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OFFICIAL REPORT
(HANSARD)

Thursday, February 16, 2023

The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Thursday, February 16, 2023

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

Prayers.

SENATORS' STATEMENTS

THE HONOURABLE SANDRA LOVELACE NICHOLAS

Hon. Jane Cordy: Honourable senators, I rise today to pay tribute to one of our colleagues who recently left this place a little sooner than expected, but in a manner that seems perfectly fitting for her: quietly, without fanfare, but with a lasting impact.

Despite her request not to have a formal period for tributes, I would still like to ensure that the retirement of Senator Sandra Lovelace Nicholas does not go unmarked. She has been a devoted champion for the rights of Indigenous women and girls, both before her appointment and through her work here. It would certainly not be an understatement to use the term "trailblazer." She received the Order of Canada in 1990 and the Governor General's Award in Commemoration of the Persons Case in 1992. Though she will be missed, I am very grateful for the opportunity to have sat with her in this chamber and to have learned from her.

A Maliseet woman from the Tobique First Nation in New Brunswick, Senator Lovelace Nicholas was the first female Aboriginal senator to represent Atlantic Canada. At the time of her appointment in 2005, her name was already well known. It has arguably become forever tied to the issue of improving the rights of Indigenous women and girls, as hers was the name in the case taken to the United Nations Human Rights Committee in 1981, *Lovelace v. Canada*. This ruling, in her favour, was the catalyst that began years of work to amend the Indian Act in order to end the gender discrimination that impacted the rights of First Nations women and their children. Along with colleagues like former senator Lillian Dyck, Senator Lovelace Nicholas continued to advocate for changes to the Indian Act, drawing our attention to the consequences of this ongoing injustice. During debate on Bill S-3, she told this chamber that:

> . . . Canada cannot disconnect the ongoing discrimination against indigenous women in the Indian Act from the current human rights crisis of murders and disappearances.

How fitting that she spoke those words as the truth-gathering process was beginning in the National Inquiry into Missing and Murdered Indigenous Women and Girls, another issue for which she fought.

Honourable senators, there have only been nine Indigenous women appointed to the Senate of Canada. But following the retirement of Senator Lovelace Nicholas, half of them — five — are currently in our chamber. Seeing this progress and knowing the senators who are now representing these voices, I do not doubt that the issues Senator Lovelace Nicholas steadfastly pursued will continue to be ably advanced.

Her first speech in the Senate was in honour of International Women's Day, when she delivered a statement about the late Mavis Gores, another Tobique First Nation woman who advocated for gender equality. At that time, she spoke these words, which seem equally fitting to describe Senator Lovelace Nicholas herself:

> Honourable senators, if it had not been for the strength of First Nations women in our communities, and women's groups across Canada, we would not have been able to accomplish what was once considered impossible: The changing of federal legislation by women who thought they did not have a voice.

Your voices have certainly been heard.

Woliwon, Sandra, thank you. Thank you for being you. You will be missed.

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 His Excellency Ander Gil, Speaker of the Senate of the Kingdom of Spain.

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

Hon. Senators: Hear, hear!

THE LATE HAZEL MCCALLION, C.M.

Hon. Donna Dasko: Honourable senators, two days ago, thousands of friends, admirers, dignitaries and citizens of Mississauga and beyond gathered there to pay tribute to an extraordinary woman, Her Worship Mayor Hazel McCallion, who passed away on January 29 at the age of 101.

Hazel McCallion presided as Mayor of Mississauga for 36 years, from 1978 to 2014, easily winning 12 elections and serving until age 93. She built her city of Mississauga from three small townships, cow pastures and sleepy meadows into one of this country's largest, most livable and successful communities.

Mayor McCallion was a character, a force, with a big personality, and I was so happy that I got to know her. She got her start in politics after she and her husband, Sam, moved to a small community west of Toronto named Streetsville, which eventually became incorporated into Mississauga. Stints as Mayor of Streetsville and city councillor led to her first and successful run for mayor against a popular incumbent in 1978. She had been in office only a few months when a Canadian Pacific train carrying toxic chemicals derailed, accompanied by explosions and chemical spills. McCallion oversaw the successful evacuation of 200,000 Mississauga residents, gaining considerable praise and fame, and there was no looking back.

Her admirers named her "Hurricane Hazel," a nod to her ability to get things done, including massive development, transit systems and infrastructure. She was a practical achiever and a superb communicator.

As a pollster, I always admired her extraordinary approval levels, higher than those achieved by any prime minister or premier that I had seen. At one public meeting where satisfaction with city services in Mississauga was being discussed, she was informed that her approval level was 95% and that 2% of citizens disapproved. "Two percent disapprove," she said, "and I know them both." Yes, she could count her detractors on the fingers of one hand.

Hazel McCallion received countless honours during her lifetime, including an Order of Canada, an Order of Ontario, an honorary doctorate of laws from the University of Toronto and more. This was how I got to know the mayor when Equal Voice, which promotes women in politics, honoured the mayor with our EVE Award. The Royal York was filled for her speech that day in 2007, and every time I saw her after that, she went out of her way to tell me how much that award meant to her and how much it meant to be seen as a role model for women in politics.

That she was. One thing is sure — she reminds us that women in politics have diverse styles and views, that successful women do not have to fit into one mould and that you can be true to yourself. I loved her feisty iconoclasm. She was Hurricane Hazel, and for me she was the perfect storm. Thank you.

• (1410)

4-H CANADA

FIFTIETH ANNIVERSARY OF CITIZENSHIP CONGRESS

Hon. Robert Black: Honourable senators, on the heels of a very successful seventh Canada's Agriculture Day, it is my pleasure to rise today in the Senate of Canada to share with you that 4-H Canada is hosting its fiftieth annual Citizenship Congress. Obviously, there were a few hiccups through the last few years with COVID, but for 50 years now countless members have come together in Ottawa to learn about citizenship and government. Certainly in the face of challenges and changes over those 50 years, the team at 4-H Canada has continued to be resilient, intuitive and include innovation in their programming.

This week, 4-H Canada youth delegates from coast to coast to coast are gathered in Ottawa to continue to build their skills in teamwork, communications, collaboration, leadership and problem solving. The organization continues to hone these important life, personal and work skills in each and every member through all the programs they offer.

Developed in 1972 to bring together 4-H members, the Citizenship Congress welcomes 55 delegates to Ottawa this week. I wish them the very best of luck in the coming days as they participate in many important events. Their hard work and determination continue to inspire many people, including myself.

For your information, the culmination event will take place on Sunday at noon when they will enter into this chamber and debate the following:

> Be it resolved that the Government of Canada hold online [social media] platforms accountable for the [hate-speech/misinformation] postings of its users.

They will prepare for that debate throughout the course of the next few days, and I look forward to hearing the debate that day.

These members and those all across Canada represent our future, the future of Canadian agriculture and that of our urban and rural communities. Honourable colleagues, I can assure you the future is bright.

I will be particularly interested in welcoming three individuals from Ontario: Annalise Lilbourne, Caitlin McKercher, Ethan Russell and their chaperone Judy Hall when I see the group this evening at the parliamentary reception in the Sir John A. Macdonald Building.

Colleagues, I invite you to join me to meet these amazing young people and many other 4-H Canada representatives this evening. Thank you, *meegwetch*.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Dr. Nasim Mitha. She is the guest of the Honourable Senator Jaffer.

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

Hon. Senators: Hear, hear!

NEWFOUNDLAND'S "JELLYBEAN ROW"

Hon. Fabian Manning: Honourable senators, as a young boy growing up under the careful eye of my dear mother, I was the recipient of her sage advice many times. One tidbit of advice she gave me was, "Fabian, stay on the high road, there is way too much traffic on the low road." Another offering was one I am sure many of you have heard before, and that was, "In a world where you can be anything you want to be, be kind."

With those thoughts in mind, I am pleased to present Chapter 72 of "Telling Our Story." If you find my stories interesting, thank you, and if for some reason or other you do not, I hope you enjoy the rest of your day.

Friends, many people who visit Newfoundland and Labrador are struck by the rugged beauty of our land, the scent of the salt water that surrounds us and the warmth and hospitality of the people who live there.

Many remark about the colourful houses, especially those located on the hills surrounding the harbour in St. John's. They are a popular background used by many photographers, movie directors and wedding parties — the list is endless. We fondly refer to them as "Jellybean Row." They are a major tourism attraction with their vibrant colours of red, blue, yellow, green, orange and all the many beautiful and bright colours of the rainbow.

In 1863, a hardware store called Templeton's opened in downtown St. John's, and about 50 years later the then-owner John Templeton and his brother David came across a set of old paint chips in the basement of their store. They knew right away that they had to do something with their discovery, so they contacted the Heritage Foundation of Newfoundland and Labrador.

That somewhat surprising collaboration marked the birth of the Heritage Paint Colours of Newfoundland and Labrador. The plan was straightforward — these paint chips needed a name befitting of the place we call home. Lara Maynard of the Heritage Foundation was tasked with the job, and said she wanted to select names that would best celebrate not only the landscape but our language as well. With names like Little Heart's Ease, Charmer, Mussels in the Corner and Bristol's Hope, she captured our history, culture and unique way of life very well.

Another piece of folklore tells a different story of the creation of "Jellybean Row" — a more romantic version, I do believe. Legend has it that in the early days, fishermen flocked to our shores to reap the bounty of the ocean, which John Cabot said was teeming with fish. That was before the crowd here in Ottawa took control of the fishery, but that's a story for another day.

As you would understand, the fishermen would have to spend long, hard days out at sea, and upon their return home they would often be met with a heavy veil of fog hanging over the harbour, which was not necessarily the best condition in order to see their houses up on the hill. Therefore, the fishermen would paint their homes in these bright and vibrant colours to make them more visible. The houses then would pop out and shine against the cool grey backdrop of the fog. I like that story best.

Whatever reason for the creation of "Jellybean Row" you choose to believe, I will leave that up to you to decide, but I do encourage you to come and see it for yourself. The fact is many people love to visit there, see and experience this visual phenomenon and enjoy its unique character. I guarantee you that a walk along the streets of these bold and unusually matched coloured houses will lift your spirits on even the dullest of days, and we could all benefit from that.

Some Hon. Senators: Hear, hear.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Andrii Bukvych, Deputy Head of Mission and Deputy Ambassador of the Embassy of Ukraine in Canada, and Tetyana Girenko, Legal Counsellor and Parliamentary Liaison. They are the guests of the Honourable Senators Deacon (*Nova Scotia*) and Kutcher.

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

Hon. Senators: Hear, hear!

SUPPORT FOR UKRAINE

Hon. Stan Kutcher: Honourable senators, today marks the three-hundred-and-fifty-ninth day of Russia's illegal and genocidal invasion of Ukraine. Many pundits would not have predicted Ukraine would have proven so capable of defending itself in the face of overwhelming odds.

Let's ponder the reality of this defence for a bit. At the time of the invasion, Russia had the world's fifth-largest military; Ukraine ranked twenty-fifth. In 2021, Russia had four times more military personnel, six times more tanks, a naval fleet that was 16 times larger, 15 times the amount of artillery and 4,200 airplanes compared to Ukraine's 310. But, as we know, Ukraine had tractors.

Everyone here has seen the iconic images of Ukrainian tractors towing disabled Russian tanks. The tractor has become the symbol of a people who are fiercely and effectively fighting for their land, for their lives and for their very existence. These are well-trained soldiers for sure, but also everyday people, who were doing everyday things until the bombs began to rain down. The world is amazed by their tenacity, resilience, heroism and sacrifice.

As President Zelenskyy is reported to have said when offered refuge outside Ukraine, "The fight is here; I need ammunition, not a ride."

Unable to achieve military victory, Russia turned to genocidal attacks on civilians — targeting bombs on homes, hospitals, schools and daycare centres. Their troops detained, tortured and killed hundreds of innocent people. They stole thousands of children and whisked them off to Russia. Reuters estimates that over 40,000 people have been killed, over 50,000 injured, more than 15,000 missing and over 14 million displaced.

Canada, along with NATO members and other countries, has contributed substantial support including arms, infrastructure, medical supplies, expertise and more. As critical as this is, so is moral support — to let the people of Ukraine know that we stand with them.

Through the work of Senator Colin Deacon and the efforts of the Canada-Ukraine Parliamentary Program participants Vladyslava Aleksenko, who championed the idea of Canadian senators signing our flag to be delivered to the Ukrainian Parliament — the Verkhovna Rada — and Alyona Palyenka, who

has presented us with a signed Ukrainian flag from soldiers on the front line in Bakhmut, that is why we have an opportunity to show solidarity and gratitude in this chamber.

If you haven't done so, please consider signing the Canadian flag where it is displayed in our reading room. Its message in Ukrainian is "Ukraino, mi z teboju," which means, "Ukraine, we are with you." For the fight in Ukraine is not only for Ukraine — it is for the values that underlie our democratic way of life.

Wela'lioq. Thank you.

Hon. Senators: Hear, hear!

• (1420)

BLACK HISTORY MONTH

Hon. Rosemary Moodie: Honourable senators, I rise today to acknowledge and celebrate Black History Month, and to acknowledge the significant change and progress that we have experienced as a country in the past years to make Canada a more inclusive country that values and honours Black Canadians.

I think of the decision to put Viola Desmond on the $10 bill. Her image signals to all Canadians that she represents what we believe is the best of our country.

I think of the recognition of the United Nations Decade for People of African Descent and how this moment was the beginning of a whole-of-government approach to change, address and recognize anti-Black racism in Canada.

I think of the apology to the descendants of the No. 2 Construction Battalion in Truro, Nova Scotia, in the summer of 2022, which I was honoured to attend. Their ancestors — our heroes — were finally recognized for their valour and bravery on behalf of this country.

And I think of the countless Canadians, in cities and towns in communities from coast-to-coast-to-coast, who invested countless hours and immeasurable energy to see these changes and this progress come to fruition.

They deserve the credit for this progress, more than anyone else.

Colleagues, an interesting recent phenomenon is the reference of Black History Month as "Black Futures" month by many young people. Indeed, our history is rich. The present is encouraging, and our future is bright.

Within the Senate, and under the leadership of Speaker Furey, the African Canadian Senate Group hosted the first of its kind Black History Month reception on February 7. I want to thank our Speaker for his sponsorship, and thank many of our colleagues who attended as well as our guests, including the Right Honourable Michaëlle Jean and other distinguished Black Canadian leaders.

The highlight of our evening was a spectacular performance by spoken word artist Nonso Morah. I will close my statement by quoting this young woman, who makes me confident that our future is bright, although I'm sure I'll not do her wonderful words justice:

> Dear child,
> When the history you are taught rebukes you,
> Baptize yourself the lion's daughter.
> Or the lion's author
> Wrapped yourself in the arms of legacy.
> And accept the wild call of your identity.
> Your destiny.
> To write truth, as it is meant to be read.
> Not in red, but in right.
> Not in darkness, but in light.

Hon. Senators: Hear, hear!

[*Translation*]

ROUTINE PROCEEDINGS

THE ESTIMATES, 2022-23

SUPPLEMENTARY ESTIMATES (C) TABLED

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the Supplementary Estimates (C), 2022-23.

THE ESTIMATES, 2023-24

MAIN ESTIMATES TABLED

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the Main Estimates for the year 2023-24.

FINANCE

FEDERAL TAX EXPENDITURES 2023—REPORT TABLED

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, the report on Federal Tax Expenditures 2023.

[*English*]

AGRICULTURE AND FORESTRY

BUDGET AND AUTHORIZATION TO TRAVEL—STUDY ON THE STATUS OF SOIL HEALTH—EIGHTH REPORT OF COMMITTEE ADOPTED

Hon. Robert Black, Chair of the Standing Senate Committee on Agriculture and Forestry, presented the following report:

Thursday, February 16, 2023

The Standing Senate Committee on Agriculture and Forestry has the honour to present its

EIGHTH REPORT

Your committee, which was authorized by the Senate on Tuesday, April 26, 2022, to examine and report on the status of soil health in Canada, respectfully requests funds for the fiscal year ending March 31, 2024, and requests, for the purpose of such study, that it be empowered to:

(a) to travel within Canada.

The original budget application submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee were printed in the *Journals of the Senate* on June 9, 2022. On June 9, 2022, the Senate approved the release of $21,826 to the Committee.

Pursuant to Chapter 3:05, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

ROBERT BLACK

Chair

(*For text of budget, see today's* Journals of the Senate*, p. 1270.*)

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

Senator Black: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(f), I move that the report be adopted now.

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

Hon. Donald Neil Plett (Leader of the Opposition): Could I ask the senator a question before we ask for leave?

The Hon. the Speaker: Yes, go ahead.

Senator Plett: Senator Black, I believe this report involves a trip to Guelph. Since it was a public meeting and not — as the translators in our committee like to say — a secret meeting, it was discussed that you had asked for a certain sum of money. I believe that was cut almost by half. Does this report reflect what the Standing Senate Committee on Internal Economy, Budgets and Administration approved this morning or does it reflect what you asked for?

Senator Black: Honourable senators, as we all know, in the preparation of a travel budget, committee clerks err on the side of caution. Therefore the request that we did send in was on the side of caution.

After my appearance at the Senate budget committee last week, subcommittee members lowered the participation from 12 senators to 9, and removed the costs associated with interpretation. As such, only nine people will be travelling and we will not be offering interpretation services to the committee for the trip.

Recognizing that the travel is coming up quickly, we need to get on with purchasing those tickets and the things we need. This report does reflect the lower amount.

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

Hon. Senators: Agreed.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

THE ESTIMATES, 2022-23

NOTICE OF MOTION TO AUTHORIZE NATIONAL FINANCE COMMITTEE TO STUDY SUPPLEMENTARY ESTIMATES (C)

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

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (C) for the fiscal year ending March 31, 2023; and

That, for the purpose of this study, the committee have the power to meet, even though the Senate may then be sitting or adjourned, and that rules 12-18(1) and 12-18(2) be suspended in relation thereto.

[*Translation*]

THE ESTIMATES, 2023-24

NOTICE OF MOTION TO AUTHORIZE NATIONAL FINANCE COMMITTEE TO STUDY MAIN ESTIMATES

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

> That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Main Estimates for the fiscal year ending March 31, 2024; and
>
> That, for the purpose of this study, the committee have the power to meet, even though the Senate may then be sitting or adjourned, and that rules 12-18(1) and 12-18(2) be suspended in relation thereto.

CRIMINAL CODE

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-39, An Act to amend An Act to amend the Criminal Code (medical assistance in dying).

(Bill read first time.)

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

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

• (1430)

PARLAMERICAS

SUMMIT OF THE AMERICAS, JUNE 6-8, 2022—REPORT TABLED

Hon. Rosa Galvez: Honourable senators, I have the honour to table, in both official languages, the report of the ParlAmericas concerning the Ninth Summit of the Americas, held in Los Angeles, United States, from June 6 to 8, 2022.

[*English*]

QUESTION PERIOD

ETHICS AND CONFLICT OF INTEREST FOR SENATORS

BUSINESS OF THE COMMITTEE

Hon. Marilou McPhedran: Honourable senators, I would like to ask a question, if I may, to the Chair of the Ethics Committee, Senator Seidman. Would you accept a question?

Hon. Judith G. Seidman: Yes, senator.

Senator McPhedran: Thank you very much.

First, Senator Seidman, allow me to begin with an apology for standing to ask this question, not realizing that you had been delayed in another meeting. I want to assure you that I meant no disrespect with that. It was a mistake that I made.

I also wish to note that the Committee on Ethics and Conflict of Interest for Senators is one of only five Senate committees that are empowered to act on their own initiative, without a prior order of reference from the Senate.

Recognizing that the committee is responsible to conduct, on its own initiative, any review and study of all matters relating to the *Ethics and Conflict of Interest Code for Senators*, some time ago I submitted for your consideration a letter requesting attention to the current ethics code, following up on communications I have sent to the committee over the years that I have been in this place.

That letter was dated February 24, 2022. It was sent to you as chair, the deputy chair, all members of the committee, the committee clerk and the Senate Ethics Officer.

In so doing, I requested that our Ethics Committee undertake a study of the ethics code and I proposed eight areas of potential study — ranging from current financial disclosure requirements; examination of income from external board memberships and/or consultancies; Senate Ethics Officer transparency and reporting protocols, including protections and procedural rights for non-parliamentarians impacted by such inquiries; and a recommendation to create an annotated commentary to the code to increase clarity and comprehension, particularly given how many appointments have been made to the Senate in more recent times.

These same issues were also raised as a part of my Inquiry No. 6, which is now concluded.

Senator Seidman, I wish to ascertain whether the committee will undertake to consider this study proposal. Thank you very much.

Senator Seidman: Thank you, senator, for your question. As you are aware, all meetings and discussions at the Committee on Ethics and Conflict of Interest for Senators are held in camera

because of the high confidentiality of our work. Thus, I cannot respond to the particulars of your question. However, I can respond in more general terms and I do hope that will be helpful.

In response to your first question, the Ethics Committee receives correspondence regularly, and we always respond promptly to assure the individual that their letter or request has been received and that the committee will consider it. I have no doubt that you received such a response.

Second, with regard to your particular request for amendments, the committee works quite regularly with code amendments that have been suggested by senators or others. However, this work is quite regularly interrupted by urgent demands that require priority, as I am sure the chamber understands. In fact, the Ethics Committee has a regular program of review of the code and periodically puts out requests for input from senators and others.

You have seen the results of that weighing and considering of these suggestions because they must always be presented, debated and voted upon in this chamber. That is the result of our reports to this chamber, of which I myself, as chair, have presented several.

If I might add, we have been told that the Senate of Canada's ethics code is one of the strongest of its type and is being used as a model for other legislatures.

The amendments that we, as a chamber, have made to date — and there have been quite a few rather important ones over the last few years — have been very constructive, and senators should be reassured by that. However, there is an ongoing process of updating the code and receiving suggestions from senators. When time permits, of course, we will do that and we will bring reports to the chamber.

I hope that this is helpful, senator. Thank you.

ORDERS OF THE DAY

JUDGES ACT

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 Harder, P.C., for the second reading of Bill C-9, An Act to amend the Judges Act.

Hon. Brent Cotter: Honourable senators, I rise to speak briefly about Bill C-9, An Act to amend the Judges Act. I support the bill and recommend its adoption in the Senate.

I should say at the outset of my remarks that I have benefited significantly from an opportunity to review a not-yet-published paper by my friend and colleague in the field of legal and judicial ethics, Professor Richard Devlin at the Schulich School of Law at Dalhousie University. Professor Devlin is one of the leading Canadian scholars in the field of legal and judicial ethics and has in a very short time produced a scholarly analysis of the bill, which I hope he will be in a position to share more broadly. He may not agree with my remarks today — I want to be clear on that — although I think that he and I have similar perspectives on the bill.

As the sponsor of Bill C-9, Senator Dalphond highlighted in his excellent speech last week that the bill seeks to modernize the process by which complaints of misconduct against senior judges in Canada are handled. To my mind, Bill C-9 is part of a continuing process of modernizing and strengthening our expectations of judges and putting in place improved processes to achieve judicial accountability.

One part of that process was, in 2021, the adoption by the Canadian Judicial Council of modernized *Ethical Principles for Judges*, which articulated, in my view, a rich statement about — as Professor Daniel Jutras, an adviser to the group, described it — the ethical identity of a judge.

That modern version articulated explicit new expectations of judges in relation to, among other things, competence, respect for participants in the judicial process, engagement with the public, expectations of judges and their offices with respect to harassment and so on.

With respect to judicial discipline, as Senator Dalphond noted, this topic has bedeviled the judiciary and the Canadian public for some decades. Bill C-9 embraces a number of principles in developing a modern discipline process by which complaints can be considered. I want to focus on four aspects of that in my remarks: judicial independence, accountability, efficiency and transparency.

Before I do so, I want to tell you two stories that, to my mind, humanize the questions of judicial conduct and accountability for lawyers, and especially for clients, and make the case for this very important bill.

When I was a young lawyer, for the grounds of divorce, even if uncontested, the person seeking the divorce was required to appear before a Superior Court judge and testify. I represented a woman who was seeking a divorce on the grounds of physical cruelty. She testified that when she was having a falling-out and decided to leave her spouse, she was putting on her coat to leave when he asked, "Where are you going?" She said, "I'm leaving you and I'm going out to look for an apartment." The man punched her in the face and knocked her off her feet. After she testified, the judge asked me what the grounds were of the physical cruelty that I was alleging, and I said that it was the punch in the face and being knocked off her feet. The judge said, "That's not physical cruelty. She deserved that." He dismissed her application for a divorce.

• (1440)

I was a young lawyer — and I was mortified, quite frankly. The woman was crushed by this. There is an appeal process, but that drags out the process. We found a workaround — I didn't

know what to do. I spoke to the chief justice of the court. He said he would have a quiet conversation with the judge — and that was all.

I have a second example — somewhat more recent. I was representing a person who had won a $2,000 award in small claims court. For some reason, the people on the other side appealed the judgment. It then went to the former county court in Nova Scotia. The judge heard the case, required us to make a full presentation over this $2,000 and reserved judgment — that is, the judge took it under consideration. I worked at Dalhousie Legal Aid Service for a period of time. I left to work again at the law school at Dalhousie University. Three years later, I returned to the clinic, and the judge had still not issued his judgment on this $2,000 claim. I met with the chief justice of the province — I did not know what to do. His advice was to just keep quiet about it, and wait for the judgment. I waited. The judge died. I was very fond of that particular judge, but this was not helping my client. We had to then find a workaround, or relitigate the case.

These issues are frustrating to a lawyer. I lost a lot of cases — not too many quite like this. But it was unbelievably unfair to the client. The client's job is only to receive justice in her case — not solve the problems of judicial accountability.

I think it is fair to say that previous processes have been respectful of judicial independence — which is important, as I will say in a moment — but have been much less successful with respect to judicial accountability, efficiency and transparency. In my view, Bill C-9 continues to respect the principle of judicial independence, but improves on each of those other fronts.

That said, and while I support the bill, it is helpful to note that it is not a complete success in some respects, and I will mention a couple of these in the closing part of my remarks. However, it is worthwhile to say a word or two about the importance of this bill, and the way in which it strikes, I think, a delicate balance: On the one hand, it respects judicial independence, and, on the other hand, it respects the public expectations of judicial accountability.

When the bill was being considered at committee in the other place, one member of Parliament commented that the complaints on the discipline system for judges are "pretty dry stuff." I think that's true. But it is extremely important — more important than meets the eye.

In Canada, we are blessed with, perhaps, the most competent and principled judiciary in the English-speaking world. While people — from time to time — disagree with judicial decisions, we have significant faith in the judiciary to render thoughtful, fair-minded, independent judgments — reached in an impartial way. We work hard to protect the independence of that decision-making process through principles and laws. This preservation and protection of judicial independence is not primarily — or even significantly — for the benefit of the judiciary. It is for our benefit because a fair, independent decision process is critical to our own confidence — not just in the judiciary, but in the administration of justice more generally and the rule of law.

At the same time, public confidence in the judiciary, and the administration of justice, can be jeopardized if the public perceptions are that members of the judiciary are not held accountable for conduct that falls below the standards expected, as well as articulated in other places, such as the ethical guidance for judges. Related to that, public confidence in the judiciary is jeopardized if those processes take too long — and many have done — or are far too expensive at the public purse's expense or, particularly, if they are not transparent.

I think it is fair to say that, historically, the process to investigate and discipline judges for misconduct has underperformed on these three fronts. As Senator Dalphond has noted, and others have commented, the process has been gamed by judges in order to extract maximum personal benefits and, in the end, avoid official sanction.

Here are a few observations of how the bill has sought to remedy these problems:

The first observation is with respect to transparency. The bill creates opportunities for participation in aspects of the process by non-judges, while carefully preserving judicial independence. This is done by striking a delicate balance. It leaves the decision process related to discipline primarily in the hands of judges, and that can lead to a potential recommendation to the Minister of Justice — under section 99 of the Constitution — for the judge's removal from office.

Lay people and lawyers play a role in some aspects of the discipline process at the review panel stage, as well as at two types of the hearing panel established under this legislation: the so-called reduced hearing panel and the full hearing panel. The latter takes place near the end of the process in cases of allegations of serious misconduct. The full hearing panel, for example, is composed of one lawyer and one layperson on a five-member panel. In these cases, judges continue to make up a majority of the panel responsible for the decision making but, on balance, I think this is necessary to preserve judicial independence and, at the same time, build public confidence in an independent judiciary.

Once the matter reaches the stage of hearings, those hearings are presumptively public with limited exceptions, increasing transparency.

I would like to see more space for complainants in the process, as would my friend Professor Devlin, but these are definitely improvements in the existing process.

With respect to efficiency, the number of layers of review has been reduced, though only modestly. The legislation seeks to create an appeal process that will avoid burdensome, much delayed and highly expensive judicial review avenues that judges have pursued in the past. As well, in support of efficiency and reduced costs, judges' pension and pay benefits may be able to end at a sooner point in the process, reducing the incentive for a judge — facing serious sanctions — to prolong the process once pay or pension entitlements become moderated.

I have some reservations, as does Professor Devlin, about whether the new regime will achieve significant goals related to efficiency, but I think we can be hopeful. One aspect of the amendments that will contribute to efficiency is that the roles of participants have been clarified. This lack of clarity — under the existing regime — has complicated hearings in the past,

generating, in some cases, years of delay and enormous cost. The new process, in cases of serious matters, moves away from an inquisitorial process — with this confusion of roles — to a more adversarial process. Indeed, the legislation describes how the presenting counsel, which is the person who presents the case against the judge, is expected to conduct themselves in accordance with the standards and principles that govern the conduct of Crown prosecutors. You get the shape of it.

Lastly, I will speak on accountability. I attended a legal and judicial conference in Vancouver in 1980 when matters of judicial discipline were not much in the public eye. At the conference, a senior judge in British Columbia was asked about judicial accountability. The judge replied, "Accountability? To whom am I accountable? I am accountable to myself."

The judge who provided the answer was among the most respected judges in this country, and I think what he was saying was, "I take my job seriously, and I live up to standards of ethics and professional conduct." However, the statement did seem to emphasize an imperial approach, and a lack of public accountability. Much has changed from that time to now. Public expectations of discipline around judges have brought us to this point — a good point.

Indeed, a number of aspects of the bill, and the associated developments, will build public confidence, in my view.

Bill C-9 improves the process by which complainants will be considered. There is greater transparency in the process. The bill moderates the ability of judges to prolong the process and game the system. It could be better in some respects, but this delicate balance needs to be struck. I think it has been well struck in this bill.

In closing, I wish to identify two specific concerns that could be captured in observations if the committee reviewing the bill was so inclined.

• (1450)

First, there is room for more meaningful treatment of complainants through the development of Canadian Judicial Council policies. This is actually identified in the bill, and there is space for that, and I hope this message can be conveyed by us to the Canadian Judicial Council.

A second suggestion strikes a bit closer to home, even for us. As I understand it — and here I am indebted to Senator Dalphond — the way in which the honorific "Honourable" works for superior court judges is that on retirement they give up the honorific and then through some process, opaque to me, get it back again. I presume that this occurs through some federal judicial office. It strikes me as imperative that when a judge is removed from office or resigns in the face of judicial discipline, there is a policy in place to the effect that they do not get their "Honourable" back.

We likely need such a process in this house, which I hope, in time, we will develop.

In conclusion, then, while I have some modest reservations about the bill, I think that it is an excellent step forward and I urge you to support it when votes come for it. Thank you.

Some Hon. Senators: Hear, hear.

(On motion of Senator Martin, debate adjourned.)

ONLINE NEWS BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Harder, P.C., seconded by the Honourable Senator Bellemare, for the second reading of Bill C-18, An Act respecting online communications platforms that make news content available to persons in Canada.

Hon. Andrew Cardozo: Honourable senators, I was not planning to speak at the second reading of Bill C-18, but I thought it would be useful to provide you with a perspective on how the Canadian Radio-television and Telecommunications Commission, or CRTC, works so that you can make an evaluation of its abilities and shortcomings. I hope in this small way I can contribute to the discussion. For those who know a lot of this information, I apologize.

I have entitled my speech "12 things you want to know about the CRTC when evaluating Bill C-18."

At the end I will share my thoughts about the issues in the bill that I would like to focus on once we get to committee.

As I have mentioned before, I spent six years as a national commissioner at the CRTC. It is one of those agencies where you can take the person out of the CRTC, but you can never take the CRTC out of the person. It is a fascinating agency that affects the everyday lives of Canadians so directly, which results in there being a long list of alumni who keep a watch on the agency or find ways to keep in touch.

My ways of keeping in touch were to teach media regulation at Carleton University; to be a member of the Canadian Broadcast Standards Council, the non-profit organization that addresses complaints about offensive content on radio and television; and, from time to time, to guide people interested in participating in the process.

Here are the 12 points I would like to share with you:

One, the CRTC is established by the Canadian Radio-television and Telecommunications Commission Act, which describes the aims and structure of this quasi-judicial agency in brief. The two main acts that the agency implements are the Telecommunications Act and the Broadcasting Act, the latter of which will be overlaid by the online streaming act, Bill C-11, should that become law. There is other legislation that is relevant too, such as the Canadian Charter of Rights and Freedoms and the Official Languages Act.

Two, while the CRTC does allow for 13 commissioners, both the Harper and Trudeau governments have kept the number at 9, there being a chairperson, two vice-chairs and six regional commissioners. All members are appointed by the Governor-in-Council, that is the federal cabinet, following an open application process.

Appointments are for a maximum of five years, and appointment dates tend to be staggered so there is always a combination of experienced and new commissioners at any given time. They come from a variety of backgrounds, often with experience in some aspect of broadcasting or telecommunications. Once those appointments are made, commissioners and the commission operate at arm's-length from the government, taking its direction from the relevant legislation that it has to implement. The biography and length of the term of each commissioner are listed on the CRTC website.

Three, having mentioned the arm's-length aspect, I need to mention that the cabinet does have the ability to issue broad directives to the commission from time to time, as they did earlier this week, directing the CRTC to take a series of measures to advance competition in telecommunications. The cabinet, however, does not have the ability, for example, to award a licence to a particular entity, which really goes to the reason for setting up the arm's-length agency in the first place. The thinking was that you would not want cabinet ministers picking who got a licence and who didn't.

Four, there are some 650 public servants who work for the commission, and most have considerable expertise in areas of policy that the agency is responsible for. Some are long-term employees with deep experience, while others are recruited from the industry or consumer groups to bring in current perspectives from the outside world.

Five, the commission usually makes about 400 decisions per year. That used to be about 1,000 a year when I was there some 20 years ago, but this suggests that they have been successful in reducing the level of regulation, allowing more flexibility and delegating to commission staff the ability to render more administrative decisions. My sense is that while they have forgone a lot of minor issues, the big issues are getting bigger and more complex.

Six, the nine commissioners make all the decisions together based on online proceedings — or what we would call "in-writing proceedings" — with the public, unless a panel of a smaller number of commissioners is struck for in-person hearings. These hearings are only struck for policy hearings or some of the major and more competitive issues, and they comprise perhaps 1% of the decisions that are made by the CRTC. For the most part, it is in-writing proceedings that are decided on by all commissioners.

Seven, just about every weekday the commission issues two kinds of announcements under the page entitled "Today's Releases." The first kind are invitations to the public to comment on applications before them, and the second are the decisions that have been made. I think this makes it one of the most active websites in the Government of Canada.

Eight, every decision is made on the basis of a public process, which means applicants have to lay everything out for the public to see; in addition, all comments, be they for or against the applicant, are made public. The commission can only use information that is on the public record to make a decision.

I should tell you when I started I found it hard to get used to the process because my usual practice would be to grab for every kind of information I could find. Indeed, if I wanted to insert anything else, I would have to put it on the public record at the beginning of the proceeding.

Sometimes the commission will include internal or external research that has been prepared for the particular proceeding or point to other existing publicly available information elsewhere. This is all designed to avoid any private discussions or secret dealings with applicants. On rare occasions, some competitive commercial information may remain confidential.

That having been said, the discussions among commissioners and staff in determining an outcome once the hearing is over are all confidential or in camera. I suppose that is to make sure that everyone can be open and frank, much like cabinet or judicial documents and discussions. The way this process works is that the staff prepare an analysis of the issues and they recommend a decision or decisions to the commission members. Sometimes the commission members will accept that advice, and other times they will accept some part of it or reject it completely and go in a different direction. The staff still provides a very professional set of information and analysis to the commissioners. It is the commissioners' responsibility to make the final decision.

I have to tell you that these internal documents were some of the most analytical, professional and interesting documents I read while I was there — or perhaps ever have read — and I regret that they do not see the light of day beyond the commission building.

• (1500)

Therefore my suggestion would be for these documents to be made public after a decision is made, in whole or in part, so that the public can read these really comprehensive analyses and, in so doing, advance greater transparency on how decisions are made.

The tenth point is that there is financial assistance available to intervenors, be they individuals or non-profit organizations, which allows the CRTC to balance out the well-financed interventions by the big corporations with the voices of ordinary Canadians.

Point number 11 is that the CRTC has a range of policies and types of decisions. This is, "What does the CRTC do? What do they put out?" On the broadcast side, it has made decisions to create a suite of policies to address, for example, television broadcasting in Canada, campus radio, competition across the country and in small markets, French-language broadcasting, gender and diversity portrayal, Indigenous broadcasting and online broadcasting. The decisions can also be on licensing applications after an application process.

On the telecommunications side, the decisions address efficient telephony, the internet, competition, affordability and consumer rights. In addition, the CRTC makes its own regulations on a wide range of issues.

Finally, point number 12 is that the commission has also delegated outward some of its responsibilities while maintaining oversight so that the industry or communities have more of a direct say. Those include the management of funds for program development that are funded by cable and satellite companies, for example, and then managed by non-profit organizations, such as the Canada Media Fund. They operate at arm's-length from the commission but implement the broad directions to advance made-in-Canada content. It is often called "Canadian content," but I prefer to call it "made-in-Canada content" because it is really a cultural, employment and industrial policy.

When it comes to complaints, the CRTC has authorized self-regulated processes on the broadcast side to manage public complaints regarding offensive content and on the telecommunications side is a process to address issues related to price and cost.

I will give full disclosure: I've been a volunteer with the Canadian Broadcast Standards Council for several years, and I am currently listed as an adjudicator and chair of the nominations committee. For the record, I asked the Senate Ethics Officer for guidance as to whether I can continue in this role. Again, I want to underline that it is a volunteer role, and I have no ownership or connection to any broadcasting company.

There is obviously a great deal more one can say about the CRTC and what it does, but I thought those 12 points are the most relevant, directly and indirectly, to our consideration of Bill C-18.

Allow me now, please, to make a few observations about the bill. This bill, like many others, presents a conundrum, and perhaps that is not unusual in lawmaking. I have been a regulator, as I've just talked about, and I believe strongly in the benefits that regulation can bring, but I'm also very aware and concerned about unnecessary regulations or overregulation.

That said, I think the risk of doing nothing to help newspapers in this new world of powerful and ubiquitous online media is very concerning. Already, far too many newspapers have folded, and the future of this medium sits on a knife's edge.

This is about the rights of people to be informed and entertained by and about Canadians. It is about our democracy. Just as we marked Flag Day yesterday, I'm proud of our Canadian broadcasting, Canadian services and Canadian corporations that are always at risk of being gobbled up by American and other worldwide corporations.

In my view, those who disagree with the bill need to explain what will happen without such legislation, or perhaps they can outline a realistic alternative. To date, I've not heard one, but I'm certainly all ears.

I would also like to hear more from the CRTC as to how they will implement this law, which will, in effect, be a new business line for them.

With that, colleagues, I will say that I'm favourably disposed to Bill C-18, but I'm keeping an open mind at this stage. Thank you.

(On motion of Senator Martin, debate adjourned.)

CANADA DISABILITY BENEFIT BILL

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Cotter, seconded by the Honourable Senator Woo, for the second reading of Bill C-22, An Act to reduce poverty and to support the financial security of persons with disabilities by establishing the Canada disability benefit and making a consequential amendment to the Income Tax Act.

Hon. Kim Pate: Honourable senators, there can be no doubt that there is an urgent need to reduce poverty for Canadians with disabilities.

Like probably most of us in this chamber, many people in our families and circles — people we know and love — could directly benefit from this bill. Unfortunately, in its current form, this bill promises the world but falls short when it comes to delivering. We are told it is supposed to lift people with disabilities out of poverty, but as written, it may never lift any people with disabilities out of those depths.

The government is rushing to pass a bill that could, regrettably, amount to little more than a promising name. While Bill C-22 has been animated by good intentions, especially a desire to offer Canadians living with disabilities a lifeline, dignity and a path to financial stability, it includes no tangible financial benefits. Bill C-22 sets no minimum dollar amount. Without a threshold benefit amount, the material support offered through this bill could amount to as little as $1 per month or nothing at all.

The Canada disability benefit will not be delivered to anyone, let alone those who most need it, until the government passes a series of regulations detailing the benefit amount and eligibility criteria. Worse still, there is no requirement to ensure the necessary regulations be enacted before the bill is technically operational.

The result? Bill C-22 does not ensure a Canada disability benefit at all. It sets no deadline for the commencement of payment of a benefit. It also disqualifies almost one third of people with disabilities in Canada from receiving it solely because of their age, no matter how poor they are. The

dimensions of disability poverty do not end at the age of 65, but as written, this bill does not recognize the compounding effects and corresponding needs associated with disability, poverty and aging.

What is the reality? Bill C-22 allows the federal cabinet to decide in secret all the specifics, including the amount and even if and when a benefit will start to be paid to whomever ends up qualifying. What would, therefore, stop this or any future cabinet from gutting it with an equally non-transparent vote behind closed doors? This bill asks, perhaps unfairly, for tremendous amounts of trust from some of the most marginalized and disadvantaged people in our communities.

A concern to many of us, the minister herself included, is the prospect of clawbacks of any benefits to people receiving provincial or territorial disability supports. The government has not ensured that provincial and territorial coffers are not privileged over the needs and well-being of people with disabilities.

Similar concerns abound regarding the failure to prevent insurance company shareholders from experiencing windfalls via clawbacks or set-offs of any disability support monies an individual might receive as a result of insurance benefits. Without a prohibition on deductions or set-offs by private insurance providers, provinces or territories, targeted beneficiaries of the Canada disability benefit may receive no supplemental benefit at all or may even receive less than they currently do, a situation that would undermine the very purpose of the new federal program.

As Senator Cotter and others have acknowledged, rather than achieve its goal of reducing poverty for persons with disabilities, the Canada disability benefit could contribute to provincial coffers and increased profits for private insurance providers and no doubt without a corresponding drop in the costs of insurance premiums. Taxpayers could thus end up indirectly and unintentionally supporting private insurance providers or enhance provincial coffers.

• (1510)

People with disabilities are being told that they must trust the minister, trust the government and trust public officials. So many are desperate and have been clearly induced to believe that if they don't accept this version of the bill, despite its ongoing inadequacies, they will receive nothing. They risk getting nothing or risk trusting the government process and still possibly getting nothing.

In what universe could anyone consider this kind of ultimatum a choice? They've been encouraged to trust that the government's promises are adequate and that they will somehow pay their rent and fill their fridges.

It is happening. It is heartbreaking to see the desperation that we are creating when we could do so much better.

As several commentators have pointed out, the framing of the legislation in this way makes the basis of the bill one of charity rather than grounding it in fundamental human rights.

I love Minister Qualtrough and trust her intentions, but it's been three years since the government promised this benefit. It is for good reason that many people with disabilities are raising alarms and calling upon us to not just leave them to hope and trust.

Canadians with disabilities are desperate. As Senator Coyle underscored, here in Ontario, a single person who qualifies for the Ontario Disability Support Program, or ODSP, receives a maximum of $1,228 per month. This is not enough money to live a life of dignity when the average price of rent in Canada — and certainly in this city — surpasses that by hundreds of dollars. While able-bodied, middle-class Canadians struggle to cover the costs of food and housing, Canadians with disabilities are worse off still.

Advocates and individuals with disabilities have reported that without sufficient resources to build a life worth living, some are opting not to. Evidence continues to mount that many reliant on disability benefits are forced into an inescapable poverty. As we are also hearing, a lack of options and adequate social, economic and health support can be deadly. Horrifically, long-term and seemingly inescapable poverty has been cited as a primary reason for some individuals to seek access to medical assistance in dying.

Bill C-22 follows a well-worn pattern of governments offering ill-considered, precarious solutions that fail to meet the needs of those who are the most vulnerable in our communities.

We've heard time and again the tired adage that we cannot make perfect the enemy of good or that we cannot wait for the perfect bill. I agree, no bill will ever be perfect. The question, however, is not whether the Senate can make this a perfect bill; the question is whether the Senate can build on the work in the other place and make this bill better, one that gives people with disabilities some rights and where they are not left to hope and trust alone. We have effectively created such disabling conditions for so many people that they may choose to die because of poverty and a systemic lack of care, and because access to basic necessities like adequate housing and food are so challenging to come by that it is impossible to live. This is a shameful and preventable reality.

Canadians with disabilities are in urgent need of support. Just this morning we were urged by experts during the All-Party Anti-Poverty Caucus to do this right. We have the information, expertise and resources necessary to fix this bill. We can choose to learn from the ongoing failures of provincial and territorial

disability benefit programs. We can choose to fulfill our mandate and represent the interests of those who are too often marginalized and ignored.

As we senators reminded the government when we wrote to nudge the implementation of this benefit, if in the end the disability benefit fails to even meet the official poverty line, the government, by choosing to leave people in poverty, will not only fail to meet our human rights obligations, but Canada will fail to meet the obligation in section 36(1)(c) of the Charter of Rights and Freedoms to provide ". . . essential public services of reasonable quality . . . ."

As written, Bill C-22 is a one-size-fits-all model that will likely assist the middle class but neglect the poorest Canadians with disabilities. As Senator Seidman pointed out when she spoke, many disability groups have generously provided a few clear ways to avoid this unintended outcome.

First, they urge us to ensure that Bill C-22 incorporates national guidelines that require a minimum level of funding for all beneficiaries. Second, they recommend that it be amended to prevent needless administrative barriers such as complicated application processes that force beneficiaries to prove periodically that they remain disabled. They also want the bill to include a complaint or appeals process to investigate and redress unfair refusals, denials or clawbacks. Their final recommendation is that the bill require the federal government to immediately disburse the Canada disability benefit to all who qualify predicated on requisite requirements of provincial or territorial governments to not then claw back provincial benefits, regardless of the status of other provincial or territorial agreements.

Without a doubt, we know Minister Qualtrough is an advocate for people with disabilities. However, she is one MP and one member of cabinet, and for whatever reason, she was not able to remedy the deficits in this bill.

Bill C-22 is well intentioned, but people with disabilities in Canada who live in poverty deserve better; they deserve security.

In my view, if we only have this one shot, let's take the care to ensure that this bill gets it right. We have the responsibility to do so, and I know, dear colleagues, that we can do it. So as Senator Seidman urged us yesterday, let's do our job.

Meegwetch, thank you.

(On motion of Senator Martin, debate adjourned.)

[Senator Pate]

CRIMINAL CODE

BILL TO AMEND—MOTION TO RESOLVE INTO COMMITTEE OF THE WHOLE TO CONSIDER SUBJECT MATTER OF BILL C-39 ADOPTED

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of February 15, 2023, moved:

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

1. the Senate resolve itself into a Committee of the Whole at 2:50 p.m. on Wednesday, March 8, 2023, to consider the subject matter of Bill C-39, An Act to amend An Act to amend the Criminal Code (medical assistance in dying), with any proceedings then before the Senate being interrupted until the end of the Committee of the Whole;

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

3. the Committee of the Whole on the subject matter of Bill C-39 receive the Honourable David Lametti, P.C., M.P., Minister of Justice and Attorney General of Canada, and the Honourable Jean-Yves Duclos, P.C., M.P., Minister of Health, accompanied by a total of no more than three officials;

4. the Committee of the Whole on the subject matter of Bill C-39 rise no later than 65 minutes after it begins;

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

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

7. the sitting continue beyond 4 p.m., if necessary, and the Senate adjourn once business of Committee of the Whole has been completed.

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

Hon. Senators: Agreed.

(Motion agreed to.)

[*Translation*]

ADJOURNMENT

MOTION ADOPTED

Hon. Raymonde Gagné (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of February 15, 2023, moved:

> That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Tuesday, March 7, 2023, at 2 p.m.

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

Hon. Senators: Agreed.

(Motion agreed to.)

• (1520)

CRIMINAL CODE
JUDGES ACT

BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

Hon. Pierre J. Dalphond moved third reading of Bill C-233, An Act to amend the Criminal Code and the Judges Act (violence against an intimate partner).

He said: Honourable senators, I rise today to begin third reading of Bill C-233, An Act to amend the Criminal Code and the Judges Act regarding violence against an intimate partner.

As a reminder, this is not a government bill. It was introduced by the member for Dorval—Lachine—LaSalle, Anju Dhillon, a family and criminal lawyer. She is supported by Pam Damoff, the member for Oakville North—Burlington and Parliamentary Secretary to the Minister of Public Safety, and by Ya'ara Saks, the member for York Centre and Parliamentary Secretary to the Minister of Families, Children and Social Development.

[*English*]

This trio of dedicated women secured the unanimous adoption of this legislation in the other place. I'm proud to work with these members of Parliament on this bill. I believe that for too long signs of domestic violence were ignored by the legal system. This has been due to an inadequate understanding of the long-lasting impacts of domestic violence on the other spouse and the children, including risks to their health, development and even life.

I also want to thank you, colleagues, for your support, and to acknowledge some individual contributions.

First, I thank the critic, Senator Manning, who has acted as a friendly critic. Incidentally, I support his Bill S-249, which proposes to establish a national strategy to address intimate partner violence.

Second, I thank Senator Hartling for her second reading speech on the bill and insights on the difficult issues of intimate partner violence, domestic violence and coercive control in family contexts.

Third, I thank the members of the Legal and Constitutional Affairs Committee, who agreed to promptly review this bill following the review of Senator Boisvenu's Bill S-205. That legislation also proposes amending the Criminal Code to promote the use of electronic monitoring devices in cases of intimate partner violence.

Finally, I want to pay tribute to Dr. Jennifer Kagan-Viater and her spouse, Philip Viater, a lawyer. Both are devoting tremendous time and energy to change false perceptions and wrong assumptions in our legal system to prevent, as much as possible, tragedies like the one that happened to them on February 9, 2020.

On that day, Dr. Kagan-Viater's four-year-old daughter, Keira, lost her life during a period of access granted to her father, a person described as violent and controlling. This access occurred despite her mother's numerous attempts to warn all those intervening in their divorce proceedings of the risk, including several judges.

With Bill C-233, we will send the following message to Canadian society in memory of little Keira: A violent and controlling husband is always a danger to the spouse and the children.

As Senator Hartling said, "Any act of intimate partner violence is an act of violence against the whole family, especially children. . . ."

The violence link was ignored by the legal system because these intervenors were untrained in connection with domestic violence and the associated risks.

Hopefully, recent changes to the Divorce Act, along with this bill, will change attitudes within the legal system towards domestic violence. This change of attitudes should prevent or at least significantly reduce tragedies of family violence.

Honourable senators, let me now briefly review the contents of Bill C-233.

[*Translation*]

I would remind senators that this bill centres on two proposed legislative amendments.

First, the bill proposes to amend the Judges Act to strongly encourage the Canadian Judicial Council to provide continuing education on matters related to intimate partner violence and coercive control.

The ultimate goal is to have trained judges who are aware of the need to consider indicia of violence before deciding matters of custody and access rights.

This part of Bill C-233 is often described as "Keira's Law," in memory of the little girl I spoke about briefly earlier, who died over three years ago.

[*English*]

This part of Bill C-233 specifically targets federally appointed judges, not provincially appointed judges, by amending the Judges Act. The Judges Act, as you know by now, provides for the remuneration and benefits, education, training and the treatment of complaints related to the conduct of federally appointed judges, as I explained last week when I spoke to Bill C-9 and earlier today when Senator Cotter also spoke to that bill.

Of course, federally appointed judges are only one component of the legal system and, to a certain extent, a minor part of it.

In reality, domestic violence is an issue often dealt with by police officers, social workers, family therapists, provincial judges and Crown prosecutors, all regulated by provincial laws.

However, by adopting an amendment to the Judges Act, Parliament will not only strongly suggest the need for continuous education of federally appointed judges on domestic violence and coercive control in intimate partner and family relationships; it will also send a powerful signal to the provinces and the territories and to all those involved in the legal system to take the same approach. We can no longer ignore domestic violence and its tremendously negative impact on children.

As matter of fact, Dr. Kagan-Viater, Mr. Viater and many groups involved in the issue of domestic violence are campaigning for provincially adopted measures. Doctor Kagan-Viater told me that Queen's Park is considering amending provincial laws to ensure that training is provided to provincially appointed judges, Crown prosecutors and police officers.

[*Translation*]

Second, Bill C-233 adds a provision to section 515 of the Criminal Code that specifically calls upon judges and lawyers, before making a release order in respect of an accused who is charged with an offence against their intimate partner, to consider whether it is desirable, in the interests of the alleged victim's safety and security, to have the accused wear an electronic monitoring device.

Of course, it is only possible to order an accused to wear an electronic monitoring device if such devices are available in the region in question.

• (1530)

As I mentioned in my speech at second reading, it is important to consider recent developments in this regard in several provinces. In Quebec, for example, recent legislative and regulatory amendments and the allocation of five years of funding made it possible to gradually roll out a system for supplying equipment and continuously monitoring those accused or convicted of offences related to intimate partner violence.

I would remind senators that the first 18 months post-separation is when incidents of violence and even femicide are most likely to occur. This is the high-risk period targeted by the proposed addition to section 515 of the Criminal Code. Under that amendment, the court may, at the request of the attorney general of the province, impose as a condition of release that a person accused of an offence related to intimate partner violence be required to wear an electronic monitoring device. It could be a device that monitors the accused's movements to ensure that the person is in fact where they should be, or it could be a geolocation device that ensures that the accused is abiding by the terms of the no-contact order imposed by the court.

As Senator Boniface so rightly pointed out, intimate partner violence in rural and urban areas poses unique challenges and requires the implementation of adequate internet access or other appropriate means of communication.

Besides access to means of communication for the purpose of monitoring, we must also, as Senator Boisvenu stated, give violent men access to care and prevention programs.

Above all, as other senators, including Senator Pate, have stated, we must address the root causes of this violence.

I would like to borrow the analogy Senator Hartling used. As she said so well, ending intimate partner violence is like building a house. We need a foundation, as well as walls and a roof.

We need a comprehensive strategy that focuses on prevention, screening and rapid intervention.

This bill represents progress and another step in the right direction. It may be incomplete, but it is very useful.

[*English*]

Mindful that the comprehensive approach is required, the members of the Legal and Constitutional Affairs Committee have attached to their report the following observation:

> In line with witness testimony regarding the urgency of addressing this issue in our society, this committee urges the government to also invest greater resources in initiatives that enhance financial, social and health supports that help ensure: capacity and resources for emancipatory anti-violence supports, centres, including women's shelters, financial supports, more responsive and respectful treatment of victims by police and prosecutorial authorities, and effective interventions to interrupt and address misogynist and racist violence, including with aggressors.

In the design of a global approach to intimate partner violence and domestic violence, the Government of Canada and the governments of the provinces and territories should seriously consider the Spanish model. I referred to it at length during my second-reading speech.

This includes specialized courts; specialized trained police officers; an effective public awareness campaign on domestic violence; an information platform maintained by police officers and the various institutions that care for abused women; and an electronic surveillance command centre connected to what was then the department of health, social services and equality, which is responsible for 24-hour monitoring of the bracelets in use in Spain.

[*Translation*]

Honourable senators, I know how important it is to this chamber to move forward on an issue as sensitive as intimate partner and family violence.

Therefore, I invite you to pass this bill swiftly so it can be implemented as quickly as possible, which will help save lives. There must not be another Keira.

[*English*]

Thank you for your attention, *meegwetch*.

(On motion of Senator Martin, debate adjourned.)

CUSTOMS TARIFF

BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Housakos, seconded by the Honourable Senator Ataullahjan, for the second reading of Bill S-204, An Act to amend the Customs Tariff (goods from Xinjiang).

(On motion of Senator Clement, debate adjourned.)

[*Translation*]

JURY DUTY APPRECIATION WEEK BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Moncion, seconded by the Honourable Senator Dupuis, for the second reading of Bill S-252, An Act respecting Jury Duty Appreciation Week.

Hon. Pierre-Hugues Boisvenu: Honourable senators, I rise today as the critic of Bill S-252, An Act respecting Jury Duty Appreciation Week, introduced by the Honourable Lucie Moncion on November 30, 2022.

As you already know, dear colleagues, the plight of jurors is a cause close to my heart. That is why it was very important for me to introduce Bill S-206 and have it passed during this Parliament. Bill S-206 seeks to support jurors who need psychological support after being traumatized during a criminal trial. I want to thank Senator Ataullahjan, who was the designated critic of Bill S-252, for yielding to me.

Jury duty is the cornerstone of our justice system. Thanks to your professionalism, your sensitivity and your sense of duty, Bill S-206 was passed and will finally allow countless jurors to receive the support they need to find some well-earned inner peace.

Together, we recognized that it is essential for jurors to be able to consult a mental health expert without fearing that the disclosure of confidential information acquired during a trial and mentioned at an appointment will be considered a criminal offence.

• (1540)

Colleagues, we set a good example by fulfilling our core mission of listening to and serving Canadians and hearing the voices of the most vulnerable.

Today, we are asked to address the issue of jurors once again, as we are at second reading of Bill S-252, which seeks to legislate a national jury duty appreciation week. The week would be commemorated annually, during the second week of May.

By sponsoring this bill, Senator Moncion hopes that this national jury duty appreciation week will become an event dedicated to raising awareness about the importance of the very difficult responsibilities that jurors have. That's why one of the goals of the bill is to highlight the work they do within our justice system and to bolster their daily contribution to Canadian democracy, which is too often taken for granted.

I would like to read you a relevant quote from the preamble to Bill S-252:

> And whereas designating a week dedicated to the appreciation of jury duty will highlight the work that jurors do and will help to educate citizens, organizations, the justice system as a whole, and the provincial and federal governments about the issues involved in fulfilling this civic duty. . . .

Honourable senators, I feel that raising Canadians' awareness about this civic duty is essential, because many criminal trials take place in courts across the country every day, which means more and more citizens are being called to put their lives on hold in the service of justice.

This is not the first time I've talked about how difficult a juror's experience during a criminal trial can be, how traumatic it can be, and how it can leave psychological scars. Jurors are often exposed to disturbing, graphic evidence.

During criminal trials, women and men who serve as jurors have to examine evidence pertaining to very violent crimes against women and children, domestic tragedies resulting in horrific murders, violent sexual assault, the outcome of scores being settled in criminal organizations and more.

No training exists that can adequately prepare these citizens to become members of a jury. Nobody can prepare for it. Individuals are called to carry out this onerous duty by chance alone, and chance can make people victims of the justice system even as they attempt to serve it.

If I may draw a deliberate comparison, let me remind you how important and necessary our national Victims and Survivors of Crime Week, established in 2006, is for helping victims and survivors assert their rights, improve support services and raise awareness of their plight among Canadians.

Serving as a juror in a difficult criminal trial is often traumatic. No preparation is possible, so we need to better support these people and increase awareness of their reality among Canadians, so that we can all be part of their recovery.

Honourable senators, I am sure that, like me, you see Senator Moncion's bill as a good way to raise awareness among stakeholders in the justice system, and in the various levels of government, of the issues surrounding jury duty. I'm sure you all agree that it is essential to support them once their work is done.

In her speech at second reading, Senator Moncion acknowledged the tireless and challenging work of Mark Farrant, CEO of the Canadian Juries Commission, in advancing the cause of recognizing jurors' contributions. Colleagues, I would like to quote from Senator Moncion's speech on this subject:

> Mark Farrant was a juror in a first-degree murder trial in 2014. He helped shed light on the need for more jury support in Canada. Drawn from his own experience, he identified the gaps in support provided to jurors and discovered that he was not alone. Mark was diagnosed with PTSD after the trial and struggled to find support in his home province of Ontario. In 2016, his advocacy helped prompt the Government of Ontario to launch a free counselling program for former jurors.
>
> In 2017, to help move things forward at a national level, Mark brought to the attention of parliamentarians and government officials what has become known as the "12 angry letters." In those letters, 12 former jurors chronicled their suffering and struggle to find support to deal with the trauma after exercising their jury duty.

In closing, it was not until this year, seven years after the trial for which Mark Farrant served as a juror, that a bill was finally passed to make it possible for jurors to seek psychological support if required.

To round out and improve our work on this cause, to more effectively help former jurors who are advocating for this well-earned recognition, and to support future jurors who will serve the justice system in their turn, I am pleased to unequivocally support our colleague, Senator Moncion, in seeking to designate a jury duty appreciation week. Given that she herself was a juror at very difficult and traumatizing trial, as she told us during the study of Bill S-206 in this chamber, I want to again commend her courage and determination in achieving this objective, which is to show jurors all the consideration they deserve for the duty they perform every day in the service of justice in Canada.

Being the voice of those who have experienced trauma is not easy, I know, but it is vital to advancing human causes like this one. Having a voice like ours in the Senate is a privilege, and I am proud to be the voice for those who cannot be heard. Honourable senators, I am sure that after passing Bill S-206, you will follow suit by passing this bill quickly and unanimously. Thank you very much.

Hon. Senators: Hear, hear!

(On motion of Senator Martin, debate adjourned.)

[*English*]

STUDY ON ISSUES RELATING TO HUMAN RIGHTS GENERALLY

FIFTH REPORT OF HUMAN RIGHTS COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE ADOPTED

The Senate proceeded to consideration of the fifth report (interim) of the Standing Senate Committee on Human Rights, entitled *Canada's Restrictions on Humanitarian Aid to Afghanistan*, tabled in the Senate on December 14, 2022.

Hon. Salma Ataullahjan moved:

> That the fifth report of the Standing Senate Committee on Human Rights, entitled *Canada's Restrictions on Humanitarian Aid to Afghanistan,* tabled in the Senate on December 14, 2022, be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the government, with the Minister of Justice and Attorney General of Canada being identified as minister responsible for responding to the report, in consultation with the Minister of Public Safety and the Minister of International Development and Minister responsible for the Pacific Economic Development Agency of Canada.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

• (1550)

RCMP'S ROLE AND MANDATE

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Harder, P.C., calling the attention of the Senate to the role and mandate of the RCMP, the skills and capabilities required for it to fulfill its role and mandate, and how it should be organized and resourced in the 21st century.

Hon. Gwen Boniface: Honourable senators, this item is adjourned in the name of Senator Busson, and I ask for leave of the Senate that following my intervention, the balance of her time to speak on this item be reserved.

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

Hon. Senators: Agreed.

Senator Boniface: Honourable senators, I rise to speak to the inquiry put forward by Senator Harder with respect to the RCMP, its roles and its mandate.

As some of you know, I had the privilege of serving in the Republic of Ireland in my earlier days and was a part of the establishment of an inspectorate to oversee reform and modernization of the national police service there. Particularly, we looked at the structure, mandate, roles and responsibilities. It is from that perspective that I speak with respect to the RCMP.

The Garda, as they are known in Ireland, serve local, regional, national and international mandates on behalf of the republic and its 3.5 million people. What I learned working there, and which I think applies very much to Canada, is the history of policing is the history of a country. For Canada, I think the RCMP is very similar. At the core, problems within the RCMP are inherently structural. One hundred and fifty years later, it is time to design a fit-for-purpose police service.

The RCMP serves 8 provinces, 3 territories and 150 municipalities — some as large as a million people — and vast swaths of rural and northern communities. They police in hundreds of First Nations and Inuit communities. But I think what is most important is the role of federal policing because that is what keeps our country safe. They deal with national and international organized crime, cybercrime, major fraud, human trafficking, drug smuggling, anti-terrorism and other broad-based threats to safety and security that are national in nature and impact all of us.

Looked at globally, policing is a vast mandate that is largely unchanged from a century ago. It is a jumble of accountabilities and responsibilities, which inevitably lead to confusion rather than clarity. This is the difficulty, of course, on the federation of which our country is built, but it is also the foundation on which the RCMP was built, and, in turn, where they have developed.

For the RCMP, I believe that we have a structural impediment to policing in Canada, an organizational structure that is failing both them and the citizens, despite individual and collective efforts. As Canadians, we need to give our national federal police service the funding and resources that they need to face the challenges of tomorrow. Technology has completely changed in the world, but I can assure you, it has especially changed in the world of crime and crime-fighting.

This was reinforced in the Brown Task Force from 2007, more than 15 years ago. This report argued that:

> . . . the RCMP's approach to governance is based on a model and style of policing developed from and for another policing era.

Neither incremental change nor reforms led from within are going to make the RCMP the police force that times demand. It is structural change. That mandate change has to be led by government — it is not led internally — and successive governments have failed to take that initiative.

We need to ask ourselves a number of questions in this inquiry. Should a modern federal police service be a contract supplier of police services to 8 provinces, 3 territories, 150 municipalities and hundreds of rural communities and First Nations? I would argue that we would have to have a very clear picture of what we want as an outcome before you could move in that direction. It would also require legislation and cooperation of our provinces to mandate, as they have responsibility for policing. As we know from watching the changeover in policing in the City of Surrey, this can be a complicated, chaotic mess.

Two thirds of all RCMP personnel are in contract policing. Kevin Lynch, in a report that he provided recently, said:

> . . . the real obstacles to getting out of contract policing are largely political, at both the federal and provincial levels, not operational—they are a function of history, culture and inertia.

I would firmly argue that they are also part of political indifference. The result is that Canada's efforts in the critically important areas of federal policing are not adequately resourced, and this can pose a threat to public safety across Canada.

You and I know that we are living in complicated times. The RCMP has to create a modern culture and clear leadership values, which will have to be supported by recruitment, training and development. Training needs to be built to meet that fit-for-purpose organization.

Canada must as well move to a new Indigenous policing model. Ontario has been well advanced on this since the early 1990s, when the first five-year tripartite agreement was signed. I had the privilege of being present for that signing, and have closely watched First Nation police services develop and grow across the province. They have established themselves very well.

Uniformed RCMP constables in Indigenous communities are often seen as representative of the colonial past. This should not continue. It is the right way to go to ensure proper accountability for policing First Nation communities — to undergo a First Nation policing model for them.

The government must adequately resource the fit-for-purpose RCMP so that it can be a sophisticated and effective police service with a well-defined mandate. These proposed structural changes and any associated transitional measures will not be cheap, but it is necessary. Inaction will only exacerbate the problems, something that should be a very unappealing prospect for any future government of any party.

The process of reform is difficult. We need a broad public understanding of its purpose, and structural reform will particularly need to be based on consultation with stakeholders, including the provinces, the municipalities and the public.

Canada has long tended to underfund its obligations in the areas of policing, intelligence and security. With that failure comes risks and consequences that are only too apparent in the RCMP today. We will need a more effective governance framework and an appropriately empowered management board to provide effective external oversight and guidance. The current advisory board lacks transparency, clarity of mandate and meaningful oversight.

I am encouraged, however, by the recent appointment of Kent Roach as chair of the advisory committee. Mr. Roach is known to many of us in this chamber for his appearances before the Legal and Defence Committees. I believe he will bring clarity to the role, and help bring needed change.

We must, however, create a clear and clean line with respect to government direction and RCMP operational independence. This must be explored in this review. There is no government that has taken this issue as seriously as they should.

Therefore, I think this chamber sits in a very unique position to undertake this work, and I wholeheartedly support Senator Harder's proposal. Thank you very much.

The Hon. the Speaker pro tempore: Honourable senators, as ordered, the item remains under the adjournment of Senator Busson.

(Debate adjourned.)

(*At 4 p.m., the Senate was continued until Tuesday, March 7, 2023, at 2 p.m.*)

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