, regarding the proposed Canada Disability Benefit.

EMPLOYMENT, WORKFORCE DEVELOPMENT AND DISABILITY INCLUSION—EMPLOYMENT INSURANCE

Hon. Marc Gold (Government Representative in the Senate) tabled the reply to Question No. 151, dated April 26, 2022, appearing on the *Order Paper and Notice Paper* in the name of the Honourable Senator Plett, regarding Employment Insurance.

[*Translation*]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate): Honourable senators, pursuant to the order adopted on December 7, 2021, I would like to inform the Senate that Question Period with the Honourable Seamus O'Regan, P.C., M.P., Minister of Labour, will take place on February 9, 2023, at 2:20 p.m.

[*English*]

JUDGES ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

Hon. Pierre J. Dalphond moved second reading of Bill C-9, An Act to amend the Judges Act.

He said: Honourable senators, it is my pleasure to rise to commence second reading debate on Bill C-9, An Act to amend the Judges Act, as sponsor of this legislation.

This 25-page bill proposes to modernize the complaint process in relation to the conduct of about 1,200 federally appointed judges sitting on the Supreme Court of Canada, the provincial courts of appeal, the Federal Court of Appeal, the provincial and territorial superior courts, the Federal Court and the Tax Court.

For those of you who were in this chamber on June 15, 2021, you may recollect that I delivered a speech on that very topic while initiating second reading of Bill S-5. We then adjourned for the summer, and an election was called. I don't think that was in reaction to my speech.

For those who were in this chamber on December 7, 2021, you may recall that I tried again, while initiating second reading of Bill S-3. Further to a ruling by the Speaker of the other place that it was a money bill, Bill S-3 did not proceed further in the Senate and was reintroduced in the Commons as Bill C-9.

Both Bill S-3 and Bill C-9 are identical, subject to one amendment adopted in committee at the other place. Today, it is my third attempt to have the Senate adopt the bill to reform the Judges Act in connection with the complaint process. So, as they say in the language of Shakespeare, hopefully, the third time is the charm.

Colleagues, as you know, judges hold special positions of responsibility in our democratic society and system of laws. They're expected to conduct themselves in a manner consistent with their independence, impartiality and ability to fulfill their functions. This includes outside the courthouse.

To guide them, the Canadian Judicial Council published a written document called *Ethical Principles for Judges*. In 2021, this document was updated and modernized after years of consultation with chief justices, puisne judges, the public and key justice system stakeholders from across Canada. Incidentally, our colleague Senator Cotter was involved in the redrafting of these principles.

The 2021 document provides judges with guidance in the courtroom and outside the courthouse and gives the public a better understanding of the role of the judiciary.

Bill C-9 is about an issue related to judicial conduct, namely, the processing of complaints against judges. The bill proposes a process that is fair to the judge, transparent to the claimant and the public, effective in achieving resolution, cost-effective, respectful of judicial independence and worthy of Canadians' confidence and trust.

My speech will start with a brief historical context regarding the judicial function, then will describe the current complaint system and its shortcomings, ending with a review of the main provisions of Bill C-9.

• (1510)

[*Translation*]

You will recall the historical context. Over the centuries, it quickly became apparent that it was better to have disputes settled by third parties considered wise enough or knowledgeable enough rather than at the pleasure of a king, or by resorting to violence.

In the Magna Carta, snatched from King John by the English barons on June 12, 1215, we find the idea of the rule of law, habeas corpus, which seeks to protect free men from arbitrary arrest, and the right to be judged by one's peers. Several great British authors see it as the primary source of judicial independence from royal authority and from Parliament, which over time became one of the fundamental principles of democracy in the United Kingdom.

I'll skip a few centuries to get to the middle of the 1860s. Mindful of the importance of the independence of the judiciary, drafters of the Constitution of 1867 made sure that, once judges are appointed, they couldn't easily be removed, hence section 99 of the Constitution Act, which states:

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

In other words, the executive can't act alone and each chamber has veto power.

[*English*]

In 1971, Parliament amended the Judges Act to create the Canadian Judicial Council — a body chaired by the Chief Justice of Canada, and comprised of every chief justice and deputy chief justice of the courts of appeal, superior courts and the federal courts.

The council's dual mandate is fostering the continuous education of judges and overseeing the conduct of judges. As a critical part of this mandate, the council received sole authority to investigate allegations of misconduct against federally appointed judges. Furthermore, a process to dismiss a judge could no longer commence before Parliament until the Minister of Justice had received a report recommending that the judge be removed from office.

Over the last 50 years, the number and the nature of complaints made to the council has evolved considerably. In the early years, the council received, on average, 10 complaints per year. However, in the last 15 years, it has been about 600 per year.

In its last annual report, the council noted that from April 1 to March 31, 2021, there were 551 complaint-related matters reviewed. Many were not prima facie valid complaints — for example, complaints filed against a judge appointed by a province, or related to the fact that the party was unhappy with the judgment. Of the complaints, 203 were closed, 285 were closed under the authority of the executive director, 18 were reviewed by a member of the Judicial Conduct Committee, 3 others went before a review panel and 1 matter was before an inquiry committee.

[*Translation*]

By imposing a process whereby judges investigate allegations of misconduct against their colleagues, the Judges Act protects judges from acts of intimidation or retaliation by the executive power or a party dissatisfied with a ruling or the popular pressure of the day.

In addition, since the act provides that we, parliamentarians, can't remove a judge after having received the report and recommendation of the judges responsible for the investigation, Canadians can rest assured that this draconian measure will only be taken when it is truly justified. The Supreme Court has established in previous rulings that the investigative process must ensure procedural fairness for judges subject to an investigation and preserve judicial independence at all times.

During the 2010s, the Judicial Council adopted various amendments to its internal rules to make its complaints process more efficient. However, these efforts couldn't eliminate the obstacles created by the requirements of the act itself.

In the opinion of several organizations, including the Judicial Council, the Canadian Superior Courts Judges Association and the Canadian Bar Association, the structures and procedures set out in the Judges Act must be modernized. After all, they were created in 1971, when the council received about a dozen complaints per year. It is high time to adapt to the new situation.

Worse still, we've seen that these procedures can be abused by some of the judges under investigation, which undermines the public confidence that the system that was put in place in 1971 was supposed to inspire.

[*English*]

In regard to the shortcomings of the current model, several issues have emerged as causes for concern: Two of these are the length and cost of judicial conduct proceedings.

Inquiry committees constituted by the council from time to time are considered to be federal administrative tribunals. As such, their decisions, whether interlocutory or final, are reviewable by the Federal Court, as well as by the Federal Court of Appeal, and, with leave, by the Supreme Court of Canada.

This gives a judge, subject to the process, an opportunity to initiate as many as three stages of judicial review, in connection with many decisions from an inquiry committee, including interlocutory decisions.

This has proven to be a recipe for adversarial zeal and abuse of process with individuals launching judicial review proceedings, seemingly to effect delay rather than pursue valid legal interest. Judicial conduct inquiries can be delayed for years as a result.

In a recent case, a complaint process initiated in 2012 resulted in a recommendation from the council — that a judge be removed from office — that became final only nine years later.

Commenting on this case after the Federal Court of Appeal's decision was rendered in the summer of 2020, in a press release, the council said:

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

> we refer to a painfully obvious pattern, as opposed to any individual case: a pattern that is contrary to the public interest and access to justice.

At the close of this process concerning that particular judge, on February 25, 2021, the Chief Justice of Canada, the Right Honourable Richard Wagner, said:

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

• (1520)

This was in February 2021. I stand before you in February 2023, trying for the third time to achieve that call to action. I hope this time is the right one and that you will support me so that we can complete the business of the bill that was unanimously adopted in the other chamber.

During that entire nine-year period, until the judge resigned before a motion to dismiss him was contemplated, the judge continued to receive his full salary and accumulated enough years of service — "service" — to become entitled to pension benefits. In addition, because a judge must serve a minimum of 10 years to be entitled to any pension benefits, he spent 9 years in proceedings. In addition, the legal fees and costs accrued by the council and the judge were assumed by taxpayers, even in relation to an appeal ruled abusive by the Federal Court of Appeal. As a matter of fact, millions of dollars were charged to the public purse.

The 2021 Budget Implementation Act put an end to the accrual of pension benefits by amending the Judges Act to freeze a judge's pension entitlements as soon as the council decides that the judge's removal from office is justified. I'm sure you noticed that when we adopted the bill implementing that budget, it was that thick. But it was there; I saw it.

Unless the decision is overturned on appeal or rejected by the Minister of Justice or by either chamber, a judge now is not entitled to the pension benefits accumulated after a decision of the council that their removal is justified. There is no longer a personal financial benefit for years-long judicial proceedings to contest the council's decision to propose their removal.

Another shortcoming of the current process is that the Judges Act only empowers the council to recommend for or against the removal of a judge. The council cannot impose lesser sanctions for misconduct that falls below the necessarily high bar governing judicial removal. As a result, instances of misconduct may fail to be sanctioned because they clearly do not approach this high bar but instead will deserve a lesser sanction such as an obligation to do training on a specific issue.

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

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

[*Translation*]

Finally, the Judges Act requires that a recommendation for the removal of a judge be made to the Minister of Justice by the council itself rather than the inquiry committee established to review the conduct of a particular judge. Thus, once the inquiry committee has reached its conclusions, sometimes after a few years, the council must deliberate, with at least 17 members present, and prepare a report and a recommendation to the minister. The members must review the entire file before the inquiry committee, hear the judge's submissions if he or she wishes to make them, and then decide whether to confirm the recommendation of the inquiry committee.

This approach goes beyond what procedural fairness requires and places a significant burden in terms of time and energy on at least 17 chief justices and associate chief justices.

As the council itself recognizes, this approach is inefficient and contrary to the public interest in terms of the optimal use of judicial resources. This too must change.

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

The government then benefited from discussions with representatives of the council and the Canadian Superior Courts Judges Association, an association that represents almost all 1,200 superior court judges, about their concerns and respective visions for the disciplinary process reform. You can be certain that as a former president of this association and before agreeing to sponsor the bill, I ensured that my former colleagues agreed with its content. I'll come back to the importance of these consultations at the end of my speech.

For the time being, I must point out that almost all judicial stakeholders support the proposed changes, which will improve the effectiveness, flexibility and transparency of the disciplinary process for judges, while respecting the principles of fairness and judicial independence and reducing the potential for abuse and associated costs. Those are the objectives of the bill.

I will now describe some of the key aspects of the proposed new process.

[*English*]

The legislation before you will introduce a more versatile process. After initial screening by a council official, any complaint that cannot be dismissed as completely without merit will be referred to a review panel composed of a representative of the public and a representative of the judiciary. After reviewing the matter on the basis of written submissions only, the review panel will be empowered to impose remedies short of removal from office — for example, a requirement that the judge take a course of professional development or issue a public apology. This will enable the effective, fair and early resolution of cases of misconduct that do not require a full-scale public hearing.

Should the review panel decide that an allegation against a judge may indeed warrant removal from office, the proposed legislation requires that the matter be referred to a full public hearing. These hearings will function differently from the current inquiry committees. First, the hearing panel itself will include a lay member of the public and a representative of the legal profession in addition to judicial members. These judicial members will include both chief justices and lay puisne judges. A lawyer will be appointed to present the case against the judge, much as a public prosecutor would do. The judge will continue to have the opportunity to introduce evidence and examine witnesses, all with the aid of his or her own counsel.

In sum, the process will be structured as an adjudicative and adversarial hearing, a format that benefits the gravity of the issues involved, both for the judge and for public confidence in the integrity of justice.

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

• (1530)

Since 1867, five judges have come very close to having a motion in the House of Commons and the Senate stripping them of their duties. Therefore, it is not an often-used process.

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

At the conclusion of the hearing process and before the report on removal is issued to the minister, both the judge whose conduct is being examined and the lawyer responsible for presenting the case against the judge will be entitled to appeal the outcome to an appeal panel. This appeal mechanism will replace the current recourse to judicial review through the federal courts. In other words, rather than making the Canadian Judicial Council hearings subject to external review by multiple levels of court with the resulting costs and delays, the new process will include a fair, efficient and coherent appeal mechanism internal to the process itself.

This appeal panel will be made up of five judges, some chief justices and some puisne judges, will hold public hearings akin to those of a Court of Appeal and will have all the powers it needs to effectively address any shortcomings in the hearing panel's process. Once the appellate panel has reached its decision, the only remaining recourse available to the judge and to the presenting counsel will be to seek leave to appeal to the Supreme Court of Canada. Entrusting the process oversight to the Supreme Court of Canada will reinforce public confidence and avoid lengthy judicial review proceedings through several levels of court.

These steps on appeal will be governed by strict deadlines, and any outcomes reached will form part of the report and recommendations ultimately made to the Minister of Justice.

In addition to enhancing confidence in the integrity of judicial conduct proceedings, these reforms are expected to reduce the length of proceedings by a matter of years.

[*Translation*]

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

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

[*English*]

To remedy this problem, the proposed legislation would effectively divide process costs into two streams. Funding for constant and predictable costs — those associated with the day-to-day review and investigation of complaints — will continue to be sought through the regular budget cycle and will be part of the budget devoted to the council. The Justice Department estimated that the costs will range between $300,000 and $500,000 per year.

The second stream, however, consisting of highly variable and unpredictable costs associated with cases that proceed to public hearings will be funded through a targeted statutory appropriation established in this bill. In other words, costs associated with public hearings will be paid directly from the Consolidated Revenue Fund.

These are the provisions that make the bill I introduced for the second time a money bill, and, therefore, it was ruled by the Speaker of the House of Commons that it must be introduced first in the House of Commons.

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

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

As a result, the provisions establishing the appropriation clearly limit the categories of expenses captured to those required to hold public hearings. Moreover, these expenses would be subject to regulations made by the Governor-in-Council. Planned regulations include limits on how much lawyers involved in the process can charge and a limit on judges who are subject to proceedings to one principal lawyer — not an army of lawyers.

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

I note that the Commissioner for Federal Judicial Affairs, who will be responsible for administering these costs, is a deputy head and accounting officer and is therefore accountable before parliamentary committees.

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

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

Finally, I will speak about consultation.

[*Translation*]

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

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

Furthermore, by consulting the Canadian Superior Courts Judges Association, the government was able to hear the representations of the judges subject to this process directly.

• (1540)

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

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

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

I also note that on June 9, 2021, the Canadian Judicial Council, as I mentioned earlier, issued new ethical principles for judges, all of which constitute enormous modernization efforts.

[*English*]

In conclusion, more than 50 years ago, our predecessors had the foresight to draft a judicial conduct process that removed any prospect of political interference by giving the judiciary control over the investigation of its members.

Today, respect for this form of judicial leadership is firmly entrenched. It is a gesture of respect for judicial independence under the Constitution itself and a source of public confidence in the institutions of justice that exist to serve Canadians.

It falls to us today to renew this commitment by modernizing the judicial conduct process, providing its judicial custodians with a legislative framework that contains all the tools needed to protect the public trust. These include tools to enhance efficiency, bring transparency, ensure accountability, provide versatility and maintain the highest standards of procedural fairness. I wholeheartedly recommend the bill before you in this spirit, and I look forward to its passage. Thank you, *meegwetch*.

Hon. Denise Batters: Would Senator Dalphond take a couple of questions, please?

[*Translation*]

Senator Dalphond: It would be my pleasure, Senator Batters.

Senator Batters: Thank you very much.

[*English*]

In your speech you indicated — and it came through translation, so roughly translated — that virtually all stakeholders in the legal community support this bill. Who doesn't support it and why?

Senator Dalphond: Thank you very much for this question of precision. I said I don't know any who oppose it, but I restrained myself from making an overreaching statement that everybody is behind it — just in case you find somebody who will oppose it. I know that you, as critic, will work hard on this bill, and if there is any weakness in it, you will show it to me. Thank you.

Senator Batters: The predecessor bill to this one, as you pointed out near the end, was introduced in the Senate in 2021, I believe, and you may recall that I raised a concern about the appropriateness of the bill's introduction in the Senate at the time because it could be presumed that part of it was a money bill and was problematic in that respect. You didn't think it was problematic at the time, but the Speaker of the House of Commons agreed that it was, and the government reintroduced Bill C-9 in the House of Commons.

Now, I was briefly distracted when you were delivering your speech, but I believe you said that this bill was nearly identical except for one small amendment to that predecessor bill. When you were explaining that part, that was part of what I missed. If you could please relay that difference in this particular bill as compared to the predecessor bill.

Senator Dalphond: Thank you very much. Again, I rise with humility because I know that not only are we listening to Senator Batters but the Speaker of the other place is also listening, as we saw further to your questions last time about the money bill.

I said there was one change, and this change is minor. It is that when a complaint is dismissed at the screening process, in committee, MPs amended it to say that reasons should be provided to the complainant to ensure greater transparency. For example, if it were a complaint against a provincial judge, they would say, "Well, you should address your request to the provincial council, not to the Canadian Judicial Council."

(On motion of Senator Martin, debate adjourned.)

ONLINE NEWS BILL

SECOND READING—DEBATE ADJOURNED

Hon. Peter Harder moved second reading of Bill C-18, An Act respecting online communications platforms that make news content available to persons in Canada.

He said: I wish to acknowledge, as I rise today, that I rise on the traditional and unsurrendered territory of the Algonquin Anishinaabe people.

Honourable senators, I'm pleased to share my support for Bill C-18, the online news act. Before we get into the details of the bill, I hope we can agree that action is needed to address the challenges faced by the Canadian news sector at this time.

A healthy democracy depends on well-informed citizens, and well-informed citizens depend on a free and independent press. Yet, with each passing year, we witness news outlets struggling to deliver on their mandates of providing Canadians with fair and unbiased information. As we all know, colleagues, a free and independent press is one of the foundations of a safe, prosperous and democratic society. Ensuring the viability of news outlets is thus necessary and timely.

We can also agree that our news consumption habits have changed forever. Long gone are the days of the broadsheet setting the agenda for public debate. Today, whether through our personal searches on the web or social media, the news reaches us via a number of digital platforms. Put simply, the business model of these digital platforms is to capture billions of dollars in advertising in exchange for our eyeballs.

But while the news business is doing the heavy lifting in covering news and the events of the day and reporting on issues that matter to our communities — be it local, national or international — little of the value of that work goes back to them.

If we agree that news has a crucial value in producing an informed electorate, then we must address the present imbalance that threatens our democracy. This legislation follows on the heels of a similar effort in Australia, but other countries are implementing or planning comparable laws.

New Zealand, for example, announced in December 2022 that its own legislation would draw heavily on what they called Canada's "objective, futureproof and transparent" approach.

The aim of Bill C-18 is to create a news ecosystem that promotes the creation of high-quality news content and reflects Canada's diverse voices and stories. We know that this type of content is central to our social and democratic discourse and to the health of communities that make up this country. Without a healthy media — not just here in Ottawa, but in all communities, large and small — the public's capacity to hold their leaders accountable will atrophy. Voters will become less informed — or

misinformed — on what's at stake in elections. Policy prescriptions aimed at creating a better society are barely illuminated, if they are discussed at all.

We have seen how the spread of misinformation and disinformation around the world can damage societies. A robust, questioning media is one of the most effective antidotes to these disorders.

We all understand that freedom of expression and freedom of the press require that news reporting be done with full editorial independence, free from undue governmental interference. It requires that Canadians be able to continue to express themselves online, including by sharing news content.

Further, we must also acknowledge that, ultimately, our freedom of expression as Canadians depends crucially on the quality of the news content and information that we create and consume.

• (1550)

Bill C-18 focuses its support on the entities that create high-quality news content, eligible news businesses, the outlets they operate and the journalists they engage.

To be sure, the services that aggregate the reporting of others for their users have a role to play in the Canadian information ecosystem. These online services represent great advancements in how we access news and, more widely, how we share information.

Ultimately, these services, which act as gatekeepers to online information, are only as good as the information they curate. The success of some platforms as gatekeepers of information has allowed them to leverage a position of dominance in online advertising. This dominance creates an imbalance that undermines news businesses' revenue streams and continued creation of quality news.

That is why Bill C-18 aims to level the playing field between dominant online platforms and the news businesses. Bill C-18 will support news businesses and their outlets when they primarily produce the kind of rigorous journalism and reporting that Canadians expect of professional news.

The government estimates that, annually, approximately C $215 million in compensation could go from digital platforms to eligible news businesses in Canada.

The online news act provides a legislative and regulatory framework that is flexible, modern and encourages market fairness. It will set the table for platforms to sit down with media outlets of all sizes, equipped with the ability to bargain collectively, bringing players to the bargaining process on a more equal footing. This is the path forward for a better balance of bargaining power in the Canadian digital news ecosystem.

The anticipated impact of Bill C-18 is significant regardless of whose financial estimates one uses. The Parliamentary Budget Officer, for example, estimated the bill could result in $329 million in total compensation for news businesses. When you look at the definition used for broadcasters compared to the rest of the news industry, you will see it is far broader, so the breakdown on the broadcast side is likely higher. These potential discrepancies are worthy of committee discussions. It can't be denied that these payments will provide a lifeline for our country's struggling news businesses.

Key amendments introduced in the other place have improved the bill in several ways, such as changes to the criteria for news business eligibility, the rules exempting platforms from the regime and other elements that reflect calls from stakeholders to improve Bill C-18's ability to support a wider range of news businesses, including smaller news outlets and diverse perspectives.

Who will benefit from this bill? First off, news businesses must apply to be eligible for participation in bargaining. The Canadian Radio-television and Telecommunications Commission — the CRTC — will designate news businesses as eligible if they meet a set of criteria intended to support rigorous, quality journalism that informs Canadians on important issues. There are four ways for news businesses to be eligible: as a qualified Canadian journalism organization under the Income Tax Act; as licensed campus, community or Indigenous broadcasters; as a Canadian organization covering news of general interest; or as an Indigenous news outlet. These carefully considered criteria are designed to ensure that only rigorous journalism benefits from this new regime.

You will recall that the first path to eligibility, which is the qualified Canadian journalism organization designation — also known by the acronym QCJO — was developed in support of the Canadian journalism labour tax credit introduced in the *2018 Fall Economic Statement*. It specifies that to qualify, news businesses must produce original reporting on issues and events that matter to Canadian readers, including news, features, investigations, profiles, interviews and analyses or commentaries.

These qualified news organizations are reviewed by a diverse and independent advisory panel of active or retired faculty of post-secondary journalism schools across the country. By leveraging the QCJO standard, we can keep the eligibility criteria for new businesses in harmony with existing legislation with proven experience and keep the amount of red tape, government intervention and duplication to a minimum.

These QCJOs must also adhere to key journalistic principles, including a commitment to research and verifying information before publication and presenting diverse perspectives and analyses. An eligible news outlet will also have a policy for correcting errors and honestly representing sources.

The other place added a second route to being classified as an eligible news organization or business. Parties agreed that campus, community and Indigenous broadcasters licensed under the Broadcasting Act do provide a great amount of local news

and information across the country even though they may not meet the QCJO definition. These broadcasters were added in recognition of their unique role and contribution to the Canadian news landscape.

News businesses that are not designated as QCJOs can also apply to be eligible if they report on current events of general interest, including coverage of democratic institutions and processes, and demonstrate rigour through editorial oversight and adherence to recognized professional journalistic standards.

This route requires that an organization regularly employs two or more journalists. This two-journalist threshold promotes consistency by reflecting the existing rules for qualification in the criteria for a QCJO. It also favours a higher standard of reporting by ensuring that the news content in question benefits from the editorial perspective and independent insights of another professional journalist. The two-journalist requirement is a crucial factor for ensuring that Canadians have access to independent and rigorous journalism.

One other important amendment that was added in the other place now specifies that this rule does not require journalists to operate at arm's length from the business. In other words, this allows for a framework that is more inclusive of start-ups and small news outlets, including those serving a diverse readership and more rural communities whose owners or operators may also be practising journalists themselves. Outlets in small Prairie communities, Canada's North and other isolated towns and villages, as well as ethnic media, will benefit from this bill. In many cases, these communities have but one local outlet upon which they can count.

A fourth and final path to eligibility was added by the other place. The last route by which a news business can be considered eligible is an Indigenous outlet. Indigenous organizations operating in Canada are eligible if they cover matters of general interest and the rights of Indigenous peoples, such as treaty rights and the right of self-government. Bill C-18 is platform-agnostic and will provide support to all types of news organizations. Print, digital and broadcast are all eligible under Bill C-18 if they meet the criteria.

Promoting the sustainability of Indigenous media in our country not only benefits the diversity of our media landscape in supporting news media content that adequately reflects our nation's Indigenous cultural diversity; this aspect of Bill C-18 also reflects our and the government's commitment to advancing reconciliation with Indigenous peoples.

There have been some questions as to why our national broadcaster should be eligible under Bill C-18 since the CBC/Radio-Canada already receives public funding.

• (1600)

In many parts of our country, CBC/Radio-Canada is the only source of reliable, fact-based journalism. Canadians rely on the information of our public broadcaster. It is only to the advantage of the tech giants that our public broadcaster is excluded from bargaining over the value of their online content. Furthermore, why should Canadian taxpayers contribute to the bottom lines of these platforms by letting the content they helped pay for be used for free? Taken together, these eligibility criteria for news businesses offer clear guidance for outlets wanting to benefit from the regime. In being inclusive of a diversity of businesses, including small and independent businesses, the criteria support the bill's purpose of contributing to the sustainability of the news marketplace.

As I have mentioned, Bill C-18 will encourage digital platforms — that have dominant market positions — to enter into voluntary commercial agreements that fairly compensate Canadian news businesses for the use and sharing of their news online. The CRTC will play an important role in ensuring the legislation results in fair agreements that contribute to the sustainability of the news sector. As an independent regulator, part of its job is to uphold freedom of expression and journalistic independence.

The CRTC is an expert in media regulation, as well as fair and transparent public processes, and offers final arbitration. The commission is well positioned to implement the regulatory tools included in this bill that prevent digital platforms from unduly favouring or disadvantaging certain news businesses, thus preserving the independence of the press.

The commission's role will be to help pave the way to fairly negotiated agreements, including developing a code of conduct and monitoring the marketplace to ensure that the framework continues to meet its objectives. In the rare case that parties cannot agree, it will facilitate final offer arbitration — an option that Bill C-18 presents properly, in my view, as a last resort.

One of the CRTC's roles will be to grant exemptions from parts of the act to platforms. To do so, platforms will need to demonstrate that they are contributing to a sustainable news sector by entering into fair commercial agreements with news businesses that reflect the diversity of the Canadian news marketplace.

Platforms — defined as "digital news intermediaries" in the bill — wishing to be granted an exemption have a clear road map. This means making deals with outlets based in small communities from coast to coast to coast. This means making agreements with news outlets producing coverage in both official languages, with Indigenous media and with outlets representing Black and racialized groups. This means there should be agreements with a balanced number of outlets from each region of the country. Agreements will have to guarantee that journalists and editors can still cover the issues and the stories that matter without interference, respecting the independence of the press and freedom of expression.

New criteria introduced in the other place ensure that platforms must also enter into agreements with smaller players, such as not-for-profit outlets, news businesses serving diverse populations and Indigenous news outlets. This is another reason we can be optimistic that this bill, once implemented, will have a positive impact in our news ecosystem.

The rules for exemption from the regime provide platforms with clear and transparent criteria to guide them in taking a balanced and fair approach when making deals. The focus is on the scope of the agreements and the range of the marketplace they cover. The CRTC will grant an online platform exemption from the act, provided the agreement reflects this balanced and fair approach. These exemption criteria are objective and designed to advance the goals of the framework. To be clear, the CRTC will not pick winners and losers. The framework is fundamentally based on free negotiations between news publishers and platforms, setting a level playing field for those agreements. It provides safeguards to ensure that, ultimately, agreements further the public interest objectives of the legislation.

Transparency is built into the regulatory process at every step. This includes the decisions on both eligibility and exemption. The regulator will be able to assess whether any agreement between news businesses and platforms poses a risk to journalistic independence, safeguarding the freedom of the press.

The information from this process will also feed into another key innovation in Bill C-18: the annual report by an independent auditor on the impact of Bill C-18 on the digital news marketplace. Giving the CRTC the ability to assess agreements makes it easier to follow the outcomes and impact of the act. This is how we can assess how well it is meeting its goal of enhancing fairness in the digital news marketplace.

The CRTC's public processes provide the opportunity for commentary and course correction down the line, if needed. Public processes make it possible to better gauge the impact of the legislation on the long-term viability of the Canadian news sector. It's one of the reasons Canada's innovative and flexible approach is seen by our like-minded countries as a model of objectivity and transparency.

[*Translation*]

Honourable senators, I would be remiss if I failed to recognize the essential role that the media play in protecting the vitality of our languages, culture and identity. It is also important to ensure that Canadians have access to in-depth fact-based information in the official language of their choice. That's why Bill C-18 requires platforms to enter into a series of agreements with the media, including the local and regional press organizations of every province and territory and anglophone, francophone and official language minority communities.

[Senator Harder]

I'm also pleased to see that organizations, such as Hebdos Québec, have expressed their strong support for this bill. I'd like to share with you an excerpt from a statement made by Hebdos Québec, which I believe reflects the sentiment of many media outlets across the country. It said, and I quote:

> . . . it is not about technology but a difference in negotiating power. Individually, newspapers have no choice but to turn to platforms unless they want to lose a large part of their readership and advertising revenue.
>
> Google and Facebook are the only options for many editors, while the platforms can ignore the requests of any editor.

The government will be there for Canadians because they expect the government to act in a transparent manner to protect their local journalism; because the government must protect the future of a free and independent press; because we need to ensure that Canadians have access to fact-based information; and because we must work together to protect the strength of our democracy.

[*English*]

Now, I'd like to take this opportunity to address some of the concerns I've heard around this bill. Much of the commentary around Bill C-18 has involved unfortunate misrepresentations about "pay per click" and "ending free speech online in Canada." Unfortunately, this commentary seeks to frame this legislation as yet another threat to the internet as we know it here in Canada.

• (1610)

I'm sure that many of you are hearing some of these issues surrounding the bill. But, of course, it isn't hard to connect the dots.

When commentators claim that Bill C-18 will "break the internet," what they mean is that Bill C-18 will impact the profit margins of the dominant platforms. It will require that these platforms share advertising revenues fairly with the people who create and publish the news content that appears on the platforms' services. Australia has similar legislation, and let me assure you that the internet is still working there. I'm sure it will also work in New Zealand as that country puts forward its own regime in the coming weeks.

When some say that Bill C-18 will result in links being blocked online, what they mean is that big platforms are not above playing hardball. We all watched as Meta, in response to new online news legislation in Australia, pulled links to news, as well as information on essential services, including weather reports. We now know from whistle-blowers that Meta calculated the withdrawal to maximize chaos and damage. But Canadians will not be intimidated. Dominant digital platforms should have to bargain fairly and in good faith, and that is what this bill provides.

To be clear, Bill C-18 would target the most dominant platforms, which act as key intermediaries in the ways that Canadians access news. They would have these platforms negotiate agreements to fairly share the benefits they derive from the full scope of ways they make news content available to users of their services.

Bill C-18 is not a pay-per-click scheme for news. Those commentators who suggest this idea are, to my understanding, misrepresenting the framework. They see it through a conventional approach to online licensing — essentially a copyright lens. But Bill C-18 sits alongside the Copyright Act. In the context of a digital platform exercising significant power imbalances, it imposes a bargaining framework to require fair and good-faith negotiations. Bill C-18 is not copyright legislation; actually, it's more in the form of ensuring fair competition in this area.

Another myth: There are observers who say that Bill C-18 is a "link tax" or mandates "payments for links" and conclude that the bill will incentivize clickbait over high-quality journalism and, worse, that it will end free linking on the internet. But that is not what Bill C-18 does. Nowhere does the bill mandate any kind of tariff or payment for a link. What it does require is that when links to news are made available by platforms that have significant power over news businesses, those platforms have to come to the table and bargain; that is all.

This is a framework designed to empower news businesses in the digital economy. It is designed to help those businesses better leverage their news content and more fully realize the benefits of their efforts. It is designed to check the power of some of the world's most dominant platforms so that fair negotiations can take place. It does not introduce a tax but, rather, it adjusts the marketplace to one that appropriately recognizes the value of news content and those who create and produce it.

Recognizing the appropriate value of news content to the most dominant platforms means counting all the ways this content features on their services.

One of the ways platforms benefit is by using this news content, and the ability to access and share it, to attract Canadians to their services. Links play a central role in this offering from platforms to Canadians.

We saw that links to news content have a value to platforms when Google continued to refuse to pay publishers in the European Union under a copyright approach that includes headlines and snippets but does not include hyperlinks. The results from the EU experiment have been found wanting, to say the least.

Lengthy court battles over unwieldy digital rights management systems have not delivered timely help to news businesses. That is precisely why Bill C-18 creates a marketplace that considers all the ways news content is made available.

Another important point I would like to make is the following: Freedom of speech is not threatened by this bill. Bill C-18 does not contain provisions that would allow anyone to block news links. Bill C-18 does not contain provisions empowering anyone to prohibit the quoting of news.

Instead, Bill C-18 imposes obligations on the most powerful entities in the online information ecosystem. It includes an obligation on platforms to not unfairly exploit the positions they hold as gateways to information online by redirecting crucial advertising revenue from the same news publishers whose work they feature on their services.

Online platforms have long touted their services as the "digital public square" — as online spaces where citizens can connect to share ideas and make decisions about their lives, their communities and their place in our broader society. These platforms have enriched themselves immensely, becoming some of the most valuable enterprises in the history of the world, by using network effects to essentially hold an audience captive.

However, the quality of the discourse in the public square can only be as good as the quality of the content through which people become informed and reach their understanding. Even as these platforms enrich themselves, new businesses — the ones that create the content on which Canadians rely for their information — are going out of business at an alarming rate. While it is true that the number of other independent outlets is growing — thanks to the increased development of products for the web — it is also true that Canada has lost over 460 outlets since 2008.

What is more, those losses have come in communities that are isolated and often served by only one outlet to begin with. Last month, Postmedia, which operates more than 100 large and small newspapers across the nation, announced cuts of 11% to a staff that is already overstretched.

More recently, British Columbia-based Overstory Media Group announced layoffs affecting publications like *The Georgia Straight*, *Vancouver Tech Journal*, *The Coast*, *Burnaby Beacon*, *Fraser Valley Current*, *New West Anchor*, *Calgary Citizen*, *Tasting Victoria*, *Oak Bay Local*, *The Westshore*, *Victoria Tech Journal*, *Eat Tri-Cities*, *Calgary Tech Journal* and *Capital Daily*.

It is hard for me to imagine that no one in this chamber has seen their home community untouched by layoffs or closures. As senators, our perspectives and ability to represent the concerns of our constituents are being weakened by this atrophy. If we don't already, we will soon lack the information required to make the best decisions for the welfare of our fellow citizens.

Some have argued that only big media benefit from Bill C-18. The evidence from Australia is the exact opposite. The whole point of the legislation is to get as many outlets as possible to the negotiating table. There is strength in numbers. By coming together, the smaller outlets will be in a stronger negotiating position and they will finally get fair compensation for the content their journalists create. And it is that content that will drive advertising and subscriptions.

What Bill C-18 does is level the playing field so that news businesses may receive a fair share of the benefit when their works are made available on dominant digital platforms. It ensures that Canadian journalists can continue to create quality content to be discussed in the digital public square. By ensuring the continued creation of quality Canadian news content online,

Bill C-18 fundamentally supports the sustainability of the news sector and, in so doing, the freedom of expression of all Canadians.

Finally, I cannot overstate the importance of this bill for the future and sustainability of local news. It is critical that we support Canadian news media by fostering the best conditions for them to continue to produce journalism of the highest industry standards that reach our citizens, no matter where they are.

• (1620)

This issue is not to be taken lightly, given the number of Canadian jobs and businesses that are at stake, but it's also because the heart of this issue lies in the vitality and sustainability of our very democracy. Citizens need to be able to make informed decisions about who they want to lead them, what benefits and policies they believe will benefit them and their communities and what services they can afford to pay for and those they can do without. This is particularly important in an age when citizens increasingly gravitate to what are simply the loudest voices.

Just as governments shouldn't pick winners and losers, big tech monopolies should not have that right either, yet that is precisely what is happening leading up to the introduction of this bill. In an attempt to thwart it, the web giants have already negotiated content licensing agreements with some of the largest names in the Canadian news business: *The Globe and Mail*, the *Toronto Star* and *Le Devoir*, to name just three.

Bill C-18 allows many smaller outlets to come together as one to negotiate similar commercial agreements. Without legislation, those smaller outlets will wither on the vine and the lucky few larger players to whom the platforms have offered short-term deals can kiss them goodbye when their term is up.

Let me conclude by saying that while this bill is a priority for the government and has enjoyed multi-party support in the other place, this bill is urgent and essential for the news sector. Every month of delay risks further layoffs. It goes without saying that this bill requires appropriate and robust consideration in this place, but its passage ought to be expeditious, because most of the outlets it would serve are in a perilous state. I therefore urge this chamber to advance this bill as quickly as possible to committee so we can continue that review.

Thank you.

The Hon. the Speaker pro tempore: Senator Harder, you have eight minutes remaining. Will you take questions?

Senator Harder: Certainly.

Hon. Leo Housakos: Thank you for your speech, Senator Harder.

I was very skeptical about Bill C-11 in terms of the government having an objective to predetermine winners and losers. In the case of Bill C-18, I understand the objective, and I think it's about fairness and respecting copyright and content. But I still have some concerns and I'm skeptical if it actually does achieve that.

What would you say to critics who will argue that the web actually just magnifies and amplifies the work of those content producers? When a journalist at Quebecor or CBC posts to Twitter or Facebook, they do it because they want to amplify and get as much reach as possible for their work. Without those platforms, they wouldn't be getting that reach.

What happens now when we jump into an Uber to go to dinner tonight and, once we get to the restaurant, the Uber driver says, "I also want a percentage of the bill tonight that you spend at that restaurant, because if it wasn't for my platform, you wouldn't be having this exchange?" Or, regarding this wonderful speech you just gave, when you post it on Twitter or when the Senate puts it on Facebook, are we entitled to ask for royalties from all those platforms when we're actually using those platforms in order to propel our work?

Senator Harder: Thank you for your question, senator.

If I can take your analogy, the Uber driver who will take us to dinner would be worthy of a portion of that expense if he were providing the dinner. He's not.

Hon. Frances Lankin: I won't go into Uber drivers; that's a matter for the new committee we're trying to establish.

Senator Harder, I have two questions. I'm going into the weeds a little bit. I generally support the premise. As Senator Housakos stated, it's about fairness, copyright, content and who does the heavy lifting in terms of the gathering and creation.

First, do you know how an organization like The Canadian Press will be treated, given that it's kind of like a cooperatively owned organization and the companies largely involved in that have their own agreements already negotiated? You just referred to that. Do you have a sense whether there is a duplication of payment there from the platforms, or whether they will not qualify as an eligible entity?

Senator Harder: Thank you.

Senator, my understanding is that the agreements that are in place are with the publishing companies that, from time to time, also include The Canadian Press in their publications, and that is how the existing arrangements provide for compensation in that indirect fashion.

I can also state that you're correct — as I stated — that there are some large newspapers that have agreements. I suspect the sustainability of those agreements will depend upon this legislation. This legislation will ensure there's a requirement to negotiate fairly, and that is why News Media Canada is so supportive of this bill.

Hon. Paula Simons: Senator Harder, the bill we have before us today is not the same bill that was originally presented before the Christmas break, and it's important that people understand the change wasn't a mere technicality; it wasn't a question of a sentence fragment or a semicolon. The bill that was first presented to us contained an amendment that required a company that accepted one of these agreements to have rules about the kinds of speech that appeared in print and to deal with misinformation. That amendment was defeated at committee on the House side by a vote of 10 to 1, and yet the text of that very significant and controversial amendment was placed into the bill that was voted on in the House of Commons.

Can you enlighten us — maybe this is more a question for Senator Gold — how it was that such an extraordinary and important error was made in the bill? If the bill that was voted on in the House had such a large error in it, how do we unscramble that omelette? Does the House have to vote again?

Senator Harder: Senator, that was the matter the Speaker spoke to last week. He was quoting the Speaker in the other place, who described the process that had taken place.

That was not a government error; it was an administrative error by the officers dealing with the parchment and the delivery of the bill as passed in the other chamber. So it is really a non sequitur to the discussion. I didn't reference it, frankly, because the Speaker had adequately dealt with that situation.

You said that this bill is not the original bill. Most of my speech dealt with the amendments in the other place, which I think make this a better bill and certainly bring a broader set of stakeholders to both the negotiations and, I would expect, the benefits of this bill. But I don't think we need to belabour the mistakes that were made — inadvertently, I'm sure — by the clerks attending to the disposition of the bill and transferring it to this chamber.

Hon. Andrew Cardozo: My question goes back to the broad principles of the bill. I say this in light of the role you described with regard to the CRTC. Having been a commissioner there, it has the ability to have open and clear hearings when it develops a regulation, it has extensive experience in mitigating the power imbalance that exists between big and small players and it scrupulously stays out of content, especially when it comes to news.

• (1630)

If we can go back to first principles, could you say a little more about why we need this bill? What if we don't have this law? Will it help the small players the most? I ask that simply because we often get into the weeds before we really understand the big picture of why we're doing this.

Senator Harder: Thank you very much, senator, for your question.

Let me reiterate that, without this bill, we will continue to see an atrophying of news sources and layoffs in the news-generation sector. That will contribute to an atrophying of public discourse.

I don't want to be alarmist, but we ought to be concerned with the quality of public dialogue in Canada. We do know that an independent press is an essential ingredient of our liberty and our democratic life together.

This bill is designed to ensure that there are market-based negotiating requirements between the creators of content — the publishers — and the platforms that use that content to achieve advertising revenue. It's the collapse of advertising revenue that has created the layoffs and the negative effects in the newspaper business.

Your Honour, may I have five more minutes?

The Hon. the Speaker pro tempore: Senator Harder's time has expired. Honourable senators, do we agree to give five more minutes?

Hon. Senators: Agreed.

Senator Harder: Second, as your question infers, this bill now covers many small newspapers that are devoted to either small geographic areas, ethnic media or specialized media. Previous to this amendment, they may not have been eligible. We also want to ensure that there is journalist integrity in those outlets. That is why there are criteria for codes of journalistic professionalism. We have, in the other place, extended it to the two-person journalism requirement to include the owner-journalist. In small towns, like my hometown, the owner is also a working journalist. That ensures that the broader scope of this market-based solution is extended to small outlets who can then cooperatively negotiate agreements.

It is absolutely important to underline that the Canadian Radio-television and Telecommunications Commission, or CRTC, is not making these decisions. It is the bargaining process. At the end, should the bargaining process fail, yes, there is final-offer arbitration, but final-offer arbitration, as you know, is not one where the arbiter decides the nature of the conditions. It's the choice of one or two of the bargaining parties.

Senator Dasko: Senator, would you take a question? My question relates to the platforms which will be participating in this program. You describe them as platforms with dominant positions. Can you articulate what will be considered? Which of the platforms will be looked at and required to make these arrangements?

There's been a lot of speculation about — oh, for example, will TikTok be part of it? People have been saying that Facebook will not be running news content anymore. A lot of these ideas have been floating around. Could you clarify who will be subjected to this? Thank you.

Senator Harder: As I tried to express, the bill is agnostic in terms of identifying particular platforms. The code for that is, at this time, that you would expect this to be Google and Meta as they are the content providers and hold prominent market share at the present time. If that situation should change, that would require another set of negotiations, but it doesn't mean that the government is choosing the platforms. The question is what platforms are being used and who is appropriating the journalistic content created by the publishing community?

Senator Downe: Senator Harder, do you have any estimate? You may not have it handy, but perhaps you could provide it. I am thinking, for example, about the media in Prince Edward Island. Just how much funding are we talking about? How much additional assistance would be provided, particularly for the weekly newspapers? Some of the farming and fishing papers are very important for the industries. We see the deterioration in the daily papers; there's less and less local content. Do you have a ballpark figure?

Senator Harder: Thank you, senator, for the question. It's a good one. I don't want in my response to suggest this is the objective, but the experience in Australia suggests a certain number, as, indeed, does the experience with respect to existing agreements in Canada. All of these numbers are confidential, of course. I am not privy to it. Indeed, the CRTC would not be privy directly to the aggregation, or at least its report would be an implied collective number. But the working principle is about 30% to 35% of the news expenditure. This is not a cross-subsidy to non-news efforts.

It's not insignificant, but that is a reflection of what the value deterioration has been in terms of source of revenue for the publications that you reference.

(On motion of Senator Martin, debate adjourned.)

SUBSTANTIVE EQUALITY OF CANADA'S OFFICIAL LANGUAGES BILL

BILL TO AMEND—FIRST REPORT OF OFFICIAL LANGUAGES COMMITTEE ON SUBJECT MATTER—DEBATE CONTINUED

On the Order:

> Resuming debate on the consideration of the first report of the Standing Senate Committee on Official Languages (*Subject matter of Bill C-13, An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts*), tabled in the Senate on November 17, 2022.

Hon. Judith G. Seidman: Honourable senators, I rise today to speak briefly to the pre-study report of the Standing Senate Committee on Official Languages regarding Bill C-13, An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts.

As a senator from Quebec, I will speak at further length once the bill reaches this chamber, but I am taking this opportunity to flag to honourable colleagues who have not yet had a chance to study this piece of legislation that although the Official Languages Committee did excellent work on its pre-study, our work is not yet done.

Bill C-13 incorporates Quebec's Charter of the French Language into the Official Languages Act and introduces a legislative asymmetry between the rights of the minority linguistic community in Quebec and those in the rest of Canada, thereby abandoning over 50 years of official language policy.

For those who may not know, the Quebec government recently pre-emptively invoked the "notwithstanding" clause to amend the Charter of the French Language. Bill C-13, therefore, may have constitutional implications — and I suggest it should be studied jointly by our Official Languages Committee and our Legal and Constitutional Affairs Committee when it comes to our chamber.

In November, in response to the use of the "notwithstanding" clause in Ontario, Prime Minister Justin Trudeau said:

> Canadians themselves should be extremely worried about the increased commonality of provincial governments using the notwithstanding clause preemptively to suspend their fundamental rights and freedoms.
>
> The Charter of Rights and Freedoms cannot become a suggestion. The outrage we're seeing across the country right now . . . I think, is a moment for all Canadians to reflect.

I agree. Therefore, honourable senators, should the government attempt to rush this legislation through our chamber on the grounds that a pre-study has already been done, I believe we must object and insist that we take the time needed to carefully study and reflect. Thank you.

(On motion of Senator Clement, debate adjourned.)

• (1640)

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. Diane Bellemare: Honourable senators, to begin, I would like to acknowledge that we are gathered on the unceded territory of the Algonquin Anishinaabe people.

Colleagues, the Speech from the Throne is ambitious: growing an economy that works for everyone, fighting climate change, moving forward on the path of reconciliation and making sure our communities are safe, healthy and inclusive. Indeed, all Canadians want to live in a country that is secure, prosperous, just and equitable. This begs the question: Can the federal government deliver on those promises? This is the subject of my speech.

[*Translation*]

I would argue that, in the current context, the federal government doesn't have the means to fulfill its ambitions, but it could be different.

As you know, the federal government is limited in what it can do in a number of areas. Yes, it manages the military, the monetary policy, the Criminal Code and foreign relations, but its power to act is limited in a number of areas, such as health, education, training, income security, employment, labour, industrial development, climate change, security and even street violence. In order to solve complex problems with social, cultural, technological and environmental impacts, the government needs to better understand the situations, listen to stakeholders and rely on their contributions.

Although the government half-heartedly acknowledged this reality in the Speech from the Throne, it didn't set out a strategy for taking collective, coherent and concerted action, even though doing so would be essential.

The federal government holds significant purchasing or spending power and uses it freely, but the production of many services depends on the provinces, civil society and the workers and businesses that create wealth.

The agenda set out in the Speech from the Throne won't be achieved through a laissez-faire approach or increased reliance on consulting firms.

The best way forward involves collaboration and cooperation between governments and socio-economic partners. As you know, collaboration between public and private actors doesn't happen spontaneously. To act together, we must agree on a vision and on results-based objectives. We need dialogue.

In free and democratic societies, it is social dialogue that allows collective action to be coordinated. Social dialogue is to collective action what the market is to commercial transactions. It is a place of exchange; one is the exchange of ideas; the other, money; and in both cases it is an institution.

Social dialogue seeks to create a consensus between the main actors in the work world and their democratic participation. Consensus then allows for important economic and social issues to be resolved. It also promotes social acceptance and peace, and helps to stimulate the economy. In short, social dialogue allows for a mutually beneficial collective strategy where losers can be compensated.

Social dialogue goes way beyond simple words — it is a practice that is embedded in a place and institutions. It is a style of public policy governance that contrasts with parliamentary political jousting.

Nevertheless, honourable senators, as legislators, it is important for us to recognize that social dialogue is a good practice and a governance tool that works. Several scientific studies have shown that democratic countries that rely on social dialogue adapt more quickly than others. They reform and adapt their social programs to new realities. Scandinavian countries are one example, but there are others. For example, Germany — which is a federation like Canada and relies on social dialogue for employment — managed to support its population's income much more effectively than we did during the pandemic.

To be effective, social dialogue must meet certain conditions. The first and most important condition, as many studies have argued, is the government's political will to engage. Second, it is important to create a place for dialogue as well as the institutions to support it. Participation must be balanced, ongoing, respectful, and the expected mandates must be well defined.

The United Nations, the World Bank, the OECD, and the International Labour Organization are making a strong and growing case for social dialogue.

The federal government has a responsibility to create the necessary conditions for establishing social dialogue at the national level. Even though at first glance this exercise may seem to cost a lot of time and energy, the countries that practise it all benefit in terms of membership, implementation, effectiveness and social justice.

[*English*]

Social dialogue has been identified by public policy experts as a key instrument for achieving a broad range of social goals. As you know, the Global Deal, a multi-stakeholder initiative for social dialogue and inclusive growth, has been created and supported by the Organisation for Economic Co-operation and Development and the International Labour Organization in line with Sustainable Development Goal 17 in the United Nations' 2030 Agenda.

The advisory board of this initiative is composed of senior advisers and economists who are well known, such as Olivier Blanchard, the former chief economist of the International Monetary Fund, and others. A brief produced by the Global Deal provides evidence that more effective social dialogue could help reduce inequalities, enhance the inclusiveness and performance of labour markets and help countries achieve their commitments under the 2030 Agenda at large. It is considered a key pillar for the success of the Agenda for Sustainable Development Goals, and our government supports the Global Deal officially.

[*Translation*]

Just recently, on January 25, 2023, the European Commission made important recommendations to enhance social dialogue within member states of the European Union.

[*English*]

The European Commission initiative launched on January 25, 2023 — very recently — aims to promote social dialogue and the role of social partners at the European Union level and among individual states by providing technical, communicational and financial support.

[*Translation*]

In the community of nations, social dialogue is practised in 72 countries. These countries are also members of the International Association of Economic and Social Councils and Similar Institutions, created in 1999.

Even our neighbours to the south practise social dialogue. In each state of the U.S. territories, the United States has established social dialogue institutions on workforce that pursue objectives that are economic in nature such as business growth, as well as inclusion objectives for marginalized groups. These institutions are funded by the U.S. federal government and they were established through the Workforce Investment Act, which was adopted in 1988, then replaced by the Workforce Innovation and Opportunity Act in 2014. There are workforce investment boards in 53 states and territories and 593 at the local level.

Colleagues, it is hard to understand why we don't talk more about social dialogue in Canada and why the federal government dropped this practice over the decades.

Yet, Canada developed some remarkable social dialogue initiatives at the sectoral and provincial levels. Quebec stands out for its very structured social dialogue at the local, regional and sectoral levels when it comes to workplace health and safety, in the areas of labour, employment and workforce development.

• (1650)

[*English*]

The OECD praises the merit of a successful Canadian sectorial initiative around the commitment to phase out coal-fired power and ensure a successful transition by 2030. Our colleague Senator Yussuff played an important role in promoting this commitment.

In this chamber, some senators recognized the importance of social dialogue. In 2021, a group of senators produced a report entitled *Rising to the Challenge of New Global Realities*. This group, chaired by Senator Harder, included senators from all groups and caucuses — I was part of it, along with Senators Boehm, Cotter, Deacon from Nova Scotia, Dean, Downe, Harder, Klyne, Marshall, Marwah, Massicotte and Ringuette. It recommended that a prosperity council could be established, with the federal government acting as the catalyst. The council's mandate would be to support cooperation among federal, provincial and territorial governments — to undertake consultations with civil society to foster social dialogue, and to share proposals for public policy action and relevant research findings with Canadians in order to build consensus across the country.

[*Translation*]

What's keeping the federal government from providing financial and technical support for a national social dialogue? The federal government could reinstate its funding for sectoral committees. Canada could draw inspiration from the European Commission's recent initiative.

In closing, the Senate has an opportunity to advance social dialogue around jobs and employment insurance. As you know, unions and employers' associations worked together and came up with a budget-neutral way to participate in the Employment Insurance Commission as an advisory council. They want to transform the EI Commission's consultative role into an advisory one.

I discussed this proposal in detail here on May 17, 2022. There's no doubt that this new social dialogue tool would accelerate the adoption and implementation of the employment insurance reform many have been calling for.

EI reform has been a long time coming. The government wrapped up consultations on reform in the summer of 2022, but there's no sign of a report yet even though consultations made it clear the system needs to be simpler, eligibility expanded and benefits increased, not to mention improving benefit delivery.

During the pandemic, the government was only able to deliver employment insurance benefits through Revenue Canada, which did a good job by the way. However, even today, the government and its departments, including Service Canada, are unable to deliver EI benefits in a reasonable period of time. I believe this would never have been tolerated under joint management.

Several organizations presented reform proposals. For example, on December 7, the Institute for Research on Public Policy presented a series of proposals for planned reforms. An advisory committee on employment insurance would be an ideal place to debate these recommendations and present a shared opinion to government. We could find mutually beneficial solutions to the thorny problem of seasonal unemployment, which is an obstacle that paralyzes governments of all political stripes.

Esteemed colleagues, let's recall the matter of EI administrative tribunals. Last year, the government proposed a bill to reform these tribunals in part 4 of the budget implementation bill. Workers and companies were unanimous in calling for this reform. They were also almost unanimous in their opposition to the reform bill. Why? Things could have been different had this bill been reviewed by an advisory committee associated with the Employment Insurance Commission, in other words had social dialogue been involved.

Honourable senators, it is important and urgent to proceed with a system reform endorsed by the people who pay into the system. EI has an important role to play in a fair and equitable transition to a green economy. Many economists see a recession looming. We have to take action now. I think it is our duty to recognize

what federal labour market partners need. They want to work together within a recognized institutional framework. It is our duty to act accordingly.

[*English*]

The Speech from the Throne affirms that "The government will work collaboratively with provinces, territories and other partners to deliver real results on what Canadians need."

The government should walk the talk by introducing social dialogue mechanisms in its institutions, such as an enlarged advisory council in the Canada Employment Insurance Commission. As a complementary body, we should do our job. Thank you very much. *Meegwetch*.

(On motion of Senator Gagné, debate adjourned.)

CRIMINAL CODE

BILL TO AMEND—NINTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on Legal and Constitutional Affairs (*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), with amendments and observations*), presented in the Senate on December 14, 2022.

Hon. Mobina S. B. Jaffer moved the adoption of the report.

She said: Honourable senators, I rise today to speak to 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). Bill S-205 was referred to the Legal and Constitutional Affairs Committee by this honourable chamber's order of reference given on April 26, 2022. The bill amends both the Criminal Code and the Youth Criminal Justice Act with respect to judicial interim release, also known as bail.

The sponsor of this bill is Senator Boisvenu. Bill S-205 provides more protection for victims of intimate partner and domestic violence, and requires judges to consider whether the accused should be ordered to wear an electronic monitoring device as a condition for bail. The committee reported Bill S-205 back to the Senate with four main amendments.

[*Translation*]

First, the first paragraph of the bill authorized peace officers to require individuals to wear electronic monitoring bracelets as a condition of release at the time of their arrest.

This provision would have ensured the individual's presence in court, protected victims and witnesses, and prevented further offences. After consideration, the committee amended the bill to delete this clause.

Second, clause 2 of the bill created two new conditions that judges could impose when granting conditional release to an accused. This clause also emphasized the importance of implementing requirements to consult the victims.

With respect to the new conditions, the court could, at its discretion, require an accused to wear an electronic monitoring device, participate in a substance abuse treatment program or receive domestic violence counselling.

The committee amended clause 2 by removing the second condition related to treatment programs and domestic violence counselling.

• (1700)

The committee also added a requirement to the first condition. The attorney general must now ask the accused to wear an electronic monitoring device before a judge can allow release.

Clause 2 also required a judge to ask the prosecutor if the victim was consulted before granting conditional release to a person accused of intimate partner violence.

The committee amended the requirement for consultation, making it mandatory to consult victims of crime, whether an intimate partner or some other person.

[*English*]

The third amendment related to Bill S-205 is a new type of peace bond. This new peace bond could be imposed if someone had reason to believe their current or former intimate partner would commit an offence causing them or their child injury. The court could require this current or former intimate partner to wear an electronic monitoring device. The committee amended this section by requiring the Attorney General's consent before the judge can request the use of an electronic monitoring device. This is consistent with the second amendment mentioned earlier.

Finally, the committee made a fourth amendment. The committee recognized that Bill S-205 shared similar elements with Bill C-233, An Act to amend the Criminal Code and the Judges Act (violence against an intimate partner). Most notably, both bills would require judges to consider whether an accused should be ordered to wear an electronic monitoring device as a condition for granting bail.

The committee adopted coordinating amendments between Bill S-205 and Bill C-233 should Bill C-233 first come into force. Bill S-205 adds electronic monitoring as a condition for interim release under section 515(4), which is broader than section 515(4.2), to which Bill C-233 is limited. Therefore, if Parliament passes both bills, the coordinating amendment ensures that Bill S-205 would prevail in that regard, its amendment being further far-reaching.

[*Translation*]

Honourable colleagues, in committee, we had the privilege of witnessing the hard work and tenacity of our colleague Senator Boisvenu, particularly with respect to the prevention of violence against women and the protection of survivors. We're very grateful to him.

Senator Boisvenu, I'd also like to personally thank you for your commitment and perseverance in protecting women.

People of conviction bring about change, and you're certainly one of those people. Thank you.

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

JANE GOODALL BILL

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Klyne, seconded by the Honourable Senator Harder, P.C., for the second reading of Bill S-241, An Act to amend the Criminal Code and the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (great apes, elephants and certain other animals).

Hon. Rosa Galvez: Colleagues, I'm speaking to you today about Bill S-241, the Jane Goodall act. This bill, which aims to support Canada's leadership on banning the holding of whales and dolphins in captivity, has received strong public support.

I'd like to begin by acknowledging the work of former senator Murray Sinclair, who introduced this bill in 2020. I'd also like to thank Senator Klyne and his team, who worked tirelessly to ensure that this important work didn't go unfinished.

[*English*]

Honourable senators, I and an increasing number of Canadians believe wild animals should have the right to a wildlife and shouldn't be held in captivity, unless there is a direct benefit to them or a greater conservation goal. I am satisfied that this bill significantly contributes to making that goal a reality for a selection of animals, including great apes, elephants, big cats, bears, wolves, seals, walruses and dangerous reptiles.

Bill S-241 increases protection for more than 800 wild species where there is an abundance of evidence they suffer greatly in captivity because their natural movements and behaviour are severely restricted. There should be only exceptional circumstances for keeping wild animals in captivity: when it serves the animal's best interests and for research that has conservation benefits.

Even if there is a conservation benefit to breeding wild animals in captivity, this bill was crafted with the foresight to recognize that a higher bar needs to be met to protect the dignity of the wild animal species and, indeed, to protect the dignity of our own species. The preamble of the bill sets out the opportunity to address the global wildlife trade through regulation. I strongly support further action in that regard.

Senator Klyne, in his initial speech, mentioned the opportunity to protect amphibians from a dangerous fungus and addressed the poaching of Canadian bears for gallbladders. I think those are important examples of the harm posed by the commercial wildlife trade. Whether that trade is legal or illegal, it causes harm to the animals themselves and increases the potential for significant zoonotic diseases that can harm animals and people. We just passed through COVID-19, as an example.

This bill will make Canada a global leader in protecting wildlife welfare and fulfill the mandate of the Minister of Environment to protect animals in captivity, help curb the illegal wildlife trade and end the elephant and rhinoceros tusk trade in Canada.

Last year, World Animal Protection released a report. Based on their analysis of Canada's importation records, they estimated that more than 1.8 million wild animals were imported into our country between 2014 and 2018 and that the vast majority, 93%, were seemingly not subject to any permits or pathogen screening. Given the role of the wildlife trade in driving the biodiversity crisis and disease risk — I just talked about that a few weeks ago — that is very concerning.

Animal welfare science is constantly evolving. We are learning more and more about the complex biological, psychological and ecological needs of a variety of wild animal species and how difficult it is to meet those needs in captivity.

I'm very pleased the bill will end elephant captivity in Canada. I applaud the Zoo de Granby for announcing their plans to retire the elephants and support this bill. Highly social, intelligent and vast roaming animals like elephants should not be kept in captivity, particularly in Canada, where our climate for most of the year is brutal for these animals. Many people may not realize these animals spend most of their time in much smaller indoor enclosures due to the cold and, as a result, are unable to fully benefit from large outdoor pens, if they are provided.

• (1710)

This bill will help prevent future cases like that of the elephant Lucy. If you follow me on Twitter, I've been helping this group. It's truly sad to see the situation of Lucy, who must spend more than two thirds of her life indoors at the Edmonton Valley Zoo due to harsh Canadian winters. As a result, she is 1,000 pounds overweight and shows signs of mental duress, such as rocking back and forth. I'd like to thank Lucy's Edmonton Advocates' Project for their important work in giving Lucy a voice.

I'm glad to see the bill is also supported by other zoos like the Toronto Zoo, the Calgary Zoo and the Montreal Biodome. This bill is clearly not anti-zoo, but it will raise the standard of zoos to what we, as a society, find acceptable. It will help establish transparent legal and science-based standards so animals like tigers, lions and many species of monkeys are no longer kept in undersized, flimsy cages where you don't need a licence, a reason, any expertise or training to keep a tiger or other exotic wild animal.

It is no surprise that wild animals escape roadside zoos and people have been injured and even killed because of serious regulatory gaps. Just in 2013, we had a tragic case in New Brunswick where an African rock python, a reptile that wouldn't be allowed to be held in captivity under this proposed legislation, killed two children aged 4 and 6. This legislation cannot be passed soon enough.

[*Translation*]

In Quebec, a zoo was criminally charged with animal cruelty and neglect, saddling the Montreal SPCA and its partners with the task of having to seize and relocate more than 100 wild animals.

Despite the importance of this bill, it isn't the last chapter. More rules need to be adopted to fight against the trade of wild animals. This is an under-regulated and unsustainable sector. Although the preamble of the bill addresses the pleas of the World Animal Protection organization, we need to do more to reduce animal suffering, the risks of illness and the loss of biodiversity. Legal trade only fuels illegal trade and we need new regulations to improve the very lax data collection and monitoring system that exists in Canada.

Bill S-241 has my unwavering support and should be referred to committee to be studied in due course so that we can take this major step in recognizing that the well-being of animals is essential to the way we measure progress in our society.

Thank you. *Meegwetch*.

(On motion of Senator Martin, debate adjourned.)

[*English*]

CRIMINAL CODE

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Boyer, seconded by the Honourable Senator Marwah, for the second reading of Bill S-250, An Act to amend the Criminal Code (sterilization procedures).

Hon. Yvonne Boyer: Honourable senators, as we engage in this conversation about Bill S-250 today, I would like to begin by acknowledging we are on the traditional and unceded territories of the Anishinabe Algonquin nation. The people of these nations are the original stewards of the land, and it's important to show our humility, gratefulness and respect for their stewardship by acknowledging and thanking them. When we pay our respects to the ancestors, we reaffirm our relationship with one another. In doing so, we are actively participating in reconciliation as we navigate our time together.

I rise today as sponsor of Senate public Bill S-250, An Act to amend the Criminal Code (sterilization procedures), which proposes to amend section 268 of the Criminal Code. Section 268 currently addresses aggravated assault offences, and Bill S-250 creates an offence for sterilization without consent. I would like to briefly expand on why I believe this bill is so important.

The first question I'm always asked when people discover I'm working on the topic of forced sterilization is, "That isn't still happening, is it? That was a long time ago, wasn't it?" The simple answer is "no." It is happening today, and at this very moment, there are women who are being coerced or forced into sterilization, whether they are pregnant, have just given birth or are in another situation. Some of the underlying reasons will be explained today.

Historically, the role that Indigenous women had in their families, communities and nations commanded the highest respect as the givers of life. They were the keepers of the traditions, practices and customs of their nation. It was well understood by all that women held a sacred status as they brought new life into the world. This was a way to teach and to transfer knowledge to the youth that were involved in serving and learning the ways at the sacred birthing ceremony. The women were revered for their capacity to not only create new life, but by extension, the birth of a new relationship with the Creator.

These newest members of the community were also recognized for the Indigenous laws that were given to them by the Creator. These laws were given with the responsibility to enter into new relationships in a good, honest and truthful way.

Unlike these inherent Indigenous laws that were based on respect and gender balance, the British common law developed through legal traditions of the Romans, the Normans, church canon law and Anglo-Saxon law. These legal traditions considered married women to be under the protection and shield of their husbands. The common law viewed women as having no social or legal status, but as chattels dependent first on their fathers and then their husbands. Birthing was a medical procedure that was considered important to extend the male patrilineal line.

In contrast, womanhood of the Métis, Inuit and First Nations has been described as once being a sacred identity that was maintained through a knowledge system of balance and harmony. Women were politically, socially and economically powerful and held status in their communities and nations related to this power. Indigenous women were anchors to the family and closely linked to the land, and because land acquisition became a primary goal of the colonizers, various laws, regulations, policies and Christian edicts were applied to the identity of Indigenous women in Canada, forcing them into an oppressed position in society. These are all mitigating factors as to why we have forced and coerced sterilization today.

In addition, Canada has an extensive history of eugenics through sterilizing groups of people who were named as unfit. By virtue of their social strata, Indigenous women were easy targets. The history of the eugenics movement began in 19th-century England, and the term eugenics derived from the Greek for "well born" or "good breeding" and evolved into eugenics policies that spread to the United States, Canada and several European countries, and later became famous in Nazi Germany. A policy of involuntary surgical sterilization was carried out on Indigenous women in Canada and the United States.

Alberta and British Columbia upheld sexual sterilization acts. From 1928 to 1973, both provinces enacted sterilization laws that allowed a Eugenics Board, comprised of four people, to oversee cases for sterilization.

• (1720)

In 1930 the Eugenics Society in Canada was created, whose job it was to register the sterilization of women they considered unfit to give birth. Saskatchewan, Manitoba and Ontario also introduced similar bills. They did not, however, become law. They nevertheless created an underpinning in our Canadian fabric that sterilization is a good method to control the population.

In 1988, the Alberta government destroyed all but 861 of the 4,785 files created by the Eugenics Board. Professor Jana Grekul reviewed them and commented:

> [M]ost noticeably over-represented were Aboriginals (identified as "Indian," "Métis," "half breeds," "treaty" and "Eskimo"). While the province's Aboriginal population hovered between 2% and 3% of the total over the decades in question, Aboriginals made up 6% of all the cases represented.

In October 1989, Leilani Muir discovered she had been sterilized and brought legal action against the Government of Alberta for wrongful confinement and wrongful sterilization, and she won. In Ms. Muir's case, a single IQ test had been enough to deem her mentally defective, and therefore a candidate for sterilization.

Upon Ms. Muir's physical examination and discovery that she had been sterilized, her doctor reported that her insides looked like she had been through a slaughter house. I have heard similar words from many of the Indigenous women I've gotten to know over the years.

With the uncovering of the Muir case, the Government of Alberta's response was a proposition to override the Charter using section 33 to limit the compensation to victims. This was met with a massive public uproar. The Government of Alberta finally apologized in 1999 and offered several individuals and groups the option to settle out of court.

For Indigenous women, the impact on health and the stigma of having been wrongfully sterilized is insurmountable. Although these explicit eugenic laws and policies have been repealed, the racist and discriminatory notions and social mores that gave rise to them are still present in Canadian society and underpin our health policies — and, yes, forced and coerced sterilization still occurs.

In 2017, after a public outcry from Indigenous women who had been sterilized in a Saskatoon hospital, I was commissioned to conduct an external review of the practice of tubal ligation in the Saskatoon Health Region. Although many came forward, Dr. Judith Bartlett and I interviewed seven women who had been sterilized against their will in a Saskatoon hospital. This study revealed that survivors of forced and coerced sterilization felt invisible, profiled and powerless by the Canadian health care system.

Sterilization without consent, or with coerced consent, leaves women extremely traumatized and terrified with the knowledge that the Canadian health care system does not have their best interests in mind. Among other trauma-induced responses, the lack of trust makes them avoid basic or even necessary health care for themselves and their families, especially concerning their reproductive health.

This was the case for all of the women interviewed in the report, who expressed to me that they go to great lengths to avoid doctors out of a fear of being retraumatized.

On the issue of coercion, one Indigenous woman with a child with cerebral palsy and about to deliver another baby was told that if she did not sign the consent to a tubal ligation, her baby that was about to be delivered would also have cerebral palsy: think about that.

The external review provided recommendations for change, including calls to action relating to support and reparations, cultural training and education, law and policy reform. It also laid the foundation for the class action lawsuits that are currently occurring all across Canada in Saskatchewan, Alberta, Ontario, Manitoba, Nova Scotia, British Columbia and now Quebec.

In 2019 and 2022, the Standing Senate Committee on Human Rights completed two studies on forced and coerced sterilization of persons in Canada. In the first study, the committee heard from several experts on the topic of sterilization. In *The Scars that We Carry: Forced and Coerced Sterilization of Persons in Canada — Part II*, a comprehensive study was completed with survivors of forced and coerced sterilization. Both reports provided strong recommendations and calls to action on the eradication of forced sterilization.

Internationally, the United Nations Committee Against Torture, the Inter-American Commission on Human Rights and two UN special rapporteurs have also called on Canada to take concrete action on this issue.

Regardless of these directives, we still see a crisis in Canada. In the words of Madeleine Redfern, a witness who spoke about the terrifying experiences of Inuit women:

> In an inquiry that was done in the 1970s, it was determined that hundreds of Indigenous women from 52 Northern communities were sterilized . . . . at least 70 Inuit women were sterilized. In Igloolik, 26% of women between the ages of 30 to 50 were sterilized. In Naujaat, formerly known as Repulse Bay, almost 50% of women in the 30 to 50 age group were sterilized. In Gjao Haven, 31% of the women had been sterilized. More than 25% of women in Chesterfield Inlet, Kugaaruk had been sterilized. Those are the only ones that were well documented, but we know there were a lot more.
>
> Other data from the Minister of National Health and Welfare indicates at least 470 Inuit and Aboriginal women were sterilized in 1972 alone.

Dr. Josephine Etowa spoke of her participation in a project that facilitated health care delivery in rural Nova Scotia to Black women. Professor Etowa explained that upon reviewing data from the study, team members noticed "the issue of hysterectomy continually coming up in the qualitative interviews involving 237 women."

The issue of forced hysterectomies as a form of sterilization is as equally shocking, but it's not surprising. Louise Delisle, a Black woman from Nova Scotia, was 15 when she gave birth to her daughter. The attending doctor gave her a partial hysterectomy, and she was never able to have more children. Her mother was her guardian and did not consent to this.

Another one of the Senate witnesses was sterilized in 2018 when she was 24. She had two children, and she shared the story of the birth of her son. As she was waiting for a Cesarean section, she knew the baby she was carrying was in distress and at risk of going into septic shock. The doctor informed her that she should have a tubal ligation. The witness explained that, given her state of mind at the time, she was willing to provide consent for the sterilization if it meant the Cesarean section would proceed and her baby would be saved.

Another witness shared that:

> Paired with blood loss, pain, exhaustion, and lack of family presence, I find it unethical that I was asked to make a choice about a procedure that I did not know was permanent. Yet, within two hours of giving birth, I was in the operating theatre getting sterilized.

Other examples of coercive methods include intimidating medical terminology, not explicitly informing women that sterilization procedures are permanent and threatening to apprehend their newborn if they do not sign the consent form.

While the exact extent and severity of forced sterilization have not been determined — we need good data on that — my office has documented over 12,000 Indigenous women in Canada who have had coerced or forced sterilization between 1971 and 2018.

What can we do about this? How will this bill help stop these atrocities?

Canada prides itself on having a health care system that is grounded on five core principles: comprehensiveness, public administration, portability, accessibility and universality. These are the core principles of the Canada Health Act. Two of these principles are particularly relevant — accessibility and universality — although two sections of the Canadian Charter of Human Rights and Freedoms highlight the importance of the right to health care access for all Canadians.

First, section 15 states that:

> Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age, physical or mental disability.

• (1730)

Similarly, section 7 states:

> Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Unfortunately, these rights to health care access are not the reality for all, particularly for marginalized and vulnerable populations who have been and continue to be denied reproductive rights through coerced and forced sterilization procedures, despite being a small portion of the nation's overall population.

Coerced and forced sterilization is not a matter of the past; it is a disturbing reality of the present. It is also illegal under Canadian law. For instance, section 265 of the Criminal Code is assault; section 267 is assault causing bodily harm; section 268 is aggravated assault; and, in addition, all provinces and territories have legislation requiring consent for medical care and treatment. To date, no charges have been laid, to my knowledge.

I will now discuss how Bill S-250 is the next best step in ensuring we uphold Charter principles and provide protections for the populations that are most typically affected. This bill would bring about important changes to the Criminal Code, notably by explicitly setting out that the act of sterilizing a person against their will and/or without obtaining proper consent is a criminal offence in Canada.

Bill S-250 amends section 268 of the Criminal Code, which covers aggravated assault offences, to include a new offence for sterilization procedures. Under this offence, new section 268.1(7) establishes that anyone who takes part in coercive measures to cause or attempt to cause someone to be sterilized is guilty of an indictable offence that holds a maximum of 14 years in prison.

Moreover, new section 268.1(2) establishes that section 45 of the Criminal Code — which sets out that everyone is "protected from criminal responsibility for performing a surgical operation on any person for the benefit of that person" if it is "performed with reasonable care and skill" and reasonable to perform with respect to the health and circumstances of the case — is not a defence to the new offence of sterilizations.

However, new section 268.1(3) allows an exception, stating that the new section does not apply where the sterilization procedure is performed by a medical practitioner who obtained informed consent of the individual and followed the safeguard measures stated in new sections 268.1(5) and 268.1(6).

These safeguard measures include the following: Medical practitioners must inform patients of all possible alternative contraceptive options that temporarily prevent conception; ensure that patients understand that they can withdraw consent at any time leading up to immediately before the sterilization procedure; and ensure comprehension of the provided information, fully informed consent and an absence of external pressure before performing the sterilization procedure.

Lastly, new section 268.1(4) clarifies that consent is deemed not to have been obtained where:

> (a) the person is under the age of 18;
>
> (b) the person is incapable of consenting . . . for any reason; or
>
> (c) the person has not initiated a voluntary request to undergo a sterilization procedure.

Section 268(6) is a very important section that adds a final opportunity to withdraw consent, which must be offered before the procedure occurs.

In summarizing the importance of the bill, when we ensure that coerced and forced sterilizations are illegal under the Criminal Code, the reproductive rights of vulnerable and marginalized populations are better protected. It is but one tool to assist in the eradication of these practices.

It is important to note that the 2015 Truth and Reconciliation Commission Report's Call to Action 19 urges the federal government to narrow the gaps between Aboriginal and non-Aboriginal community health outcomes, encouraging that the federal government includes maternal health as one indicator of a health outcome gap. This is also addressed in this bill.

Reproductive justice can be defined as:

> . . . the human right to maintain personal bodily autonomy, have children, not have children, and parent the children we have in safe and sustainable communities.

How can we pride ourselves for having a health care system that promotes the principles of universality and accessibility to all, while robbing certain populations of the same standard of care?

Second, the implementation of this bill establishes a legislative framework that explicitly recognizes the place coerced and forced sterilization has in the legacy of colonization, racism and systemic discrimination in Canada. Coerced and forced sterilization is a national crisis that must finally be addressed in a genuine way.

The question is simple: Why are these women having their tubes tied, burned and cut without consent? These horrific practices are overwhelmingly overrepresented by Indigenous women, women with disabilities, racialized women, intersex children and institutionalized persons.

These statistics are no coincidence. It is evident that sterilization practices are being implemented to ensure specific groups of people do not have the ability to reproduce in Canadian society. Simply put, it is a modern form of eugenics.

Third, this bill would respond to the recommendations of the Standing Senate Committee on Human Rights, namely Recommendation 1, "That legislation be introduced to add a specific offence to the *Criminal Code* prohibiting forced and coerced sterilization."

In addition, the United Nations Committee against Torture, the Inter-American Commission on Human Rights and two UN special rapporteurs have called on Canada to take concrete action on this issue by following through on the direction of the United Nations Committee against Torture to:

> Adopt legislative and policy measures to prevent and criminalize the forced or coerced sterilization of women, particularly by clearly defining the requirement for free, prior and informed consent with regard to sterilization and by raising awareness among [I]ndigenous women and medical personnel of that requirement.

It would also respond to international pressures for Canada to be held accountable for this injustice it has inflicted on certain marginalized and vulnerable groups.

Article II of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide highlights that "imposing measures intended to prevent births within the group" is considered genocide, which I believe coerced and forced sterilization falls under.

Canada could pave the way in setting a good example internationally by taking concrete measures to address its own history and present-day practices of coerced and forced sterilization.

In conclusion, I would like to thank all my parliamentary colleagues, who have been so incredibly supportive. I would also like to thank the Standing Senate Committee on Human Rights and all of the stakeholders who have contributed tirelessly to move this bill forward. My office has received overwhelming support for this bill from the newly incorporated 200+ members of the Survivors Circle for reproductive justice, as well as community leaders from communities big and small across Turtle Island. Their dedication to this issue has resulted in the birth of this very critical bill.

Most importantly, I would like to thank the women who have trusted me, the women who have telephoned me, the women who have emailed me or found me in person to tell their stories and the courageous women who have come forward to provide testimony. I encourage others to keep contacting me. I will never give up.

I want to thank Tracy Bannab and Brenda Pelletier for being the first women to come forward. They faced a horrendous amount of racial abuse and targeted attacks from social media for telling their stories. Without them as a catalyst, we would not be standing here today. I want to thank Betty Ann Adam for calling me that day and exposing to the world what was happening to Indigenous women.

Thank you to all of the survivors of coerced and forced sterilization who have helped bring this bill to fruition. Your bravery and fearlessness to speak up are outstanding, and you have all made positive changes for generations to come.

As senators, we must use our platform to fight for those who do not have a voice and strive to restore their reproductive futures. Through Bill S-250, we can take a step toward eradicating this blatant violence. Let us come together to be on the right side of history.

Meegwetch, thank you, all of our relations.

Hon. Senators: Hear, hear.

• (1740)

Hon. Ratna Omidvar: Would the Honourable Senator Boyer take a question, please?

Senator Boyer: Yes.

Senator Omidvar: Thank you, Senator Boyer. Thank you for never giving up, and thank you for your leadership. As a member of the Senate Human Rights Committee, I heard the witness statements. You know how it tore at us; how it tore at me. This bill is an important next step.

At the Senate Human Rights Committee, we heard witness testimony that there was a case being brought by certain witnesses, I believe, against a provincial court. I would like to ask you what the status of that case is and what implications the judgment in that case will have on your bill. Thank you.

Senator Boyer: Thank you for the question. I don't have anything to do with litigation. However, I can connect you with the people who do.

I know that there is a lot of litigation going on. The implications are that the women are being heard. The Saskatchewan case is waiting for certification at the moment, and I believe it's coming shortly. Once that starts rolling, we will be seeing it in other provinces as well. That's just one more tool. This bill is a tool, and the class actions are a tool. Together, I think there must be a huge, several-pronged approach to eradicating this. Those are only two tools. We need to have the medical associations on side. We need to have a huge national approach. Thank you for raising the issue of litigation because I think the litigation is important. However, I do not have anything to do with it.

(On motion of Senator Wells, debate adjourned.)

CRIMINAL CODE

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Kutcher, seconded by the Honourable Senator Boehm, for the second reading of Bill S-251, An Act to repeal section 43 of the Criminal Code (Truth and Reconciliation Commission of Canada's call to action number 6).

Hon. Chantal Petitclerc: Before I begin, I want to tell you, Senator Boyer, how grateful I am not only for the work that you do, but also for this powerful and necessary speech. *Meegwetch*.

[*Translation*]

Honourable senators, I rise today to support Senator Kutcher's bill, Bill S-251, which would repeal section 43 of the Criminal Code. Senators will recall that, in principle, this section allows every schoolteacher, parent or person standing in the place of a parent to exercise what is called "reasonable" force toward a child under his care.

In 2017, I spoke to a similar bill introduced by Senator Hervieux-Payette. My opinion hasn't changed. I'm among those who believe that section 43 is outdated and that it no longer belongs in our criminal law. The implicit and ambiguous message that it sends is that force is still a useful and justifiable tool to compel a child to follow the rules.

[*English*]

The vulnerability of children implies our responsibility to protect them from any form of physical correction, regardless of its nature and intensity. Every Canadian, no matter their age, must feel and know that they are safe from their first day on earth to their last.

The question of whether section 43 should be retained or repealed is linked to how we truly choose to treat our children in Canadian society.

Our Criminal Code is a living document that helps us collectively distinguish between what is acceptable and what is not. It regulates many aspects of our lives together on the basis of our values and principles, which are, of course, constantly evolving.

The rule concerning the right of lawful correction was incorporated into the first version of our Criminal Code in 1892. As many have said before me in their speeches, it was a different time — a time when excessive force was acceptable in many aspects of society, including to educate children and discipline them.

[*Translation*]

Fortunately, a society is not static. It can learn, improve and transform through social experiment, research and the protection of rights. These changes and transformations are voluntary and

have an impact on the rules of law, which are then amended to reflect the current reality. That is the exercise that Bill S-251 invites us to engage in.

In the recent debate on Bill C-5, which seeks to repeal certain minimum sentences, Senator Gold spoke of, and I quote:

> . . . Parliament's exclusive jurisdiction to set policy and pass legislation — dealing with criminal law in general . . . .

The Supreme Court also recognized this prerogative of Parliament on several occasions.

[*English*]

As such, Parliament has chosen to amend our Criminal Code on several occasions on substantive issues. To name a few: in 1969, the decriminalization of medical abortions; in 1972, the abolition of whipping as a criminal sentence; in 1976, the abolition of the death penalty; and most recently, the legalization of cannabis and medical assistance in dying.

This exclusive competence of Parliament has been fully exercised on all of these issues in order to reflect our ever-changing social reality.

[*Translation*]

The Senate understood very well what this exclusive jurisdiction meant. The Supreme Court had already ruled on the constitutionality of section 43 and limited its use in 2004 in its ruling in the *Canadian Foundation for Children, Youth and the Law v. Canada (Attorney General)* case. Four years after that important ruling, the Senate even passed at third reading Bill S-209, which further limited the scope and use of section 43. However, that bill died on the Order Paper in the other place when an election was called.

[*English*]

Let's be clear: As we begin 2023, spanking is not banned in Canada. What the current state of law tells us is that it is prohibited to inflict punishment by means of an object or blow to the head of a child. Is this sufficient protection for our children? I don't think so because as long as section 43 exists, moderate bare-handed spanking of a child between the ages of 2 and 12 will be tolerated — not prohibited — in Canada. This is written in black and white on the Justice Canada website under the title "Criminal Law and Managing Children's Behaviour." A question on this web page asks, "Is spanking illegal?" Let me quote the answer that is provided:

> Spanking is a form of physical punishment that some parents use on children and, depending on the circumstances, could be illegal. Because of section 43, spanking is not necessarily a criminal offence if the Supreme Court of Canada's guidelines are followed. However, in some circumstances, spanking could still be considered child abuse under provincial and territorial laws and could lead to action taken by child protection authorities.

Like many here, I am very uncomfortable with so many nuances and grey areas. I agree with the experts who tell us that it is not enough to discourage the use of spanking. It must simply be banned. This bill gives us the opportunity.

[*Translation*]

In 1998, former justice minister Allan Rock responded as follows in a letter to the Canadian Foundation for Children, Youth and the Law, and I quote:

• (1750)

[*English*]

> Section 43 in no way condones or authorizes the physical abuse of children. However, it does attempt to strike a balance by protecting children from abuse while still allowing parents to correct their children within contemporary limits that are acceptable to Canadian society.

I repeat: "within contemporary limits."

[*Translation*]

With what we know today, in 2023, what are these contemporary limits that may have been considered acceptable, even in 1998, but are no longer acceptable now?

[*English*]

I want to believe that — a quarter of a century later — our contemporary limits have evolved, fuelled by evidence-based research and our commitment to the rights of children.

Moreover, honourable colleagues, if, like me, you have asked yourself how to interpret reasonable force, here is an answer provided by a professor of criminal law, Wayne Renke of the University of Alberta, who states, "As society evolves so does the interpretation of what is reasonable."

[*Translation*]

In light of these observations, the main question Senator Kutcher's bill asks is whether we, as parliamentarians of the 21st century, find it acceptable that a 19th-century provision of Canadian criminal law that allows a parent or teacher to raise a hand against a child between the ages of two and 12 has a place today, in 2023. That is the first substantive question this bill invites us to answer.

The second question is this: Does section 43 offer any real protection or provide a useful and necessary defence?

[*English*]

There are two possible scenarios: The first is when the responsible adult, in the urgency and need of the moment, has to use force for the child's safety. In this scenario, it seems clear to me that the adult is protected by the law. I find it hard to imagine that a parent or an educator who restrains a reckless child — saving the child from an accident, but injuring the child in the process — will need a provision such as section 43 to protect himself or herself from lawsuits which are highly unlikely.

[*Translation*]

In another scenario, if the parent or teacher were to be deliberately abusive, section 43 would be of no use before a judge. That would be an instance of false protection.

If a person acts spontaneously to keep a child safe, that person doesn't need protection from section 43.

If a person uses their strength and power against a child abusively, they can't use section 43 as a defence.

Moreover, given that research and contemporary thought indicate that there's no such thing as "reasonable" force when it comes to disciplining a child, of what use is section 43, other than to justify archaic behaviour and perhaps our own insecurities?

[*English*]

Why not remove it and leave it to the judge, where charges are laid, to determine the seriousness of the facts, and whether correction is inflicted or force is used within reasonable limits?

I hope that sending this bill to committee will be an opportunity to shed more light on how this means of defence has been used so far in court — under what conditions, how often and with what results. A study in committee would have the merit of updating our knowledge and legal interpretation of the concepts "right of correction," "self-defence" and "use of force within reasonable limits."

[*Translation*]

In closing, I would argue that there's no good reason to keep this section, and conversely, that there are several good reasons to repeal it.

Repealing section 43 sends a message to all Canadians that it is possible to guide a child's behaviour without using any form of physical discipline.

Thank goodness the days of children being second-class citizens meant to be controlled at all costs are long gone.

The more we move forward, the more we talk about personal growth, self-reliance, and developing the strengths of our youth.

Look at the results. Our young people are fantastic when they come to this chamber and to our offices. They're full of questions, initiative and curiosity. Shouldn't we be doing everything we can to make sure they thrive safely?

[*English*]

Repealing section 43 equates to listening to science. Evidence-based science has evolved since 2004 when the Supreme Court made its ruling. There is now a better understanding of the psychological consequences of violence — in all its forms — on individuals. Modern expert opinion recognizes no educational value associated with corporal punishment — it is not only counterproductive but also, above all, harmful to emotional development. This has been, as you know, amply demonstrated by Senator Kutcher and others.

[*Translation*]

Repealing section 43, as Senator Moodie reminded us, would allow us to meet our international obligations by giving Canadian children the status conferred on them by treaties and conventions that we have ratified.

[*English*]

And, finally, repealing section 43 will respond to Call to Action No. 6 from the Truth and Reconciliation Commission. The Government of Canada is committed to endorsing all of the recommendations from the Truth and Reconciliation Commission — one of which is the call for the repeal of section 43. This bill presents us with an opportunity to do our part — an opportunity that must not be missed.

[*Translation*]

I sincerely hope that this bill will be quickly sent back to committee. I said the following in 2017 and I will say it again:

> Honourable colleagues, we are not going to be flooded with hundreds of emails about this bill. It is no wonder, given that the main people it affects are not even old enough to write yet . . .

— let alone vote.

> That is how vulnerable they are, which is why we have a responsibility to protect them.

The interest of adults must never trump the protection of children.

[*English*]

I leave you, dear colleagues, with these powerful words from Nelson Mandela: "We owe our children, the most vulnerable citizens in our society, a life free from violence and fear."

Meegwetch. Thank you.

(On motion of Senator Martin, debate adjourned.)

The Hon. the Speaker pro tempore: Before we proceed, honourable senators, it is almost six o'clock. Pursuant to rule 3-3(1), I must leave the chair until eight o'clock, unless it is your wish, honourable senators, not to see the clock. Is it agreed not to see the clock?

Hon. Senators: Agreed.

CANADIAN POSTAL SAFETY BILL

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Dalphond, seconded by the Honourable Senator Cordy, for the second reading of Bill S-256, An Act to amend the Canada Post Corporation Act (seizure) and to make related amendments to other Acts.

Hon. Gwen Boniface: Honourable senators, I rise to speak in support of Bill S-256, the Canadian postal safety act, proposed by Senator Dalphond. This bill would allow law enforcement to demand, seize, detain or retain items sent within Canada through Canada Post. There have been cases where counterfeit items, such as passports, firearms and other weapons have been delivered using Canada Post.

• (1800)

While Bill S-256 opens up the search authority to all contraband items being sent by Canada Post, I want to specifically address its influence on the drug trade.

As senators are aware, the rise in fentanyl and, subsequently, fentanyl-related deaths in our country has skyrocketed. There is no part of Canada left untouched. Of course, addictions and mental health issues ravage bigger cities like Vancouver, Calgary, Toronto, Montreal and even here in Ottawa, but now rural outliers, northern areas and Indigenous communities are all feeling the brunt of the opioid use perpetuated by the rise in fentanyl. This isn't the first time you've heard me speak to this issue, as I have my own bill before this chamber that attempts to decriminalize simple possession of currently illegal substances through a national strategy process. That process alone won't cure Canada of the poison that is fentanyl, but like Bill S-256 before us now, these are steps in the right direction to save lives, and ultimately that's what this bill is about.

Senator Dalphond has very eloquently outlined what this bill will do and the impetus for it. That was a 2015 resolution from the Canadian Association of Chiefs of Police that has, until Bill S-256, not been considered, let alone implemented. Senator Dalphond referred to Chief Mike Serr, head of the Abbotsford Police Department and Co-Chair of the Drug Advisory Committee of the CACP, in both his second reading remarks and the press release tied with the introduction of this bill. I know Chief Serr, and I have the highest respect for his dedication to the work dealing with drug issues. I reached out to him, in fact, to consult on my own bill.

As I was once the president of the Canadian Association of Chiefs of Police, I understand the in-depth and evidence-based research the association performs, especially at the committee level. Resolution 8 from the CACP's one hundred and tenth annual conference joined the work from the Drug Advisory Committee and the Law Amendments Committee to come up with the solution before us today.

Let me detail the issues straight from resolution 8; it's a long quote, so please bear with me:

> The *Canada Post Corporation Act* (CPCA) is the legislative basis for the Canada Post Corporation and was passed in 1981. Subject to the *Canadian Security and Intelligence Service Act*, the *Customs Act* and the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, the *Canada Post Corporation Act* currently exempts items in the course of post from search or seizure by law enforcement, pursuant to the *Criminal Code*, *Controlled Drugs and Substances Act*, *Copyright Act* or *Trade-marks Act*, and potentially others. This exclusion may perhaps be due to domestic trafficking not being seen as a priority when section 40(3) of the CPCA was last updated in 2005. This means that search and seizure authorities granted to law enforcement personnel under the *Criminal Code of Canada* and other criminal law authorities are overridden by the CPCA, giving law enforcement no authority to seize, detain or retain parcels or letters while they are in the course of mail and under Canada Post's control. That said, the CPCA is augmented by the *Non-mailable Matter Regulations* which specify that Canada Post inspectors shall turn over any illegal material found in the course of mail to law enforcement. Recent court rulings have determined that postal inspectors cannot act as agents of the state where police convey information received to postal inspectors in order to intercept the contraband during the postal delivery process.

Senators, obviously this poses a significant challenge for law enforcement. Reliable intelligence may point to contraband being sent through Canada Post, but law enforcement would be unable to act upon this intelligence unless they're able to actually intercept the contraband before it enters the postal system or after it is successfully delivered. There is a large gap during the course of mailing, sorting and delivery where law enforcement is exempted from intercepting contraband.

Let me remind senators of a few facts laid out by Senator Dalphond in his speech. There are 25 postal inspectors across Canada — 25 — so they are few and far between.

The maximum weight for an item of lettermail as outlined in the Letter Mail Regulations accompanying the CPCA is 500 grams. Lettermail currently cannot be opened by inspectors; they can only set aside an identified letter to remove it from the course of the system as non-mailable and call the police. Such is the dilemma.

In 2020, Canada Post handled approximately 384 million parcels and 2.5 billion letters. This is 6.5 times more letters than parcels.

Senator Dalphond also stated that 500 grams of fentanyl has a current street value of $30,000. This is a lot of money, but it's meaningless compared to the number of lives that could be lost to

those 500 grams of fentanyl. According to the Drug Enforcement Administration in the U.S., just one gram of fentanyl can result in the deaths of 300 to 500 people.

It would be easy to transport one gram of fentanyl through one letter, but I'll let you extrapolate. Let's consider if it's 250 grams of fentanyl — half the allowed weight to be considered a letter. I'll let you do the math on that.

In order for a piece of lettermail to be considered mailable, it must have the address of the addressee. A return address is optional. In many cases, the address listed will be one of a private residence. As already referenced by Senator Dalphond, Canada Post is the shipping method of choice for many drug traffickers. Someone will order illegal drugs online through the dark web, and those responding to the orders will use Canada Post as the base method to ship to the addressee. It should come as no surprise, then, that many illegal drug toxicity deaths occur in private residences; it should be no shock to us. A May 2021 report from Public Health Ontario has observed that over 70% of opioid-related deaths occurred in private residences. British Columbia has also seen a majority of drug toxicity deaths occurring in private residences, at around a 55% rate in 2022.

The ease of having illegal drugs sent straight to your home with very little chance — or, let's be serious, no chance — of interception will only perpetuate these statistics and the wholly founded perception of drug traffickers that Canada Post is ripe for abuse.

Colleagues, those who work in the drug trade and organized crime writ large are always finding ways to be a step ahead of or work around law enforcement. These people are smart, they're crafty, they're creative and they don't have to adhere to any law, and that's how they meet their objectives. They have identified the Canada Post Corporation Act as a vessel to move illegal goods because of the very slim chance of detection. This has only been more prevalent with the ability to transport fentanyl through lettermail.

Private delivery or courier services such as FedEx, Purolator or DHL are not barred from search by police. Law enforcement currently has the lawful power to search packages and parcels being shipped through these companies with a warrant. Those shipping drugs throughout Canada are already avoiding the use of private courier companies for exactly that reason.

The key provision of the CPCA that Bill S-256 seeks to amend is section 40(3), which deals with the liability to seizure. The way the section is currently worded, nothing in the course of post is liable to demand, seizure, detention or retention, unless it's subject to the Canada Post Corporation Act itself, the CSIS Act or the Proceeds of Crime (Money Laundering) and Terrorist Financing Act. As you will recall in the description of the issue provided in the Canadian Association of Chiefs of Police resolution, this means that mail in the course of post is exempted from search and seizure pursuant to the Criminal Code, the Controlled Drugs and Substances Act or other acts.

Bill S-256 amends this provision to widen the scope of liability in force of section 40(3) to include such acts as the Criminal Code and the Controlled Drug and Substances Act. It does this by creating a new definition of enforcement statute, which means an act of Parliament, the law of a province or the law of an Indigenous jurisdiction. As senators well know, the CSIS Act and the Proceeds of Crime (Money Laundering) and Terrorist Financing Act are both acts of Parliament, as are the Criminal Code and the Controlled Drugs and Substances Act. The new definition would cover all of these acts and, as a result, allow for searches and seizures to apply to items in the course of post by law enforcement. Of course, this can't be done on a whim. Peace officers would have to follow usual warrant procedures and submit an application before such a search and seizure can take place, as they would now when searching or seizing parcels being sent through a private courier service.

• (1810)

Senator Dalphond called this lack of law enforcement ability to seize, retain or detain contraband in the course of post a "loophole" in the law. I would certainly agree with our colleague, but perhaps I would take it even further: This is a legal chasm. This gap in the law is actively contributing to the erosion of safety and to the deaths of Canadians.

The principle of this bill is solid and, I hope, worthy of the argument. It is in this vein that I wholeheartedly agree with Bill S-256 and would recommend that it be sent to committee as soon as possible for a thorough — but perhaps expedited — study. Every missed Canada Post letter or parcel containing fentanyl or its analogues is a missed opportunity to save lives. The longer Parliament lingers on such a bill, the more lives are put in jeopardy by the menace of fentanyl.

Thank you, *meegwetch*.

(On motion of Senator Martin, debate adjourned.)

THE SENATE

MOTION TO CALL ON THE GOVERNMENT TO DENOUNCE THE ILLEGITIMACY OF THE CUBAN REGIME— DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Housakos, seconded by the Honourable Senator Wells:
>
> That the Senate call on the Government of Canada to:
>
> (a) denounce the illegitimacy of the Cuban regime and recognize the Cuban opposition and civil society as valid interlocutors; and
>
> (b) call on the Cuban regime to ensure the right of the Cuban people to protest peacefully without fear of reprisal and repudiation.

Hon. Tony Dean: Honourable senators, I move the adjournment of the debate until the next sitting of the Senate and for the balance of my time.

(On motion of Senator Dean, debate adjourned.)

FOREIGN AFFAIRS AND INTERNATIONAL TRADE

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF THE CANADIAN FOREIGN SERVICE AND ELEMENTS OF THE FOREIGN POLICY MACHINERY WITHIN GLOBAL AFFAIRS

Hon. Peter M. Boehm, pursuant to notice of December 8, 2022, moved:

> That, notwithstanding the order of the Senate adopted on Thursday, February 24, 2022, the date for the final report of the Standing Senate Committee on Foreign Affairs and International Trade in relation to its study on the Canadian foreign service and elements of the foreign policy machinery within Global Affairs Canada be extended from March 30, 2023, to September 29, 2023.

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

Hon. Senators: Agreed.

(Motion agreed to.)

ONE HUNDREDTH ANNIVERSARY OF THE CHINESE EXCLUSION ACT

INQUIRY—DEBATE ADJOURNED

Hon. Yuen Pau Woo rose pursuant to notice of January 31, 2023:

> That he will call the attention of the Senate to the one hundredth anniversary of the *Chinese Exclusion Act*, the contributions that Chinese Canadians have made to our country, and the need to combat contemporary forms of exclusion and discrimination faced by Canadians of Asian descent.

(On motion of Senator Woo, debate adjourned.)

(*At 6:15 p.m., the Senate was continued until tomorrow at 2 p.m.*)

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