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OFFICIAL REPORT
(HANSARD)

Thursday, December 7, 2023

The Honourable RAYMONDE GAGNÉ,
Speaker

CONTENTS

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

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THE SENATE

Thursday, December 7, 2023

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

Prayers.

SENATORS' STATEMENTS

THE HONOURABLE TERRY M. MERCER

CONGRATULATIONS ON DISTINGUISHED COMMUNITY SERVICE AWARD

Hon. Jane Cordy: Honourable senators, I rise today to congratulate our former colleague, Senator Terry Mercer, on being awarded the Saint Mary's University Distinguished Community Service Award. For those of you who knew Terry during his time in the Senate, this will come as no surprise. Indeed, for anyone who knows Terry outside of the Senate, it's even less of a surprise.

Before being appointed to the Senate, volunteerism and service had always been important markers in Terry's life. His dedication to his community, whether on a large or small scale, has always been at the forefront. A lifelong volunteer, he's not only offered his services, but has also encouraged others to become involved and to serve their communities. The key to a well-functioning society lies in our ability and our desire to help out one another.

Senator Mercer has always worked in some capacity in the charitable sector. He's held a variety of positions with various charitable institutions, including the Metro Toronto branch of the Diabetes Canada, the YMCA of Greater Toronto, the Lung Association of Nova Scotia, St. John Ambulance, the Nova Scotia Council and the Kidney Foundation of Canada, Nova Scotia branch. Senator Mercer is a Certified Fund Raising Executive, and has been active within the Association of Fundraising Professionals.

Senator Mercer introduced the National Philanthropy Day Act in this place in 2011. Since its passing, November 15 of each year has been designated as National Philanthropy Day. Because of Terry's leadership on this initiative, Canada was the first country to recognize this day officially.

As those of you who know him can attest, Senator Mercer remains as passionate and dedicated as ever. He and his wife Ellen have raised thousands of dollars over more than ten years participating in the Ovarian Cancer Canada Walk of Hope. Team Ellen Mercer regularly places within the top five fundraisers in Halifax for their efforts.

While we can count the donations and point to the direct impact they have on charitable organizations, I'm sure Terry would tell you that the greater impact is encouraging others to become engaged and involved with their communities.

This is truly the gift that keeps on giving. The help you undoubtedly offer comes back to you when you find yourself in need.

Honourable senators, although November 15 was National Philanthropy Day, I encourage you to carry its spirit and Terry's spirit forward all year round, but particularly as we enter the holiday season, which can be a difficult time for many. May we strive to inspire one another to kindness. Once again, congratulations to our former colleague, Senator Mercer, thank you.

Hon. Senators: Hear, hear.

BATTLE OF HONG KONG

Hon. David Richards: Honourable senators, I was going to read this on November 11, but I didn't get a chance, and then we had the break. But it's about the Battle of Hong Kong, so I'm going to read it now. It is December 7.

In Hong Kong, they fought from the gin drinker's line to Stanley Fort, and had little or nothing to fight with — the British issued 303s, Bren guns and bayonets. The thinking was the Royal Regiment of 2,000 Canadians could hold off three divisions of Japanese armed with heavy artillery and five squadrons of planes until we evacuated the wounded and civilians. The Canadians and the few regiments of British were brave enough and probably crazy enough to try. The Canadians were always brave enough or crazy enough. They were too young and too polite to ever say no. That's the real secret.

At Repulse Bay, 30 Canadians, most of them New Brunswickers, charged 300 Japanese and scattered them but lost 2 men themselves. They fought under withering aircraft fire and a barrage of fire from enemy ships in the harbour. The HMS Prince of Wales had been sunk.

They kept thinking reinforcements would arrive. Nothing and no one came. They were on their own until they were forced back, after almost two weeks of bloodshed, into Stanley Fort, where they made a defensive position trying to present the hospital, and they were overrun.

There were two nurses at the hospital, a young British woman and a young Canadian woman, and the wounded men rolled from their beds and tried to protect them, but to no avail. The rest of the men were marched into four years of bondage, servitude, forced labour and starvation. Often they were beaten with bamboo sticks while forced to stand at attention by Kamloops Joe, a Japanese Canadian who sided with the Japanese once they were captured.

Still, they retained their disciplined rank and file, washed their clothes of lice and refused to salute the Japanese guards even on pain of execution. Thirty-six of these men were from Jacquet River, New Brunswick. Eleven of them died from either battle, dysentery or beating. To give some indication of how old these

kids were, when they joined the army, the biggest moment for them all is that they were going to take a train. None of them had ever been on a train before.

When they were freed in 1945, New Brunswick Corporal Andrew Flannagan weighed 67 pounds; some weighed less. The survivors rescued by the Americans were given a great deal of food and drink. What did the New Brunswick boys do? They realized that the Japanese guards were themselves starving, so invited them to dinner.

I wanted to tell you this. I wanted us to realize that when we dismantle our Armed Forces and disassemble our defence, we're spitting in the face of the memory of those mighty kids who gave so much simply because someone told them they should.

I wish to remind us all of what George Orwell has written: we are allowed this assembly, these wonderful conversations, galas and polite societies because rough men are willing to practise rough trade on our behalf — and I would add very brave women as well.

No one should ever forget these heroic moments put on the line for us all. Thank you.

Hon. Senators: Hear, hear.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Chief Todd Cornelius, accompanied by a delegation from the Oneida Nation of the Thames. They are the guests of the Honourable Senator McPhedran.

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

Hon. Senators: Hear, hear!

BATTLE OF HONG KONG

Hon. Jane MacAdam: Honourable senators, I rise today to recognize the brave individuals who fought in the Battle of Hong Kong on the eve of its eighty-second anniversary, one of the first battles of the Pacific War during World War II.

In October 1941, the Royal Rifles of Canada and the Winnipeg Grenadiers were ordered to prepare for service in the Pacific. My father, George Palmer, served with the Royal Rifles of Canada, one of the 1,975 Canadian soldiers sent to reinforce the British garrison at Hong Kong.

Arriving November 16, these Canadian soldiers joined 14,000 troops from Britain, India, Singapore and Hong Kong. Only three weeks would go by before Canada's battalions would be engulfed in combat against the Japanese 38th Division.

• (1410)

On the morning of December 8, 1941, Japan attacked Hong Kong, only one day after their infamous attack on Pearl Harbor. Against overwhelming odds, the Canadians held out for more than 17 days before laying down their weapons. Although the chances of victory were bleak, they refused to surrender until the Allied positions were overrun and their ammunition, food and water were exhausted. These defenders fought against continual bombardment without relief or reinforcement, displaying the courage of seasoned veterans, although most had been sent to Hong Kong with limited training.

At 3:15 on Christmas Day, the white flag was hoisted. The defence of Hong Kong was over, leaving immense Canadian casualties, with 290 killed and 493 wounded. However, the hardship and death toll did not end with surrender. Those who survived became prisoners of war, many of whom endured torture and starvation by their Japanese captors.

For three years and eight months, my father was a prisoner of war. At nearly six feet tall, he had weighed 165 pounds upon enlistment. When Japan finally surrendered in August 1945, he was a mere 99 pounds. Like him, his fellow soldiers became weak and malnourished from a starvation diet in the prison camps. Living in damp, vermin-infested huts, the Canadian prisoners of war were forced into slave labour, enduring great abuse. These grinding conditions made way for disease, diphtheria and beriberi to name a few. If not the fierce combat, these plagues would cause many to perish.

More than 260 Canadian prisoners of war died before the others were liberated. Those who survived left the prison camps gaunt, their rail-thin bodies evidence of the harsh experiences faced, returning home with their health broken and lives shortened, forever shaken by the extreme hardships and abuse endured.

On September 22, 1945, my father walked out a free man. My father rarely spoke of his experiences. When asked, his standard response was, "What's the point? No one would believe me anyway."

Of the almost 2,000 Canadians who sailed to Hong Kong, more than 550 would never see Canada again. This battle, while a brutal chapter in Canada's history, serves as a reminder of the great costs of war and the efforts required for good to triumph. I wish to commemorate all the brave Canadians who fought in the Battle of Hong Kong. Their sacrifices and service should never be forgotten. Thank you.

Hon. Senators: Hear, hear.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of De'Ann Edwards, a Fellow at Black Diplomats Academy. She is the guest of the Honourable Senator Bernard.

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

Hon. Senators: Hear, hear!

HIS HIGHNESS THE AGA KHAN

CONGRATULATIONS ON THE OCCASION OF EIGHTY-SEVENTH BIRTHDAY

Hon. Mobina S. B. Jaffer: Honourable senators, next week, on December 13, over 15 million Ismaili Muslims residing in 25 countries around the world will celebrate His Highness Prince Karim Aga Khan's eighty-seventh birthday. Born in 1936 in Geneva, Switzerland, His Highness succeeded his grandfather as the forty-ninth spiritual leader of the Ismaili Muslims when he was just 20 years old. For his entire adult life, His Highness has tirelessly championed many initiatives that have helped to lift entire communities out of poverty. These initiatives focused on promoting education — especially for girls — building health care infrastructure and spurring economic development.

I personally received a world-class education in Kampala, Uganda, at the Aga Khan nursery, primary and secondary schools. In addition to my formal education, the Aga Khan has also instilled in me many life lessons that serve as guiding principles in my personal and professional life. These lessons include that education is the most important tool for progress, which has the ability to empower individuals and entire communities, helping them overcome challenges and rise out of poverty; that diversity and difference is a strength, not a weakness, and pluralism is a powerful force for good; and that access to health care, clean water and shelter are fundamental and basic human rights, and we collectively have a responsibility as global citizens to advocate for these rights for all people, regardless of where they reside.

Last, and perhaps most importantly at this time in today's context, the Aga Khan's work reminds us that sustainable peace is not just the absence of conflict but also the presence of justice and understanding.

Honourable senators, every year, I look forward to delivering a statement to commemorate His Highness's birthday. It's been one of the greatest privileges of my career to stand in this chamber year after year and celebrate the work of His Highness Prince Karim Aga Khan, and share with you the tremendous impact he's had on my life and the lives of countless others.

Honourable senators, this will be the last time I stand in this chamber as a senator to commemorate this auspicious occasion, His Highness Prince Karim Aga Khan's eighty-seventh birthday. I would like to take this opportunity to thank him for everything he has done for me, my family, my community and humanity. I want to thank all my colleagues for always accepting me for who I am, and celebrating my religion with me. Thank you, *Salgirah Mubarak*.

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 Fred Pelletier, a clinical psychologist. He is the guest of the Honourable Senator Patterson (*Nunavut*).

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

Hon. Senators: Hear, hear!

PIER ONE THEATRE

Hon. Dennis Glen Patterson: Honourable senators, as I prepare to leave this hallowed chamber soon, I'm pleased to give you a glimpse of my life before politics.

After I graduated from Dalhousie Law School in 1972, I was offered a privileged position as a junior in the great law firm Stewart, MacKeen and Covert, but I also had another intriguing offer, which I took. It was to assist in the establishment of an underground theatre in Halifax, where I established my first small office in that building on the waterfront near Pier One in Halifax.

Pier One was an underground theatre. As a recent law graduate, one of my duties at Pier One was to keep the old abandoned waterfront warehouse, which we turned into a theatre, from being demolished by the city.

I was privileged during my time there to work with folks who became well known later in their lives. Gene MacLellan performed his amazing music there. Renowned actress Flo Paterson and playwright and actor John Gray worked and performed there. Most notably, the amazing late John Dunsworth was the devoted founder, director and actor at Pier One, and went on to become immortalized as Mr. Lahey, a trailer park manager in the beloved series "Trailer Park Boys," which ran for an amazing seven seasons, beginning in 2001, and spawned three films.

I'm very happy to welcome Fred Pelletier as my guest in the chamber today. He's now a reputable clinical psychologist, but he was also one of the ragtag Pier One crowd back in the 1960s who worked with all of us to promote original drama in Nova Scotia, like *Maury's Lunch*, in which I had a cameo role.

One of the original plays at Pier One was *Bad Children.* All the adults in the play were animals and all the children were adults. The play was full of terribly corny lines. "Someone turned a little pale" was one of the lines, so onstage, a small bucket was turned over. Do you get it? Turned a little "pail."

I was reminded of those memorable days at Pier One Theatre when I was reconnected with my guest in the Senate today, Fred, who now lives in Ottawa, and with whom I was reconnected through his son Jeff, who is a reporter with *Nunatsiaq News* in Iqaluit, Nunavut.

• (1420)

I will always remember a scene in *The Bad Children* which involved Fred where he played with consummate acting ability. Fred wore a large lampshade on his head. The line in the play was, "and the lamp went out." Fred then walked out on the stage. Do you get it? The lamp went out.

Thanks for allowing me the opportunity to reminisce on my wonderful days in Pier One Theatre. Thank you, honourable senators.

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 Alex Oakley, Deputy Chief of the Teslin Tlingit Council. He is accompanied by Margaret Chiblow and Sheyenn Sparvier-Kinney from the Champagne and Aishihik First Nations. They are the guests of the Honourable Senator Duncan.

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

Hon. Senators: Hear, hear!

ROUTINE PROCEEDINGS

THE SENATE

NOTICE OF MOTION TO AFFECT SITTINGS DURING WEEK OF DECEMBER 11, 2023 AND AUTHORIZE COMMITTEES TO MEETING DURING SITTING ON WEDNESDAY, DECEMBER 13, 2023

Hon. Patti LaBoucane-Benson (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, notwithstanding the order adopted by the Senate on September 21, 2022, the sitting of Wednesday, December 13, 2023, continue beyond 4 p.m., if Government Business is not completed, and continue until the earlier of:
>
> (a) the end of Government Business;
>
> (b) the adoption of a motion to adjourn the Senate; or
>
> (c) midnight;
>
> That, on Wednesday, December 13, 2023, Senate committees be authorized to meet for the purposes of considering government legislation, even though the Senate may then be sitting, with rule 12-18(1) being suspended in relation thereto; and
>
> That, on Monday, December 11, 2023, and Friday, December 15, 2023, once the Orders of the Day have been called, the Senate only deal with Government Business.

[*Translation*]

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-295, An Act to amend the Criminal Code (neglect of vulnerable adults).

(Bill read first time.)

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

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

[*English*]

CANADA-EUROPE PARLIAMENTARY ASSOCIATION

ANNUAL SESSION OF THE ORGANIZATION FOR SECURITY AND CO-OPERATION IN EUROPE PARLIAMENTARY ASSEMBLY, JUNE 30-JULY 4, 2023—REPORT TABLED

Hon. Peter M. Boehm: Honourable senators, I have the honour to table, in both official languages, the report of the Canada-Europe Parliamentary Association concerning the Organization for Security and Co-operation in Europe Parliamentary Assembly's Thirtieth Annual Session, held in Vancouver, British Columbia, Canada, from June 30 to July 4, 2023.

QUESTION PERIOD

ENVIRONMENT AND CLIMATE CHANGE

CARBON TAX

Hon. Donald Neil Plett (Leader of the Opposition): Senator Gold, I hope you don't consider this a partisan question. Opération Père Noël is a charity in your province of Quebec that provides presents or gifts to children in need. Last week, they said 27,000 children under the age of 17 had already sent in their requests, an increase of 2,000 over last year. The charity also said it is surprised how many children are asking Santa for basic needs, not gifts or toys. Children are asking for food for their families and snacks. A large number of children are asking for snow boots and snowsuits. One teenager wrote to ask for deodorant and a toothbrush.

This is in Canada, leader. As a father and grandfather, this is heartbreaking. Will the Trudeau government reverse course and end its inflationary carbon tax on food and provide a brighter new year for children across Canada?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question. The question, or at least the preamble to the question, is troubling. The thought that anyone in this country, let alone a child, feels that instead of getting the gifts we all want to give our children and grandchildren at holiday times, they're asking for food and clothing, is heartbreaking.

I'm a father and grandfather. You don't have to be a father or grandfather, grandmother, grandparent or parent to feel that, and the cost of living is posing enormous challenges for all Canadians. I know everyone in this chamber hopes and wishes that will be alleviated soon. There is not the ability of the government to fix all the problems that we are facing, and the carbon tax and the position of this government is not the cause for this —

The Hon. the Speaker: Thank you, Senator Gold.

Senator Plett: If someone stood in front of your door and block your door, you would remove that person. That's what the carbon tax does — remove it. A volunteer at this charity told a Quebec newspaper last week that they manage to provide a little relief, but asked what happens the rest of the year.

It's a good question, leader. A report today says Canadian families will spend $700 more on groceries in 2024. What will happen then, leader? How many more children and their families will need help to feed themselves next year, leader, with this tax?

Senator Gold: I can't escape the concern that I have for these families, and therefore you'll forgive me if I don't answer with the same partisan or political intensity that you do. The carbon tax is an important tool to combat climate change. The government provides support for Canadians, as do provincial governments and others. Really, at this holiday time, let us do what we can to provide the help to our families and to their children, and not indulge in this ongoing —

The Hon. the Speaker: Thank you, Senator Gold.

[*Translation*]

FINANCE

FOOD SECURITY

Hon. Claude Carignan: My question is for the Leader of the Government. Leader, today is the Media Food Drive, and I encourage all Canadians and Quebecers to be generous as usual. After eight years of this Liberal government, there is a huge need.

Let me tell you what Chantal Vézina, the executive director of Moisson Montréal, had to say:

> Needs have been steadily increasing since the pandemic. We thought that they would level out, but it's not just those people we would typically consider vulnerable who have been turning to food banks for help this year.

The middle class, people with jobs, now have to use food banks. That's shameful.

Senator Gold, when will Prime Minister Trudeau put an end to his inflationary policies that are making Canadians poorer?

Hon. Marc Gold (Government Representative in the Senate): The Government of Canada's fiscal and monetary policy served us well in getting through the pandemic. What's more, if we look at the numbers, the inflation rate continues to drop.

• (1430)

That's not to say it's not difficult for Canadians to live in these different circumstances, because it's true that the cost of groceries continues to rise.

To answer your question, government policies are not to blame for what's happening globally with respect to the cost of living, including the cost of groceries.

Senator Carignan: Leader, a 17-year-old boy from Montreal wrote to Santa Claus to tell him that he would be happy with anything at all. He told Santa not to worry about giving him something he already had, because he has nothing at all. I don't understand how the Prime Minister can remain so indifferent to these stories, wash his hands of them and take no responsibility for the situation.

Senator Gold, what can Justin Trudeau do now to make up for everything he's left undone over the past eight disastrous years?

Senator Gold: Not only is this not true, but it's really disappointing to hear someone say the Prime Minister is washing his hands of the challenges facing children in Canada. It's so far from the truth that, quite frankly, I don't have the time or inclination to answer your question any further.

[*English*]

CANADIAN HERITAGE

PLAY ON! STREET HOCKEY CHAMPIONSHIPS

Hon. Tony Loffreda: Senator Gold, I want to lighten things up a little.

Play On! is Canada's largest street hockey festival. Inaugurated in 2003 and relaunched in 2022, the organization hopes to host another round of events in communities across the country next year for its twentieth anniversary. More than 2 million Canadians have participated in Play On! activities in

over 40 communities over the past two decades. Play On! needs the financial support of the federal government before the end of the year to ensure it can host next year's edition.

Many municipalities and provinces have already made funding commitments. Senator Gold, can you assure us that your government will give serious consideration to funding this important initiative? Let's ensure that Canadians can all "come together, right now," and Play On!

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

I can assure you, senator and colleagues, that the government understands the popularity of this particular event, which is well understood across the country, and that this event serves a diverse range of communities.

My understanding is that the government already funded the planning of this program this past summer through its funding of 60 Canada Summer Jobs. I've also been informed that, pursuant to the mandate of Minister Qualtrough, the government will continue to work on this and other projects so as to align the programs of the government with the needs of Canada to ensure communities have access to and the opportunity to participate in such events.

Senator Loffreda: Considering the urgency of the matter, I would urge Minister St-Onge to meet with the organizers as soon as possible.

Senator Gold, Canada hosted five Canada Cup international hockey tournaments between 1976 and 1991. The Canada Cup, the trophy itself, has not been awarded in over three decades. I think it's time to dust off this national treasure and repurpose it as the top prize in Play On! Would the government be supportive of re-awarding the trophy to Play On!? Could you raise this possibility with Hockey Canada and Minister St-Onge?

Senator Gold: With regard to the Canada Cup, my understanding is that Canadian Heritage has already reached out to Hockey Canada regarding its use. The cup is not the property of the government, as you would know, so I would encourage Play On! to also contact Hockey Canada directly. I understand Minister Qualtrough's team has already been in contact with Mr. Hill from Play On! and has shared with him the contact information for Hockey Canada.

GLOBAL AFFAIRS

SUPPORT FOR UKRAINE

Hon. Ratna Omidvar: Senator Gold, my question to you is about Ukraine. As a Canadian, I am incredibly proud of the different ways we're providing aid to Ukraine. However, we've made promises that we have clearly not yet delivered upon. I refer to today's media reports that suggest that Ottawa has yet to deliver any of the 50 light armoured vehicles and armoured medical evacuation vehicles promised as part of the new $650-million aid package in September of this year.

Can you provide us with an update on when those important and essential military assets will be delivered?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. I am too, and I hope all senators are proud of the support Canada continues to give Ukraine as it fights a just war against an undemocratic and authoritarian regime.

Unfortunately, I don't have an update on your specific question, senator, important though it is. I can say the government remains committed to supporting Ukraine, and it's already providing Ukraine with critical military and financial support: $9 billion in military, humanitarian and financial aid; the supply of eight Leopard 2 main battle tanks and the training we continue to provide to Ukrainian military recruits both abroad and here in Canada.

RUSSIAN SANCTIONS

Hon. Ratna Omidvar: Thank you, Senator Gold, for that answer. I look forward to receiving more details.

I think we all know what the discourse to the south of us in the United States means for the war in Ukraine. Canada passed a law in 2021 in the Budget Implementation Act to seize and repurpose frozen assets of oligarchs and entities. Two such cases have been acted upon by the Government of Canada, but there is no update as to where they are in the proceedings.

Can you provide us with an update?

Hon. Marc Gold (Government Representative in the Senate): Thank you for the question. Unfortunately, I don't have an update. I can remind senators in this chamber that Canada has been very clear that they're hitting the Russian regime with crippling sanctions against over 2,600 individuals and entities. We will be continuing to work with our allies to make sure there are severe costs imposed on the Russian regime. Of course, it remains important to equip Ukraine with what it needs to fight and win this war.

IMMIGRATION, REFUGEES AND CITIZENSHIP

INTERNATIONAL STUDENTS

Hon. Jim Quinn: My question is for Senator Gold.

Senator Gold, there are two linked issues affecting our service industry that should be of concern to the government due to their impacts on our economy. On January 1, the progressive government policy that enables foreign students to attend our universities and to work 40 hours per week will be reduced to 20 hours. All students face increasing costs in areas like health care, housing, child care and groceries. There are additional pressures for international students, given their higher tuition costs, and higher tuition is important to university revenue streams. The reduction of hours has an impact on their income, households and their availability in sectors such as the restaurant industry, where finding workers is problematic.

Linked to this is the automatic inflationary increase in the excise tax affecting the spirit, wine and beer industries. This excise tax is scheduled to increase to 4.7%, which will further jeopardize the business viability in the restaurant sector.

Why won't the government consider extending the 40-hour workweek policy to support international students who contribute to our economy, including in the restaurant sector?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question, senator, and for underlining the importance of international students for our universities, for our communities and for our country. But also, thank you for underlining some of the challenges the federal and provincial governments and universities have in ensuring that we provide proper support for such students when they are here and that the systems under which they come here are transparent, fair and free from the regrettable fraudulent activity that has sometimes characterized those who serve as agents in the attraction of students.

The Government of Canada, through its various funding envelopes, works with the universities to provide funding for their research and other activities. The provinces and universities also work to manage support for the students. The government will continue to do its part in this regard.

FINANCE

ALCOHOL EXCISE TAX

Hon. Jim Quinn: Senator Gold, restaurants and drinking establishments are key sale points for the spirits, wine and beer producers across Canada. Last year, the government saw the logic in reducing the escalator excise tax from 6.7% to 2%. This year, that tax is scheduled to be 4.7%. This increase not only adds increased costs to producers, but also to restaurants, which are already dealing with inflationary pressures tied to all other cost drivers. As we all know, restaurant viability is traditionally risky, and any increase in cost could be the difference between them staying in business or being put out of business. Senator Gold, do you not agree that the cap of 2% — last year — should be maintained this year, and could you raise this matter with the Minister of Finance?

• (1440)

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. I believe that, in the past, I've answered questions of this kind, but I will simply be happy to pass on your concern to the minister when I next have the opportunity to address her.

PRIVY COUNCIL OFFICE

SENATE APPOINTMENTS

Hon. Wanda Thomas Bernard: My question is for the Government Representative in the Senate. Senator Gold, I've been closely following Senate appointments, and warmly welcome all of our new colleagues. I'm especially pleased that we now have the voice of a Mi'kmaw from Nova Scotia and an Acadian from Nova Scotia, but I'm concerned that we have not seen a single Black man appointed to the Senate since 2010. Black men in Canada are subject to harmful stereotypes, such as being aggressive, dangerous and/or untrustworthy. Research has documented this well.

I believe this negative stereotyping is impacting the appointment process. What is the government doing, Senator Gold, to make sure there is Black male representation in this chamber?

Hon. Marc Gold (Government Representative in the Senate): First of all, senator, thank you for your important question, for underlining the importance of diversity in this chamber and for your advocacy in that regard.

Applications for the Senate, which many of us submitted, are vetted by an independent advisory committee, constituted by nominees of both the province and the federal government. It is at arm's length from the government. Those nominations are vetted, and then a list of recommendations are given to the Prime Minister. I cannot comment on your belief as to what criteria may have entered into the selection, nor am I aware of how many applicants there have been who are Black men, but I am assured that this is a fair, open and equitable process, and all processes should be free of any hint of discrimination — intentional or systemic.

Senator Bernard: Senator Gold, we all know that sometimes unconscious bias happens. We also know that representation matters. My youngest grandson recently asked me if Black men could be senators. Senator Gold, will you commit to raising this matter with those involved in the appointment process?

Senator Gold: What I can commit to, senator — because I don't have a role in the appointment process — is that on those occasions when I am asked to provide a summary or an overview of what the Senate does, to those who are on those committees, I will certainly underline the importance of diversity and remind them of our shared commitment to making this chamber represent Canada in its full diversity.

FINANCE

STATE OF THE ECONOMY

Hon. Donald Neil Plett (Leader of the Opposition): Leader, in October, the Bank of Canada estimated that Canada's economy would grow by 0.8% in the third quarter of this year. Instead, Statistics Canada reported that our GDP actually fell 1.1% in the third quarter on an annualized basis. As the Bank of Montreal said last week, Canada's economy is struggling to grow, managing to keep its head just above recession waters. Our economy and our people are struggling, but we are stuck with an NDP-Liberal government dead set on inflationary debt, deficits, carbon taxes and widespread mismanagement — aren't we, leader?

Hon. Marc Gold (Government Representative in the Senate): No, we are not. It wasn't that long ago that — members in this chamber will remember — the opposition in the Senate

was predicting that inflation would go through the roof. It has come down. In predicting inflation, it has come down. It seems that when this government's management of the post-pandemic worldwide economic crisis proves to be successful, it is ignored. It's as if we live in *Groundhog Day*, and one simply recycles the old talking points, regardless of what the actual circumstances show. Life is hard for Canadians, but the economy is doing fairly well compared to the other G7 countries. It is the opinion of the government that the prudent, responsible measures that it took — in the Fall Economic Statement — are, to some large degree, responsible for us navigating these tough waters as we have.

Senator Plett: You want to talk about predictions, then let me make one, leader: Sometime in the next year, or year and a half, when this Prime Minister has the courage to call an election, Canadians will show us how tired they are of this. The Organisation for Economic Co-operation and Development, or OECD, forecasts that Canada will be the worst performing advanced economy between now and 2030, as well as from 2030 to 2060, with the lowest growth in real GDP per capita.

Senator Plett: In the United States, leader, the GDP grew by 5.2% in the third quarter while Canada's economy shrunk. These are facts, leader — not Conservative talking points. Are you going to dismiss them as a partisan attack as well?

Senator Gold: I'm not dismissing them as a partisan attack. In regard to the projections as to what the economy will look like in 2050, I gather that — if I can remind us of my law professor's quote about crystal balls and strong stomachs — you clearly have a stronger stomach for those kinds of predictions than I do.

NATIONAL DEFENCE

CANADIAN FORCES PERSONNEL AND EQUIPMENT

Hon. Yonah Martin (Deputy Leader of the Opposition): Leader, my question concerns the video released by the Royal Canadian Navy last week. In the video, Vice-Admiral Angus Topshee had this to say about the impacts that severe staff shortages are having on the navy's readiness:

> Our West Coast fleet is beset with a shortage of qualified techs constraining our ability to maintain and operate our ships, and causing us to prioritize the Halifax class at the expense of the Kingston class. Challenges in generating techs for the Harry DeWolf class mean that we can only sail one at a time right now. . . .

Leader, the Harry DeWolf-class vessels are the navy's new offshore patrol vessels. Is it disturbing or, perhaps, even embarrassing to the Trudeau government that Canada can only deploy one at a time?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. I've said on many occasions that it is fundamentally important that all branches of the Canadian Armed Forces have both the personnel and the equipment that they need to do their jobs. The investment that this government has made over the years has not, obviously, been as fulsome as some would have hoped, notwithstanding the fact that defence spending has increased under this government for many years. And it is also the case that we are struggling with retention of personnel. The government has made important investments in the area of ships for the navy, as it has in other areas of our military — it will continue to do so, and will continue to try to bridge the gap between our needs and some of our more aging inventory in that regard.

Senator Martin: The fact is that the navy has neither the adequate personnel nor the equipment. In fact, the Vice-Admiral also said in the video that the navy must find a way to keep the Halifax-class frigates running until, at least, 2040. These frigates are already at the end of their 30-year design life, and, by 2040, they will be about 50 years old. What does this poor state of readiness say about how the Trudeau government views NATO and Canada's Indo-Pacific Strategy, where these frigates are required to meet Canada's commitments?

Senator Gold: Canada is doing what it can within responsible fiscal parameters to continue to support our military. As I've said on other occasions — as Hansard will show — the government's investments in defence, as a percentage of GDP, are greater than those of the previous government.

This is not an excuse, and it is not to shirk responsibility, but to acknowledge that the government is doing what it can in a fiscally responsible way — and it will continue to do what it can — to support our military.

• (1450)

GLOBAL AFFAIRS

CONFLICT IN SUDAN

Hon. Mary Coyle: Senator Gold, as a result of the recent months of conflict in Sudan, the situation is beyond dire. Thousands of people have been killed, 5.1 million people internally displaced, 1.4 million living in neighbouring countries, widespread hunger, 19 million children out of school, accusations of ethnic cleansing, widespread sexual violence and other serious human rights violations.

Senator Gold, with the world's focus on the Israeli-Hamas war and the war in Ukraine, Canada and other Western nations are being accused of ignoring the situation in Sudan, or at least not doing enough to help resolve the crisis.

Senator Gold, could you tell us what Canada is doing to both respond to the humanitarian crisis and also help resolve the conflict in Sudan?

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question and for underlining, as we need to be reminded, that it is not only the conflicts that have attracted the top-fold headlines — for those of us who still read newspapers — there are humanitarian crises and vicious conflicts going on throughout the world. Sudan is clearly one of them, and is somewhat long-standing.

Canada and its allies are seized with providing and are continuing to provide humanitarian assistance in Sudan and funding for emergency food, nutrition assistance, clean water,

hygiene, sanitation, health and protection services. The resolution of this conflict is beyond the ability of Canada or any one country to resolve. Canada will work with its allies in the hope that the conflict will come to an end and the citizens of Sudan can be spared any further hardship.

Senator Coyle: Senator Gold, at a recent Foreign Affairs Committee meeting, we heard from University of Ottawa Professor Awad Ibrahim, who said Canada could and should be playing an important role in Sudan. He said that Canada should be at the peace negotiation table in Jeddah.

Senator Gold, what efforts have Canada made to be a part of those peace negotiations? How are we working with like-minded countries to resolve this conflict?

Senator Gold: My understanding is that Canada is, in fact, working with like-minded members of the international community and regional partners to support a peaceful resolution to this conflict.

Canada has called for and will continue to call for the resumption of dialogue toward the formation of a civilian-led transitional government, and will continue to urge all parties to respect relevant ceasefires and engage in mediation efforts toward resolving the dispute.

FINANCE

CLIMATE ACTION INCENTIVE PAYMENT

Hon. Frances Lankin: My question is for Senator Gold, and it's a follow-up to Senator Plett's question. Having worked for years on anti-poverty measures, I'm deeply touched by the state and concern of the children that he raises, as I'm sure everyone in this chamber is.

I have a real problem believing that that is as a result of the carbon tax, though. I recently read a report — a new economic analysis — that suggests if the carbon tax is eliminated and the rebates are, therefore, eliminated, that, in fact, it will benefit the wealthiest in this country and not the poor families we're talking about. I suggest our children, in their asks to Santa and to their parents and grandparents, also don't want storms, wildfires and an environment that they won't be able to bring up their children in.

Can you comment on the assertion in this new economic analysis that the removal of the rebates as a result of the removal of the carbon tax will, in fact, benefit the wealthy and hurt these families that —

Hon. Marc Gold (Government Representative in the Senate): Thank you for your question. Colleagues know that our honourable colleague served with great distinction as chair of United Way in Toronto. I served with great pleasure on the executive of the equivalent, Centraide du Grand Montréal. It's not about me and it's not about Senator Lankin. It's about the kids and it's about your question.

That sounds very plausible to me, so I don't want to presume as a non-economist comment, but I do know that the analysis and research show that the actual additional cost of carbon tax on food, though there, is rather modest.

It is also the case that — and the government has publicly provided this — in fact, the rebates are to the grave benefit of those least favoured in society. The analysis sounds plausible to me, for sure. Thank you for the question.

ORDERS OF THE DAY

BILL TO AMEND CERTAIN ACTS AND TO MAKE CERTAIN CONSEQUENTIAL AMENDMENTS (FIREARMS)

THIRD READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Yussuff, seconded by the Honourable Senator Duncan, for the third reading of Bill C-21, An Act to amend certain Acts and to make certain consequential amendments (firearms).

Hon. Hassan Yussuff: Yesterday, due to the adjournment, I was stopped in the middle of my speech so, to remind colleagues, I was talking about guns.

I think most Canadians in this country would agree that guns that belong on the battlefield should not be in the hands of Canadians. There is an effort of the government to ensure that, in this bill, those guns will be addressed. This will provide clarity for owners and manufacturers, and prevent entry into the Canadian market of new models of these particularly dangerous firearms once Bill C-21 comes into force.

In addition to legislative measures, regulatory changes will require a Firearms Reference Table record for all firearms, not just prohibited and restricted firearms, before entering the market in Canada. That would help to ensure that no firearm enters the Canadian market unaccounted for or incorrectly classified.

I'd also like to point out that, as we address the decades-old issue of firearms classification, the government has committed to re-establishing the Canadian Firearms Advisory Committee to independently review the classification of existing firearms. As the government completes the measures against assault-style firearms, it is working to strengthen the regulation on large capacity magazines. That will require long gun magazines be permanently altered so they can never hold more than five rounds. The regulation will ban the sale or transfer of magazines capable of holding more than the legal number of bullets.

Colleagues, these are some of the main measures of Bill C-21. I want to emphasis the measures in this bill are not to be viewed as the government's sole strategy to combat gun violence in the country.

I would like to now speak to some of the other measures the government has and will undertake to combat firearms violence. I think it's important to appreciate that this is just one element of an overall larger strategy to address gun violence.

Since 2016, the government has invested more than $1.3 billion in measures to address gun violence and keep guns out of the hands of gangs and criminals in our country. The government is supporting the development of new gun and gang violence prevention and intervention initiatives, which we have seen rolling out across the country over the past few years.

In fact, the government has committed $250 million to support the efforts of municipalities and Indigenous communities to build and deliver anti-gang programming. This is funding that builds on the almost $330 million provided to the provinces and territories under the 2018 Initiative to Take Action Against Gun and Gang Violence to combat gun and gang crimes.

I would also add that the government announced an extension and expansion of the program with $390 million over five years through the Gun and Gang Violence Action Fund. That funding goes to the provinces and territories for a variety of initiatives, including support for law enforcement and prevention programs.

In addition to providing funding to address the root causes of crime, the government knows that the cross-border smuggling of firearms also poses a threat to the safety and security of Canadians. Through Budget 2021, the government invested $656.1 million over five years for the Canada Border Services Agency to modernize our borders, including enhancing our ability to detect contraband and help protect the integrity of our border infrastructure. All of this is in addition to legislation.

• (1500)

Honourable senators, I would now like to take a few moments to discuss some of the issues raised in our committee's study of the bill.

Our committee held nine meetings over the past two months, hearing from 66 witnesses, including the minister and his officials, Indigenous organizations and governments, academics, researchers, selected firearms officers, representatives from gun rights and gun-control advocacy groups and law enforcement agencies.

I think it is fair to say that, by and large, the gun groups do not support the legislation, while gun-control groups and many law enforcement agencies do.

I, like many witnesses who support this bill, know it is not a panacea and that there are many aspects of combatting and effectively reducing gun violence in the country. However, all the advocates for gun control agreed that this bill is an important part of reducing gun violence, and all supported the passage of the bill without amendments.

As Wendy Cukier, a co-founder of the Coalition for Gun Control, has said:

> No law is ever perfect but Bill C-21 is a game changer for Canada and should be implemented as soon as possible. The law responds to most of the recommendations of the Mass Casualty Commission and demands of the Coalition for Gun Control (CGC), which, with more than 200 supporting organizations, has fought for stronger firearm laws for more than thirty years.

We have heard from Emma Cunliffe, former Director of Research and Policy at the Mass Casualty Commission, who said that Bill C-21 had many of the recommendations made by the Mass Casualty Commission's report. We also heard from women's groups who spoke to the importance of the "red flag" and "yellow flag" provisions to protect women and help address the epidemic we face in intimate partner violence in this country.

The National Association of Women and the Law was clear on the legislation. They said:

> We support Bill C-21 and recommend its quick adoption. While weaker in its original form, the bill now contains stronger measures to protect women who are victims of family and intimate partner violence. . . .

We also heard from law enforcement representatives, including Fiona Wilson, Deputy Chief Constable at the Vancouver Police Department. Deputy Chief Constable Wilson said generally of the bill:

> I think the bill strikes a good balance between respecting the rights of lawful gun owners and also giving police more tools to address violence associated with guns in this country.

More specifically on the "ghost gun" provisions, she said:

> As I mentioned, there is a lot in this bill that is important with respect to ghost guns. Of course, we're never going to be able to completely eliminate the ability of people to create privately manufactured firearms, but I think the provisions in this bill will go a long way to assist police with investigation avenues and tools that we can use to try and investigate these types of situations, and hold offenders accountable when we do come across them, either manufacturing ghost guns or in possession of them.

Senators, we heard some legitimate concerns about the bill in our study, and I want to address three of them, specifically, the issue of chief firearms officers in the North, firearms instructors for the Canadian Restricted Firearm Safety Course and Indigenous consultations.

Colleagues, several representatives from the North raised the issue that the chief firearms officers responsible for the North are not located in the North. The northern territories are the only jurisdiction where this is the case. Ensuring the chief firearms officers who have responsibility for the northern territories have a genuine understanding and appreciation of the North's uniqueness by having them located in the North is not only a

legitimate concern but also a minimum requirement of these officials. I don't think anyone would disagree with this, because it is an important issue of fairness, equity and respect.

Natan Obed, President of Inuit Tapiriit Kanatami, during a November 6, 2023, appearance before our committee, explained it best when he said:

> The distance is more than geographical; it is also cultural and practical. We must ask whether such officials can adequately assess and understand the unique circumstances and necessities of Inuit hunters. . . .

I was very pleased to have Minister LeBlanc address this issue head-on in his letter to the committee. As I mentioned earlier, we received it two days ago. The minister stated the following in his letter:

> Chief Firearms Officers (CFO) and their teams have an important role to play in the safe and lawful use of firearms in each province and territory.
>
> In that regard, I have heard the views expressed by Honourable Senators, as well as by witnesses, regarding the presence of CFOs in the territories, and the importance of place-based knowledge.
>
> I am committed to addressing this issue and will work with the Premier of each of the territories to do so.

The minister shared with us his letter to one of the premiers, which stated:

> Pending the outcome of appropriate consultation with your government, I would like to appoint a resident CFO in your territory. I would value the opportunity to understand your views to ensure the unique circumstances and needs of the Northwest Territories and its communities are met.

I believe, colleagues, the minister is committed, in good faith, to agree with the wishes of the North when it comes to the issue of chief firearms officers for the North that was raised in our study.

Another issue raised was the concern related to the effect the handgun freeze will have on firearms instructors who provide the Canadian Restricted Firearm Safety Course. It is a legitimate concern because we will need a reliable number of instructors in the future to put on these courses, whether that is to ensure sports shooters who want to participate in the Olympics or in the Paralympics handgun shooting events have the ability to get their restricted licence or to ensure individuals who want to become guards in the armoured car industry, or even CBSA guards, have the same ability.

The minister also addressed this concern in his letter to the committee by stating:

> I have heard your concerns regarding firearms instructors, and ensuring that they are able to access the firearms they need to safely deliver training. As the operational model of firearms instructors vary across the country, I have tasked officials to work with relevant organizations to explore options to support the delivery of this important service. Firearm instructors are vital to keeping firearm owners and communities in Canada safe.

Finally, frustrations were expressed by a number of stakeholders, in particular Indigenous organizations and governments, with the lack of meaningful consultation when Bill C-21 was being developed, in particular, concerning the new technical definition of "prohibited firearm" related to assault-style weapons.

I want to remind colleagues that a new definition was not included in the original bill, and it was only added in clause-by-clause consideration at committee in the other place.

I believe strongly that the government has a duty to consult Indigenous people if the legislation will affect them. That is why the government included a non-derogation clause as an amendment to the bill in the other place.

The minister's letter of two days ago also addressed this concern regarding the need for meaningful consultation in the creation of regulations for this bill. He stated:

> While Bill C-21 will not abrogate or derogate from the rights of Indigenous Peoples as affirmed in the Constitution, the Government of Canada must meaningfully consult with Indigenous Peoples.
>
> Should proposed regulations have the potential to adversely impact potential or established treaty rights, the Government of Canada must satisfy its duty to consult, and where appropriate, accommodate those rights.
>
> Public Safety Canada will work collaboratively with the Indigenous partners throughout the development, management and review of regulations.

Honourable senators, in conclusion, this bill is supported by gun-control groups, women's organizations and victims' rights groups unequivocally. It is also supported by a large number of law enforcement agencies across the country, and it reflects, I think, many of the recommendations of the report of the Mass Casualty Commission.

• (1510)

I believe the freeze on handgun sales and transfer and a ban on military-style semi-automatic firearms are what the majority of Canadians want in this country. This has been reflected in many opinion polls over the years, including a recent poll commissioned by our colleague Senator Dasko that found high support for key measures of this bill. The poll found that 85% of Canadians support or somewhat support prohibiting new assault-style firearms from entering the Canadian market. On the controversial issue of handguns, 73% of Canadians support or somewhat support the freezing of the sale, purchase, transport and importation of handguns.

Colleagues, the safety of our communities must be paramount, and any plan to combat gun violence must be comprehensive and well-considered. This is not about taking firearms away from

responsible owners, hunters or sport shooters. This is about taking a common-sense, responsible approach to tackling violent crime and preventing senseless, tragic deaths.

As I said at the start of my remarks, I view this bill through the lens of balancing the rights and safety of Canadians with the privilege of owning a gun to hunt, sport-shoot or collect. I believe — as did many of the witnesses who appeared, including the Deputy Chief Constable Wilson — that the bill does indeed strike a proper balance.

Senators, the tragic event 34 years ago started this country on a journey to ban assault-style weapons in our country and in our society. The bill before you is in part both honouring the memory of those 14 women and fighting for the legacy to complete that journey. It is also about fighting for a future that does not have to experience this tragedy ever again.

Catherine Bergeron, the sister of Geneviève Bergeron who died in the mass shooting, spoke to this last night at a tribute to victims of the Montreal massacre when she said the following:

> It was a cold December night, a bit like tonight. And in the dusk of early winter, they left us. They left without wanting to. . . . And they left us a legacy that can be summed up in two words: Never again. Their loss can't be in vain.

Senators, although those women died very tragically, we have it in our power to give them meaning by passing this bill. I urge you to support the bill before you without amendment and make that possible.

Thank you so much.

Hon. Marty Deacon: Thank you for your breadth and depth in speaking today and for speaking from your heart to a bill that has not been easy.

I do have a question. I was happy to hear that the minister has managed and mitigated the Chief Firearms Office, or CFO, issue. We sat in committee, and we heard about that repeatedly, so I was happy to hear that. It did make me think about something else today, though. You mentioned in your speech that this is part of the solution. This bill is part of the solution. There are other pieces at play and other things we need to continue to work on as Canadians.

My question is this: Do you feel confident with this bill and the types of things that have been committed to being done with regulations and work once this bill is passed? Do you feel confident that those commitments and promises to really refine the work of the bill will happen in the way that we need?

Senator Yussuff: Thank you for the question. Like all pieces of legislation, this is only one part. I think this legislation will bring forward new challenges not only for the government in regard to its implementation but also for our law enforcement officers who are on the front line in the provinces and territories and who will work in a collaborative way to ensure the intent and outcome of the legislation will actually change the direction we are seeing in this country in terms of gun violence.

There are many things we will have to do, but it's equally important that the government, as it consults on the regulations, hears some of the issues that were raised in committee and address them in a proper way to give some meaningful understanding that some of the things can be mitigated so we don't see the impact of unintended consequences.

I'll start with one of the issues that came up in committee: Olympic and Paralympic sports. People who need to have guns to participate in those events are not impacted in any way that will reduce the number of people who want to get involved in the sports and ultimately compete for our country at the international level one day. The minister has given some assurance that they will solve that, but I do believe, of course, that we will have to continue to engage the government on that. I know there are many folks who will.

Equally, I do believe the intent of this bill is to try to tackle many challenges we face with gun violence. We know that far too many illegal guns are coming into this country, and the government must work with law enforcement officers on the front line to figure out how we can interdict those guns — they are giving more money to the Canada Border Services Agency, or CBSA, to do that — but also tackle the challenges with some of our youth who may get attracted to the idea of getting into gun violence in their communities. How do we deter them from doing that? The government has to continue to invest more money in our communities across the country, working with municipalities, Indigenous organizations, provinces and territories, so we can at least meet the broader objective that we don't see young kids getting into gun violence, as well as — equally — ensuring they don't get their hands on guns in the first place. That kind of thing will continue the carnage we're seeing across the country, as we are seeing in our neighbours to the south.

Senator M. Deacon: Thank you.

Hon. Mohamed-Iqbal Ravalia: Senator Yussuff, there's a significant concern being expressed, given that we have advances in digital technology, of guns being printed by 3-D measures and other such options, particularly in the underworld. To what extent has your bill studied that concern?

Senator Yussuff: Thank you, senator, for your question. Those of us who were participating in the study on the committee had the good fortune to go to the RCMP gun vault for a visit. We saw first-hand how this technology is evolving and changing the manufacturing of "ghost guns" that are doing significant harm and — certainly according to law enforcement — are being used more frequently in crimes. They are hard to detect, they are easy to manufacture and the technology proliferation is becoming much easier to access. The cost of the technology is equally dropping in a tremendous way.

The bill does address this head on in regard to making it illegal for people to import the parts that will end up in these guns and, more importantly, giving the police on the front lines more tools to interdict that technology and help them address this concern.

As you know, as this bill was introduced in the other place in the last year, we saw an exposé at many coverages on the news on how this technology is changing criminals' access to guns in that they are no longer required to get a licence to go and get these guns. You can simply get them manufactured and, of course, get them on the market.

I think the bill addresses this head on by putting restrictions on the importation of that technology and on downloading that technology and using it, but equally giving the police and law enforcement officers tools to charge and hold those accountable who might be involved in those kinds of trafficking of ghost guns so we can ensure this doesn't become a bigger problem for the country as we go forward.

As you know, no measure in any piece of legislation will stop criminals from doing bad things. However, we must do as much as we can to ensure law enforcement officers have all the tools necessary so they can do their job better and address the concerns Canadians have that this technology is now broadly available. We need to make sure that if you know about it, you bring it to the attention of law enforcement officers so they can interdict this technology and get it out of the hands of the criminals in our country.

• (1520)

Hon. Marilou McPhedran: Would the honourable senator take a question?

Senator Yussuff: With honour.

Senator McPhedran: Senator Yussuff, Dr. Pamela Palmater, the Mi'kmaw legal scholar and lawyer, presented to the committee and indicated her support for this bill. She also noted that the bill should provide a way to craft regulations that acknowledge, respect and integrate inherent and treaty rights for Indigenous peoples in this country, and that there should be a process that allows full and equal participation by nations of First Nations, Inuit and Métis peoples. Does the bill do this? Will the bill do this?

Senator Yussuff: Thank you very kindly for the question. This issue was, of course, addressed during the committee hearing. She spoke to us directly. As you know, and as I said earlier in my remarks, when this bill first started out in the other place, it did not include section 35 of the Constitution Act in terms of protecting Indigenous peoples' firm rights in the Constitution. A subsequent amendment was made in the other place before the bill arrived in the Senate. It's now confirmed in the bill, and it's a fundamental part of it.

More importantly, the minister took the time to write to us that in the context of developing regulations, he will ensure that his officials will properly consult with any First Nations on any part of the regulations that will impact them. If it will impact them, they need to be consulted. Section 35 calls for that. The government is confirming they intend to do that once they start developing regulations regarding Bill C-21.

Hon. Ratna Omidvar: Will the honourable senator take a question?

Senator Yussuff: Yes.

Senator Omidvar: Thank you, Senator Yussuff, for your work on this bill. It's an important bill, and there are a lot of details in it. I'm sure I missed one part of your speech when you talked about the re-establishment of the Canadian Firearms Advisory Committee, which will independently review classification of firearms.

In case I missed it and you can help me, what is the timeline for the re-establishment of this committee? Who will sit on this committee?

Senator Yussuff: Thank you for your questions. The government confirmed they will re-establish the committee once the bill receives Royal Assent.

The committee should include a variety of people who have knowledge, including CFOs from across the country who are on the front lines giving guidance to the enforcement of our gun legislation. Those who deal with some of the challenges we face in regard to enforcement issues should be on the committee. First Nation representatives should be on the committee. Gun advocates should be on the committee because they have concerns and should also inform the committee on this work. I also think advocates for gun control should be on the committee. There should be a balance that represents the country. That is my hope for and understanding of who will sit on the committee.

The final word rests with the minister and the government in regard to the appointment of those people. We have been assured that as soon as the bill is given Royal Assent, the government will move to establish such a committee to ensure that work can begin as soon as possible.

Hon. Karen Sorensen: Senator Yussuff, an observation was endorsed during committee with respect to family heirloom handguns and their transfer. It seemed that the committee understood that Bill C-21 would create additional rules in relation to those handguns and, with some exceptions, new registration certificates for handguns would not be issued. This will make it very difficult to hand those heirlooms down to family members.

I see the observation. Could you expand on what the observation encourages the government to do?

I was brought up in a home where my father had one of the finest antique gun collections in all of Canada. He had nothing from post-World War I. Some of his friends have contacted me asking what we will do about these heirlooms and their extensive value.

Senator Yussuff: Thank you kindly for the question. That observation did come from me.

Senator Sorensen: My dad thanks you.

Senator Yussuff: I was reflecting on some of the evidence, trying to understand what was said in the other place, and I was talking with some of the CFOs who are on the front lines dealing with some of these issues.

From my perspective, the government needs to find a way. I will describe it this way: I am a sort of car buff. It goes with my tradition. If I had a 1952 Chevy and chose to leave it to my daughter, she may never drive it, but she may want to own it because her dad had it as a possession. It's fair and reasonable, even though the law may change on pollution, for her to make that decision.

The same respect and courtesy should be given to families who have heirlooms in a historical context and wish to leave them to their families. This must be addressed in a real way. The government needs to deal with that. It was not properly addressed in the bill, but I do believe it's something on which the government should take recommendations.

The Hon. the Speaker: Sorry, Senator Yussuff, but the time for debate has expired.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: Honourable colleagues, today I'm speaking to Bill C-21, An Act to amend certain Acts and to make certain consequential amendments (firearms). In my remarks, I will address one of the most obvious things that's missing from the current version of Bill C-21, something that's at the root of all the problems with this bill. This flaw is due to the fact that the government held almost no consultations while drafting this bill.

Why does that matter? For one thing, it matters because the government said it consulted pretty much everyone before drafting the bill. The minister said that these so-called consultation sessions were more like what I would call information sessions. For another, it matters because, knowing that there was zero consultation while Bill C-21 was being drafted, it's fair to assume there will be zero consultation during the future regulatory process. I think we need to solve that problem with the bill before us.

I'd like to start with a reminder about what the government actually said on the subject of Bill C-21 consultations. As Senator Plett and others reminded us, when the minister appeared before the Standing Senate Committee on National Security, Defence and Veterans Affairs on October 23, he said, quote:

> We engaged with First Nations, Inuit and Métis organizations, rural and northern communities, victims' groups, and with the firearms community and sportspersons and sports shooters across Canada to hear their perspectives and to ensure that we respect their traditions and way of life. These consultations have informed our path forward.

Colleagues, that's exactly what the minister said during his testimony. However, when the senators on our National Security Committee started asking the witnesses whether they had been consulted when Bill C-21 was being developed — and I mean a true consultation, not an information session — here's what they said.

Dr. Teri Bryant, Alberta's Chief Firearms Officer, said, "No consultation whatsoever."

Robert Freberg said, "It was zero."

On November 6, Terry Teegee, Regional Chief of the British Columbia Assembly of First Nations, said, "Minimal or none at best."

Will David, Director of Legal Affairs at Inuit Tapiriit Kanatami, said:

> Put simply, there was none. The minister had reached out and offered, and we had reached out and requested, but that consultation never occurred. We're still waiting.

• (1530)

Paul Irngaut, Vice President of Nunavut Tunngavik Inc., had this to say, and I quote:

> We understand that Inuit Tapiriit Kanatami, the national Inuit organization commonly known as ITK, had received a briefing of the most recent version of the bill shortly before it was tabled in May. However, neither ITK nor NTI has been fully consulted on the language and impacts of the bill.

Jessica Lazare, Chief of the Mohawk Council of Kahnawà:ke, said this:

> We only had one meeting and that wasn't necessarily an adequate consultation, so I wouldn't consider it consultation whatsoever.

Sandra Honour, Chair of the Board of Directors of the Shooting Federation of Canada, said:

> The Shooting Federation of Canada was not asked to participate in the committee that discussed Bill C-21, nor did we have letters answered to us after we wrote to the minister several times to request.

When we asked Marcell Wilson, Founder and President of the Toronto One By One Movement, whether anyone in his community had been consulted on the bill, he said, "I would have to say no, not one."

Gilbert White, Chairperson of the Saskatchewan Wildlife Federation Recreational Firearm Community, said, "The Saskatchewan Wildlife Federation was not consulted."

When asked if his organization had been consulted, Doug Chiasson, Executive Director of the Fur Institute of Canada, said, "No, we were not."

Edward Lennard Busch, Executive Director of the First Nations Chiefs of Police Association, said the following:

> We had some conversation with the previous minister, Minister Mendicino, as well. I wouldn't describe it as a deep consultation.

Didier Deramond, Director General of the Association des directeurs de police du Québec, said this:

> We had a discussion with the minister's office and the minister, but it was more of a presentation than a consultation.

Witness after witness said the same thing. They were informed, but they were not consulted.

Honourable colleagues, given this mountain of testimony, how is it possible for a minister of the Crown to come before the committee and make the following claim:

> We engaged with First Nations, Inuit and Métis organizations, rural and northern communities, victims' groups, and with the firearms community and sportspersons and sports shooters across Canada to hear their perspectives and to ensure that we respect their traditions and way of life. These consultations have informed our path forward.

In terms of consultations, we've seen better.

Esteemed colleagues, I venture to ask, does the truth no longer have any meaning for this government? Has the roller-coaster ride this bill has been on left the government so confused that it thinks the words "consultation" and "information" are now synonyms? I encourage the government to buy a good dictionary with clear definitions of both words. Then it will see that no meaningful consultation on this bill has taken place.

The failure to consult with Indigenous organizations and communities is especially egregious considering the government's crystal clear commitment to the United Nations Declaration on the Rights of Indigenous Peoples, which provides for comprehensive consultations with Indigenous peoples on any matter that concerns them.

What does this track record of consultation, or more accurately, of information sessions, mean?

It means that we have a very serious problem with the implementation of this bill, and we need to fix it. The minister clearly said, when he appeared before our committee, that he intends to proceed through regulations from here on out.

The process of drafting regulations is generally even more closed than the process of drafting a bill. I speak from experience, since I worked in the senior ranks of the public service in Quebec for 34 years. After a bill passed, it would be given to the minister. Then it was the civil servants who adopted the regulations, often without consulting the people involved. A number of witnesses who appeared before the committee expressed serious concerns about the fact that they will continue to be ignored in the regulatory process that is under way, just as they were when the bill was drafted.

When Terry Teegee, Regional Chief of the British Columbia Assembly of First Nations, appeared before the Senate committee on November 6, he expressed his concern about the significant regulatory leeway provided by Bill C-21. He asked our committee to amend the bill to create an oversight mechanism that would ensure consultations are held to prevent any infringement on First Nations' hunting and subsistence rights. Colleagues, as we saw, the unique circumstances of Indigenous peoples is a major concern for the Inuit witnesses who appeared before the Senate committee. All the witnesses expressed serious concerns about the current regulatory process.

My amendment proposes to address this issue as effectively and as positively as possible. It makes it mandatory for the government to hold consultations on any regulations that may affect one or more Indigenous groups', communities' or peoples' rights recognized and affirmed by section 35 of the Constitution Act, 1982. My amendment also requires the government to take into account the unique circumstances and needs of those Indigenous groups, communities and peoples and to prepare a report describing the consultations undertaken.

All my amendment does is make the government do what it already committed to doing under the United Nations Declaration on the Rights of Indigenous Peoples. This is a small but necessary measure. I am therefore asking you to at least send the government a very clear message by adopting this amendment.

In closing, honourable senators, I thank you in advance for supporting this amendment on which we will soon be voting. I would ask you to give a voice to the Indigenous groups, communities and peoples who testified that they were not consulted on Bill C-21.

MOTION IN AMENDMENT NEGATIVED

Hon. Pierre-Hugues Boisvenu: Therefore, honourable senators, in amendment, I move:

> That Bill C-21 be not now read a third time, but that it be amended on page 51 by adding the following after line 28:
>
> **45.1 The Act is amended by adding the following after section 118:**
>
> **118.1 (1)** If a proposed regulation may affect one or more Indigenous groups', communities' or peoples' rights recognized and affirmed by section 35 of the *Constitution Act, 1982*, the federal Minister must, before the proposed regulation is laid before each House of Parliament under subsection 118(1), consult with a variety of Indigenous governing bodies and a variety of Indigenous organizations in order to take into account the unique circumstances and needs of those Indigenous groups, communities and peoples.
>
> **(2)** If subsection (1) applies, the federal Minister must include with the proposed regulation laid before each House of Parliament pursuant to subsection 118(1) a report describing the consultations undertaken.
>
> **(3)** The following definitions apply in this section.
>
> ***Indigenous governing body*** means a council, government or other entity that is authorized to act on behalf of an Indigenous group, community or people that holds rights recognized and affirmed by section 35 of the *Constitution Act, 1982*. (*corps dirigeant autochtone*)
>
> ***Indigenous organization*** means an Indigenous entity that represents the interests of an Indigenous group and its members. (*organisme autochtone*)".

Thank you.

The Hon. the Speaker: In amendment, it was moved by the Honourable Senator Boisvenu, seconded by the Honourable Senator Seidman:

That Bill C-21 be not now read a third time, but that it be amended on page 51 by adding the following after line 28:

45.1 The Act is amended by adding the following after section 118:

118.1 (1) If a proposed regulation may affect one or more Indigenous groups', communities' or peoples' rights recognized and affirmed by section 35 of the *Constitution Act, 1982*, the federal Minister must, before the proposed regulation is laid before each House of Parliament under subsection 118(1), consult with a variety of Indigenous governing bodies and a variety of Indigenous organizations in order to take into account the unique circumstances and needs of those Indigenous groups, communities and peoples.

(2) If subsection (1) applies, the federal Minister must include with the proposed regulation laid before each House of Parliament pursuant to subsection 118(1) a report describing the consultations undertaken.

(3) The following definitions apply in this section.

Indigenous governing body means a council, government or other entity that is authorized to act on behalf of an Indigenous group, community or people that holds rights recognized and affirmed by section 35 of the *Constitution Act, 1982*. (*corps dirigeant autochtone*)

Indigenous organization means an Indigenous entity that represents the interests of an Indigenous group and its members. (*organisme autochtone*)".

• (1540)

[*English*]

Hon. Hassan Yussuff: Honourable senators, let me first thank my colleague and friend Senator Boisvenu for his intervention and his work on the committee in regard to Bill C-21.

You wouldn't be surprised, colleagues, that I would ask you not to accept the amendment.

I like Indigenous people enormously. I'm glad to see my friends have new-found respect for Indigenous people.

The reality is that this amendment was tabled at the committee and it rejected the amendment, but I want to speak specifically in regard to the amendment. I think I included this in my speech earlier, but I will restate it for colleagues before we have an opportunity to vote on the amendment:

> While Bill C-21 will not abrogate or derogate from the rights of Indigenous Peoples as affirmed in the Constitution, the Government of Canada must meaningfully consult with Indigenous Peoples.
>
> Should proposed regulations have the potential to adversely impact potential or established treaty rights, the Government of Canada must satisfy its duty to consult, and where appropriate, accommodate those rights.
>
> Public Safety Canada will work collaboratively with Indigenous partners throughout the development, management and review of regulations.

This is the assurance we have from the minister.

Section 35 is enshrined in the bill to give it meaning and ensure that if the government doesn't do its job, somebody can go before the courts and take the government to task. The government recognized the importance of consulting, but it has also recognized the fact that Indigenous people have certain rights in this country that we must oblige ourselves to respect in that regard.

Colleagues, I can go on at length, but I spoke, I think, very well. We did, of course, convey this, as a committee, in the observation in regard to the bill, and the minister wrote to us to address this exact issue in the context of consultation going forward in regard to any regulation that might adversely impact Aboriginal people with respect to the implementation of this bill.

As we know, regulations within the Crown are always something that they do. They have an obligation to publish those regulations, get comments and respond to them, but I think section 35 obligated them to go even further than that, and that's enshrined in the bill.

Honourable colleagues, I would ask you to reject the amendment because it was dismissed at committee.

Thank you, and let's recognize what has also been enshrined in the legislation under Bill C-21.

Hon. Donald Neil Plett (Leader of the Opposition): Just one very short question, Senator Yussuff, if you would. One of your reasons for our not doing this here is that it was defeated at committee. That's probably a reasonable argument.

How do you feel about Bill C-234, where we defeated amendments at committee and then you voted for them in this chamber?

Senator Yussuff: If I may say in response, Senator Plett, I would prefer to talk about Bill C-21, which is before us right now.

Senator Plett: You're not answering my question.

Senator Yussuff: If you want me to speak about Bill C-21, I'll be happy to.

Senator Plett: You're not —

Senator Yussuff: I do believe my friend had every right to table the amendment that's before us, and I gave a response as to why we should reject the amendment. I'm not suggesting he didn't have the right to table the amendment, so let's be very clear. He had the right to table the amendment. I accept that, and

so does this Senate. But I believe equally the issue that he's raising in regard to the amendment is adequately addressed in the legislation in Bill C-21.

Hon. Dennis Glen Patterson: Thank you for your sponsorship of this bill, senator.

You said that the minister will work collaboratively with Indigenous groups in the development of regulations. That is necessary. My question is simple. The witnesses were very clear that they have unique circumstances and needs that should be addressed, so if the minister will work collaboratively with Indigenous organizations in the development of regulations, why would you oppose an amendment that is proposing they do precisely that? What's wrong with an amendment that reinforces the commitment you've already said the minister will undertake in speaking to the bill?

Senator Yussuff: Thank you for the question.

As I said, section 35 is enshrined in the legislation. It obligates the government to do so. The minister simply reinforces what's already in the bill, which is that they have an obligation and a legal responsibility to consult with Aboriginal people in regard to the development of regulations that may impact them, adversely or otherwise. He's just reinforcing what's already in the legislation.

I think the amendments before us are redundant and unnecessary.

The Hon. the Speaker: Senator Yussuff, your time for debate has expired.

Senator Plett: Point of order.

The Hon. the Speaker: Yes, Senator Plett?

Senator Plett: Senator Yussuff wasn't on debate. Senator Yussuff was answering a question on the amendment. I don't think he had 15 minutes on the amendment. If that's what he had, Madam Chair, I'm sorry and I'll stand down on it, but I think there may be some confusion there.

The Hon. the Speaker: Senator Plett, let me check with the table officers because my clock here was not working. Yes, I'm sorry, a correction — he still has 10 minutes.

• (1550)

Senator Patterson, I believe you had a supplementary question.

Senator D. Patterson: Thank you, Your Honour.

Senator Yussuff, you have told us, basically, "Trust the government." They have an obligation to consult because of the reference to section 35 in the bill, so don't worry. It's going to happen. The minister said it was going to happen. We have also heard clear evidence that there was no consultation with the Inuit in the development of the bill.

Why should we trust the minister to consult on the development of regulations when there was no consultation on the all-important development of a bill that profoundly affects Inuit as hunters, as people who have to survive on the land and as people who have to defend themselves from predators such as polar bears that have killed Inuit in my region? Why should we trust the minister to consult on regulations when there was no consultation on a bill before the chamber today which profoundly affects Inuit?

Senator Yussuff: Thank you for the supplementary question.

I'm not asking you to trust the minister. The legislation basically enshrines the rights of First Nations people to be consulted under section 35. That is fundamentally what's in the legislation. Should the minister or the government not follow that direction, any organization can take a minister to court for not meeting his obligation under section 35 of the legislation. It is clear and simple. If section 35 was not enshrined in this bill, we would have every reason to fear the government would not respect that section of the Constitution, but it's enshrined in the bill.

When the bill was first developed, section 35 was not part of the bill. The government recognized it was flawed and subsequently amended the bill to include section 35. They were assuring themselves, but, more importantly, this is what the Constitution is about.

Do we have to write it over? It's now written in to give clarity and certainty. Does that mean a government may not violate that at some point? It's quite possible, but at least there is a legal remedy should the government choose not to do so at the end of the day. That's what a court of law is for.

There are many laws we pass in this place. Are we always assured that the government will follow the law as is stated based on the adoption we make in this chamber? We have a remedy if that doesn't happen. That's what section 35 speaks to.

I'm glad that when the bill was discussed in the other place, section 35 was added to the bill to make certain that First Nations' rights will be protected in the context of this legislation becoming law in this country.

[*Translation*]

Senator Boisvenu: Would Senator Yussuff take a question?

[*English*]

Senator Yussuff: Yes. Thank you.

[*Translation*]

Senator Boisvenu: Senator Yussuff, I have tremendous respect for you, and I consider you a friend. This government's record on respecting laws is very worrisome. Consider the Canadian Victims Bill of Rights. At least 10 times over the past eight years, the government has failed to respect the rights of victims of crime.

Section 45 of the Canadian Constitution requires the government to consult Indigenous peoples. Indigenous peoples told us they were not consulted. The government even

disrespected the Canadian Charter of Rights and Freedoms. It says it wants to apply the Charter of the United Nations to Indigenous peoples, but it has not done so.

Do you really think that, just because this is in the bill, the government will respect it? Let me ask you this question: What planet are you living on?

[*English*]

Senator Yussuff: I thank my colleague for the question.

I live on the same planet he lives on, but I don't live in a perfect world, nor does he.

Can the government do better? Can the government ensure it is going to meet its legal responsibility as stated in the Constitution? I believe so. I would like to believe that the minister's letter was a serious attempt to ensure and recognize some of the points we made in the observation in regard to the bill and also the witnesses who came before the committee to testify.

Can the government do better? Yes, the government can do better, and we urge them to do better as part of our recommendation. But in the context of First Nations' rights in regard to Bill C-21, the government has enshrined section 35 of the Constitution to give certainty and recognition that there are certain things that it is obligated to do as a result of the Constitution of the country.

Is it possible that some part of the administration may not follow that? It's quite possible. We're human beings. But at least there is a legal remedy should they choose not to do so.

It is my hope, in regard to this bill, which is a very challenging bill trying to regulate guns in this country, the government would recognize fundamentally the relationship to First Nations people and their right to hunt for sustenance in this country. It is fundamentally recognized as the minister states in his letter to us and, equally, as it was told to us by witnesses who came before the committee.

I'm honoured to have been part of the process to hear that, but also to reinforce to the government, as we did our observation, and ensure that it does a better job in consulting with all groups that are necessary in regard to the regulation process that will be undertaken once the bill becomes law in this country.

The Hon. the Speaker: Senator Patterson, you had a supplementary?

Senator D. Patterson: If I may, Your Honour, yes. Thank you.

Senator Yussuff, you've talked about the importance of the reference to section 35 in the bill and the need to follow the law. Would you agree that without an amendment like this, which requires the minister to undertake consultations if their rights are affected — their subsistence hunting rights are impacted by the implementation of this bill — what Inuit will be left with is a requirement to hire lawyers, go to court and incur expenses to enforce consultation with them that this amendment would require without having to go through litigation, hire lawyers and pursue their rights in a court of law as you have described?

Senator Yussuff: Again, I want to thank my colleague for the question.

It is my hope that section 35 will be respected in the broadest possible manner in regard to the obligation of the federal government. These are fundamental rights of the citizens of our country. The reason it's enshrined in the bill is to ensure that those who are responsible for the implementation of this legislation will understand this is a critical and integral part of how we respect.

It has been a refreshing change to see this country, senators and our colleagues in the other place recognize the importance of Indigenous people's rights in this country. I believe this has been long overdue.

It is my hope that no one from Indigenous communities will have to go to court to get remedy because the government has not fulfilled its obligation in terms of consulting in regard to regulations that may arrive as a result of the implementation of this bill.

Hon. Jim Quinn: Would you take another question, senator?

First, I want to say that I appreciate you bringing the bill forward. I support the bill, but on the question of this amendment, I'm a bit confused, in a way, in that, as Senator Patterson said, the government has had many court cases that it has had to deal with because of oversights in consultations with First Nations. While section 35 is there and there is a duty to consult, that often is challenged in the courts and often results in lengthy, multi-year court cases at great expense to everyone.

This legislation is so fundamental in terms of Aboriginal rights, as you said, for sustenance hunting and things of that nature that wouldn't it be an advantage to make sure that as officials look at the regulations, that there is not an "oops" moment and that they are absolutely sure that they must consult First Nations rather than, yes, section 35 is there, but that will lead to court cases that could go on for long periods of time?

Senator Yussuff: Thank you again for the question.

• (1600)

The minister, again, as a result of our work on the committee — which was very lengthy in regard to hearing witnesses — tried to address that to the committee in totality. He says:

> Should proposed regulation have the potential to adversely impact potential or established treaty rights, the Government of Canada must satisfy its duty to consult, and where appropriate, accommodate those rights.
>
> Public Safety Canada will work collaboratively with Indigenous partners throughout the development, management and review of regulations.

This has assured us again that the minister is very conscious and aware of the —

The Hon. the Speaker: Senator Yussuff, your time for debate has expired. There are a few other senators who want to ask questions. Are you asking for five more minutes?

Senator Yussuff: Your Honour, I'm in your hands. I am not asking for anything. If colleagues want to offer five more minutes, I will gladly take it.

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

Some Hon. Senators: Agreed.

An Hon. Senator: No.

The Hon. the Speaker: I hear a "no."

[*Translation*]

Hon. Renée Dupuis: Honourable senators, in my opinion, the proposed amendment currently before us creates a situation that limits the government's obligation to consult. The amendment states, and I quote:

> . . . consult with a variety of Indigenous governing bodies and a variety of Indigenous organizations in order to take into account the unique circumstances and needs of those Indigenous groups, communities and peoples.

I think it's important to realize that the rights entrenched and recognized by section 35 require the government to do more than consult. They require the government to potentially change its plans, whether those plans are regulations, legislation or activities.

Furthermore, the legislation that we passed to implement the United Nations Declaration on the Rights of Indigenous Peoples imposes even more obligations on the Crown, given that it must develop plans, but in collaboration with Indigenous peoples. This means co-developing projects, activities and regulations.

Therefore, since recognized rights that create obligations for the Crown already exist in our legal system, I presume that we, as legislators, would not want to ultimately reduce the protection afforded by these rights by limiting ourselves, as proposed here, to consulting Indigenous peoples based on their constitutional rights in order to take their circumstances into account.

I am therefore unable to support this amendment.

Thank you.

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

Senator Dupuis: Certainly.

Hon. Frances Lankin: I apologize, but I have to ask my question in English —

[*English*]

— because I'm not sufficiently fluent to do all this in French.

I agree with what you just said about the fact that section 35 requires more of the government than this particular amendment being put forward. I have another very significant concern, and I hope you — particularly because of your legal background — may be able to either assuage my concerns or agree that this is a concern.

The amendment that comes forward — and we've heard over and over, and I'm not sure why people are insisting on another amendment that accomplishes the same thing and even less; limits it. It is already in the legislation, and we're looking to put another version of that in legislation.

My concern is that if anything does end up before the courts, the courts will be obligated to look at both of the clauses and understand whether this clause from the amendment, in fact, narrows the other reference to section 35. We are all agreeing that we want this to happen and we want this government or a future government to take — and I wish that the former Harper government and the former years of the Trudeau government had taken — more care with respect to consultation. Do you share the concern that having two competing clauses that speak to the same issue necessitates those in the judicial field to weigh what the importance is and to understand and second-guess why this Senate put forward two similar amendments that potentially are not accomplishing the same thing at the end, as was the point you made in your speech?

[*Translation*]

Senator Dupuis: Thank you, Senator Lankin. As for allowing you to ask your question in English, I'd like to point out that you have a constitutional right to speak in English in the Senate of Canada. I, on the other hand, have a constitutional right to answer your question in French, and I think that's great. I hope it comes through in the translation that we are both guaranteed this right, which I appreciate.

What I'm trying to say here is that we've often heard about the dialogue between the legislator and the courts. Legislators create laws that are interpreted by the courts, and sometimes the courts strike them down, saying that the legislators have exceeded their jurisdiction.

So far, the interpretation of constitutionally protected rights has gone far beyond a duty to consult. It can go as far as requiring plans to be changed. Consequently, if we respond today by adopting this type of amendment, we run the risk of sending a message to the courts that their interpretation actually went too far and that our more narrow interpretation is that we think it's not necessary to go as far as changing plans. The message the courts would be getting from legislators is that consultation is enough. This would be a step back compared to what has already been conceded.

I don't know if that answers your question, but it's the best way I can put it.

[*English*]

Hon. Tony Dean: Honourable senators, I am standing up to add some thoughts to those we've heard over the last 10 or 15 minutes. I start by thanking Senator Boisvenu for his statement and his proposed amendment. I also look to my colleagues, including Senator Lankin and Senator Dupuis, who artfully put that amendment into context, and that, to me, seems pretty definitive and determinative. So thank you for that, Senator Dupuis.

Indigenous consultation and engagement, we all agree, is hugely important. I'm sure we all agree as well that those of us who have engaged in this practice, or attempted to, will know that it is an enormously complex and challenging and worthwhile and constitutionally required practice. We have an extensive range, as most or all of you know, of governance arrangements across this country, as they vary by province and by geographic area and by the nature of the makeup of an extensive and unique fabric of the governance arrangements that are practised by our Indigenous colleagues, our Indigenous brothers and sisters.

That complexity takes nothing away from the constitutional right to consult. It, in fact, makes this more important. It is fair to acknowledge that our success in consultations and engagement with Indigenous people has been mixed, to put a positive blush on it. It's work-in-progress; it's work in process. And, absolutely, we haven't got it right. An amendment to this bill isn't going to get it right. The Constitution is clear in its requirements. We all know what is required of government.

• (1610)

But let me say this: Success has been mixed, but I don't recall any other government at the federal or provincial level having put as much time, effort, money and resources into consultations with Indigenous people as the current government has. It's fallen short, but it's done a hell of a good job. It's tried hard. It's worked hard to the point of being criticized in some quarters, irresponsibly, that perhaps it's gone too far. Of course it's not gone too far. It hasn't gone far enough.

I don't need to remind you about the National Inquiry into Missing and Murdered Indigenous Women and Girls dramatically shifting the yardstick for the better, cleaning up water on Indigenous reserves that others have failed to do for decades, for responding to calls for recognition of the United Nations Declaration on the Rights of Indigenous Peoples, which was a hard battle in this place, wasn't it? And we all know whose side people were on. That's all I'll say.

I have never seen the demands and expectations that have been placed on federal departments at all levels right across this country to take Indigenous consultation and engagement seriously. That has been there. It's on the record, and you talk to anybody in a federal department, and you are going to hear that.

We listened in our committee to Indigenous colleagues. I'd like to think that our Indigenous colleagues and brothers and sisters were heard in the committee, and I think they were.

There was mixed success in the consultations on this bill, and the government has amended the legislation as a result of that in response to concerns and toughened it up. We've heard Senator Dupuis' very eloquent, important and decisive response to the amendment before us.

Colleagues, that's all I wanted to say. I am nothing but grateful for the ability that I had to come to this country, to see this country struggle with its issues, to be part of that struggle with its issues and other struggles in here. This is an ongoing process. We've got more work to do. We've got a government that takes this seriously. We've got a government that did its best to hear from as many people as possible and to reflect their concerns in this legislation. I do not think that we need this amendment. Thank you very much.

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate): Would the honourable senator take a question?

Senator Dean: Yes.

Senator LaBoucane-Benson: I want to speak specifically in this proposed amendment about section 45.1(2), which talks about reporting to each house of Parliament. As you are the Chair of the Defence Committee, and you heard all of the testimony and are very familiar with the bill, in general, there's a public process of consultation and engagement for all regulations, but the Firearms Act in particular already goes further than most other laws. Section 118 of the Firearms Act actually requires that firearms regulations be tabled before both houses of Parliament for 30 days, with the Defence Committee having the option to study the regulations and report back.

Senator Dean, do you agree that this existing process in the Firearms Act already gives senators an opportunity to evaluate the quality of the government's consultations?

Senator Dean: I absolutely do. I thank Senator LaBoucane-Benson for reminding all of us of the rubrics of the bill and the efforts that have been made to build consultation and engagement into it. Thank you.

Hon. Paul J. Prosper: Honourable senators, I appreciate you, my colleagues in this chamber, for offering your perspectives on the nature of this amendment being proposed here.

A lot has been said about the existing constitutional obligations upon the Crown to consult with Indigenous peoples. Following Senator Dean's comments, one can say there certainly have been positive steps taken both from a legislative and consultation perspective. While consultation is a matter that begs a bit of complexity, I can't help but look at the record with respect to my colleague Senator Boisvenu and his recollection of the evidence and testimony that came before the committee.

When I look at an amendment and when I think about consultation, yes, there are provisions like non-derogation clauses, and things of that nature, but as mentioned previously — I believe Senator Quinn mentioned it as well — when it involves litigation and the advancement, protection and preservation of Indigenous rights, it is a costly exercise borne upon First Nations groups and organizations. It's largely an access-to-justice issue.

Although one can look and hope that the duties and the obligations of the Crown with respect to consulting with Indigenous peoples takes place, it's still an exercise that is subject to debate and criticism.

When I look at this provision, it's a positive inclusion within an actual statute. It's there. It provides guidance, like other pieces of legislation, to government to take into account the rights of Indigenous people and to consult on matters that are integral to who they are as a people. We're talking about subsistence rights here. As my colleague Senator Patterson has mentioned, these are very significant rights that relate to livelihood.

I'm in agreement with this amendment. It provides a prescriptive way upon which consultations can take place and will provide guidance for lawmakers as well. Thank you very much.

The Hon. the Speaker: Senator Lankin has a question. Would Senator Prosper accept a question?

Senator Prosper: Yes.

Hon. Frances Lankin: Senator Prosper, I appreciate your intervention and hearing your voice on the disappointment with the way in which governments have not lived up to their obligation to consult on behalf of Indigenous peoples.

You are a lawyer. I'm not a lawyer. I'm a trade union negotiator, among other things over the years involving contract language and requirements, and as a former Ontario legislator, I've been involved in drafting, writing and amending legislation.

My problem with your argument is that saying it 2, 3, 10 or 20 times in a piece of legislation doesn't compel any government to live up to their obligations. We have seen this over the years. Section 35 has been around a long time. The obligations are there. In this case, they even wrote that into the bill already. This is a duplication, and it's a narrower amendment than what the section 35 rights are. I would think you would agree that courts look to all of the provisions and how they work together and what the intent was of the legislature in doing this, and it can create problems.

Please tell me why saying it two, three or four times in one bill is going to help us correct this and avoid a government abrogating a responsibility? It will end up in court anyway, whether or not this amendment is put in place.

Senator Prosper: Thank you for your question, which is much appreciated.

• (1620)

Certainly, it's within the realm of the courts to determine whether an added provision like this will somewhat narrow what exists as a general rule of law with respect to the jurisprudence of constitutional law as relates section 35. I don't think this provision would override that. Ultimately, the Constitution is the Constitution. Should this matter come before a court of law, the Constitution always trumps, it has paramountcy over federal statute. If anything, this provision could be read or provide further guidance to the court with respect to that adjudication of the matter. I think it could provide clarity, and if it conflicts, I'm sure a court of competent jurisdiction will say so. Thank you.

Hon. Flordeliz (Gigi) Osler: Senator Prosper, in your legal opinion, can you foresee any unintended consequences from this amendment?

Senator Prosper: Thank you for the question, Senator Osler. When I read this particular amendment, it's quite prescriptive in terms of what the obligation is upon government. It doesn't leave it to jurisprudence. It can be subject to litigation and court proceedings, but if anything, it provides guidance with respect to what is to be undertaken with respect to these rights, which are so critical for Indigenous peoples. Thank you.

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

Hon. Dennis Glen Patterson: Yes, please.

The Hon. the Speaker: Will Senator Prosper take another question?

Senator Prosper: Yes.

Senator Patterson: The provision in the bill that everybody is saying takes care of this issue of consultation with Aboriginal peoples is only the standard non-derogation clause, the "don't worry about it" clause. Section 72.1(1) states that:

> The provisions enacted by this Act are to be construed as upholding the rights of Indigenous peoples recognized and affirmed by section 35 of the *Constitution Act, 1982*, and not as abrogating or derogating from them.

Does it give you any comfort that this non-derogation clause, which is widely seen in government bills, will force the minister to consult on regulations that impact Indigenous people?

Senator Prosper: Thank you for the question, Senator Patterson.

You might recall a bit of dialogue and discussion on a separate bill with respect to Bill S-13, An Act to amend the Interpretation Act and to make related amendments to other Acts, which seeks to get that within the federal Interpretation Act, take it from existing acts and make that point irrelevant or unnecessary. The fact of the matter is that having a non-derogation clause within an act, while useful, is not necessarily followed or the direction isn't sought according to that non-derogation.

One could think why have a non-derogation to begin with if we're talking about a constitutional right? We know those rights are the supreme law of this land and therefore should take precedence over subordinate legislation, whether federal or provincial. I don't draw any comfort in a non-derogation clause. Just look at the bulk of litigation and jurisprudence with respect to section 35. It still exists, and I don't see that being a determinative feature to force public officials to really consult and deal with the nature of Indigenous rights in a legal fashion, as it should be.

Hon. Pierrette Ringuette: Will you take another question, Senator Prosper?

Senator Prosper: Yes.

Senator Ringuette: I have been listening to this debate and the many confirmations of section 35, but what has particularly gotten my attention is Senator LaBoucane-Benson and when she said that in this bill, there is confirmation that the regulation will be tabled in both houses of Parliament. I've been in this place for 21 years, I think today —

Hon. Senators: Hear, hear.

Senator Ringuette: I have never seen in a bill an imposition on a government to table the regulation following the legislation to both houses, so I view that as an additional assurance in regard to your concern. What do you think about that?

Senator Prosper: I appreciate your comment and congratulations.

An Hon. Senator: Or sympathy.

Senator Prosper: I certainly get your point, senator, with respect to seeing a provision like this being tabled within both houses, and I applaud that recognition.

The unique feature about this amendment is, I believe, it goes beyond that and it goes to the core of consulting with Indigenous peoples. That is an incredible provision to have on such a critical piece of legislation, so it gets to the core of consulting with Indigenous people and it provides a positive legal obligation within a statute to do so on such critical matters as regulations.

[*Translation*]

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

Senator Boisvenu: I'd like to ask a question, if possible.

[*English*]

The Hon. the Speaker: Senator Prosper, will you take another question?

Senator Prosper: Yes.

[*Translation*]

Senator Boisvenu: Thank you. Senator, I think everyone would agree that, once the regulations are adopted, they'll be tabled in both houses. That's not the problem. The problem is that Indigenous peoples have to be included in the content of the regulations before the regulations are tabled. Once the regulations have been written and tabled in this chamber, it will be too late to consult Indigenous peoples. All we'll be able to do is acknowledge that there was no consultation. Do you agree?

[*English*]

Senator Prosper: Thank you for your comments, Senator Boisvenu. I tend to agree with what you just said. As mentioned previously — and I really want to get to the core of that — the critical matter within this amendment is preliminary discussions before actual development of the regulations. It gets to the core and substance of the regulation itself, ensuring that appropriate consultations take place before it goes to both houses. I think that's the critical feature here, thank you very much.

The Hon. the Speaker: Are senators ready for the question? Senator Prosper, will you take another question?

Senator Prosper: Yes.

Hon. Yvonne Boyer: Senator Prosper, do you see any issues with the definitions in this section, especially the "Indigenous organization" meaning an Indigenous identity that represents the interests of an Indigenous group? I'm wondering if there's anything with these definitions that could be perceived as ambiguous in any way.

Senator Prosper: My apologies, I'm looking at the bill right now. Could you guide me to that?

Senator Boyer: It's on the amendment and it's 118.1(3), the definitions.

Senator Prosper: Under Indigenous organization?

Senator Boyer: Under Indigenous governing body and Indigenous organization, do you see anything that could be ambiguous in those definitions?

Senator Prosper: There is provision within the definition that talks to an entity that is authorized to act on behalf of an Indigenous group. There are questions with respect to that authorization and, in part, sometimes the legitimacy of Indigenous groups, granted. I'm sure those are questions that could be dealt with through relevant discussions that government can undertake to ensure that the appropriate bodies are consulted. It could be part of the consultation process.

Senator Boyer: So there are ambiguities in that section. Thank you.

The Hon. the Speaker: Senator Prosper, do you have an answer to that question?

Senator Prosper: I'm saying there could be inevitably ambiguities. What we're looking at is the existing landscape of Indigenous organizations. It's a necessary exercise, when you undertake consultations with Indigenous organizations, that you're going to have different organizations claiming certain rights and obligations to their membership.

• (1630)

Hon. Dennis Glen Patterson: Honourable senators, I just want to bring up a few points in response to some of the statements that were made, including Senator Dean's suggestion that no government has ever consulted so extensively with Indigenous peoples.

Colleagues, we have been through this movie before. The Firearms Act was amended in 1998, and, at that time, there was this same concern raised about Indigenous peoples having special and unique circumstances that had to be addressed. What did the government do? The government worked particularly with the Inuit — I know — to develop the Aboriginal Peoples of Canada Adaptations Regulations (Firearms), specifically to deal with the special circumstances of Indigenous peoples. This had to do with developing a regime for acquiring firearms acquisition certificates, recognizing there were language barriers to Inuit acquiring firearms acquisition certificates and developing a process where firearms acquisition certificates could be acquired orally based on the traditional Inuit hunting practices of elders in communities.

There are 21 regulations that were developed in 1998 to recognize the specific situation of Indigenous peoples. All that Senator Boisvenu's amendment is proposing to do is make sure that we conduct the same process.

Let me say that the Firearms Act of 1998 was equally controversial for Indigenous peoples. They were involved in the development of the regulations. There was a whole adaptations regime developed. It's been satisfactory for Inuit. They can obtain firearms acquisition certificates without having to read English and without having to submit written applications.

That's just one example of the 21 provisions that were developed.

We're told that the amendment will duplicate what is already in the act. Sorry, no, that's totally misleading. The act includes a standard non-derogation clause. That's the only reference to section 35 of the Constitution Act, 1982. A non-derogation clause is negative. It basically says that you can't override section 35 rights when implementing the bill.

This clause is about not acting against Indigenous rights so that if the government does something, there is a remedy. This amendment will lead to a proactive process to prevent that from happening. The Inuit were happily and meaningfully involved in developing the Aboriginal Peoples of Canada Adaptations Regulations (Firearms). There have been no concerns about the Firearms Act of 1998, and there will be no concerns if they are meaningfully involved in implementing this bill.

By the way, I know that the committee heard evidence from witnesses who said, "You know what? We need semi-automatic weapons in Nunavut, because when a polar bear is coming for you and coming into your tent, you may need more than one shot in rapid fire to save the lives of your family and your children." There is a genuine need to have the regulations adapted to Inuit in Nunavut.

I feel very strongly that this amendment should be carefully considered by the chamber.

I want to say what I also said in my question to Senator Yussuff: The government didn't bother to consult with Inuit in the development of this legislation. They are hunters. They live and feed their families by hunting. They are not sports hunters. They are like farmers. They harvest on the land using firearms. They know about firearms like no one else does, and, again, they contributed to the adaptations regime in 1998. They should be allowed to contribute to an adaptations regime in 2023.

This amendment will do that.

Senator Yussuff has told us that it is his hope that rights will be respected. Let's guarantee it by ensuring that the consultation that did not take place in the development of this bill will happen in the development of the regulations.

I'm sorry, but regulations are published and gazetted. We all know the process; that's an after-the-fact process. This is proactive. It will ensure that the regulations are not responded to after the fact, and do not have to invoke the non-derogation clause or result in litigation. Again, this ought to be done proactively, as it happened in 1998.

I give credit to the government of 1998 for consulting with Inuit and Indigenous organizations in the Aboriginal Peoples of Canada Adaptations Regulations (Firearms). Let's do it with this bill.

It's a simple, reasonable request.

I know there's a mantra of "no amendments." That was the rule in committee, which I understand is probably the government's desire, but this is a reasonable amendment. No one will oppose this amendment. Let's do it right and properly, and make sure the consultations that took place in 1998 also take place in 2023 in the all-important development of the details — the regulations.

Please support the amendment, honourable colleagues. Thank you.

Hon. Marc Gold (Government Representative in the Senate): As a lawyer, Senator Patterson, which you are, and as a legislator, as we all are, is it not the case that section 35 of the Constitution Act, 1982, even if it were not in this bill, imposes an obligation upon all levels of government — including us, as parliamentarians, but also the executive branch of government — to respect all the terms of the Constitution? Is that not correct?

Senator D. Patterson: Yes.

Senator Gold: Is it not the case, therefore, that section 35 of the Constitution Act, 1982 imposes a positive obligation on all levels of government, including parliamentarians, in our actions in order to ensure respect for the rights that are guaranteed — in this case, to Indigenous peoples under section 35 of the Constitution Act, 1982 — whether it's in the legislation or not?

Senator D. Patterson: Sure, there's a positive obligation, but there's no guarantee that it's going to happen. It didn't happen in the development of the bill. Natan Obed said, "We weren't consulted in the development of this bill." That gives me good reason to say that we should ensure Inuit are involved in the development of regulations — proactively and positively — so that when the regulations are tabled in the *Canada Gazette* and in both houses of Parliament, Inuit will say, "Yes, we were heard, we were given the respective consultations and things are okay by us," just as was done in 1998 when they were actively and

collaboratively involved in developing the Aboriginal Peoples of Canada Adaptations Regulations (Firearms). That is just as important in this bill.

Hon. Rebecca Patterson: Senator Dennis Patterson, would you take another question, please?

Senator D. Patterson: Yes.

Senator R. Patterson: Thank you.

I'm not a lawyer, and I've heard a lot of things during the debate on the amendment: proactivity, which is in the consultation and development of legislation, versus discussions around section 35 of the Constitution Act, 1982, which talks about implementation.

Senator Patterson, could you clarify — for this non-lawyer — the following: Does this clause allow us to close the gap between what seems to be upon implementation versus trying to do it in the development phase?

Thank you.

Senator D. Patterson: Thank you for the question.

This government — and I love to hear the phrase — says, "Nothing about us without us."

• (1640)

That, by the way, is essentially the provision in the United Nations Declaration on the Rights of Indigenous Peoples, which this government has also adopted. There will be a collaborative approach to developing legislation, especially legislation that impacts Indigenous peoples — like surely firearms legislation does for people who make their living and feed their families by hunting.

I believe that what we are seeing here is an opportunity to prevent problems from happening, like what has happened in the development of this bill and as is illustrated in the need for this amendment. They weren't consulted in the development of this bill, so let's make sure they are consulted in the development of the regulations. It's proactive, it's positive. It's not negative. No, you're not allowed to do anything that will impair our rights.

This process proposed by Senator Boisvenu, which I think includes a broad definition of Indigenous groups — I have to respectfully disagree with Senator Boyer — will ensure that the regulations, just as they were done in 1998, respect and reflect the unique circumstances and needs as is outlined in the amendment by Senator Boisvenu of Indigenous groups, communities and peoples in a proactive, positive way. Not after the fact like, "Well, we overlooked that and we'll have to go to court, hire lawyers and sue to get our rights recognized." Let's do it right in the development of the regulations so we don't have these ongoing problems and be solving issues by having white-haired judges determining Indigenous rights. Let's do it with the Indigenous people as proposed in this amendment. Thank you.

[*Translation*]

Hon. Pierre J. Dalphond: Would the senator take another question?

[*English*]

Senator D. Patterson: Yes.

[*Translation*]

Senator Dalphond: This may be my last chance to ask you a question, and I can assure you that I appreciate it.

[*English*]

Senator Patterson, you are a lawyer by training. I'm also a lawyer by training and a judge, and I think the basic principles have to be remembered here for non-lawyers. First, in legal order, is the Constitution. The Constitution prevails over the laws and regulations. If a law or regulation is contrary to the Constitution, it is null and void and the courts will strike it down. That is the first point.

The second point is that we just amended the Interpretation Act to incorporate provisions that say all laws, regulations and statutory instruments from the federal government must comply with section 35. Don't you believe that all these things together are enough? We have the suspenders and the belt, and now you are proposing that we need more. Is there a point where the system makes sense while repeating things all over the map?

Senator D. Patterson: Senator Dalphond, I'm terribly alarmed to hear this might be your last chance to ask a question. I hope you're not considering resigning from the Senate. We need you. We need you in the Legal and Constitutional Affairs Committee. I'm just kidding.

You have pointed out, as Senator Yussuff pointed out, that there is a remedy in the courts if Indigenous rights are violated under section 35. I'm asking, how do we guarantee it before the fact, before the rights are violated rather than trying to fix it up after the fact? How do we guarantee that this doesn't happen in the development of regulations? It's by guaranteeing consultation.

A broad non-derogation clause doesn't guarantee what Senator Boisvenu has laid out. There's a proactive, before-the-fact obligation on the minister. As much as you're a former judge — and I respect that — and the courts will strike laws down, let's not make the Indigenous peoples go through that. Let's involve them to make sure the regulations respect their rights. That's all I'm saying, honourable senators.

Senator Gold: Forgive me for my tone in this question. I do apologize.

There is a positive obligation to consult that flows from the Constitution. That is also embedded in this legislation, and, therefore, no matter how many times we put it in the legislation, it remains the case that there is a positive duty recognized in the law — both in the Constitution and in this bill already — for Indigenous peoples to be consulted in the making of regulations. You have agreed with that.

My question is as follows —

The Hon. the Speaker: Senator Gold, I'm sorry, but the time on debate has expired. Senator Patterson, would you ask for more time to answer the question?

An Hon. Senator: No.

The Hon. the Speaker: I hear a no.

Hon. David M. Arnot: Honourable senators, I support the amendment that Senator Boisvenu has put forward here. I ask the question: What is one of the reasons that we're here? We're here to protect minorities. Look at the track record. The only reason we're having this discussion is because the government failed to consult with Indigenous people properly even though they have been required to do so since 1982. Forty-one years later, they didn't do it in this case.

To me, that is a reflection of an ongoing attitude. I could argue right now that there's been a breach of the fiduciary duty under section 35 because of what the government has already done. Moreover, it's a breach of Indigenous rights, which are constitutional rights. As well, it is a breach of the honour of the Crown, that high standard. It's already happened. We should not be countenancing this kind of action by the government vis-à-vis Indigenous people in this country. Now is the time to stop it. We can do that.

Some Hon. Senators: Hear, hear.

Senator Arnot: There has been an interesting explanation from our friend Senator Yussuff. It's an admission by the minister that he failed. He fumbled the ball, he made a mistake and he's going to try to clear it up. That's good; I'm not suggesting otherwise. However, the best prediction of the actions in the future is the actions of the past, and it's a bad story dating back some 41 years where Indigenous people are required to hire a lawyer, go to court, spend millions of dollars over seven years and litigate a case.

Litigation is an admission of failure. Don't put people into a place where they have to litigate. This should be a problem-solving exercise. The way to do that, in my opinion, is to support Senator Boisvenu's amendment.

What's the downside? There's no real downside because, as Senator Prosper and Senator Gold have pointed out, the Constitution is the highest order of the land, we have to follow that and the courts will do that.

I want to mention in respect to my friend Senator Boyer, these definitions were in Bill C-29. They are new definitions that have been set by the Government of Canada. I just wanted to say that.

With that being said, I say there's been a failure, and there's been an attempt to cure it. Can we trust the government? I hope we can, but let's not do that. Let's give them a backup, and Senator Boisvenu's amendment will provide that backup, in my opinion. I think it's best to err on the side of protecting minorities, and we have a chance to do so here now.

One of the things that I reflect on is Senator Prosper's actions in these amendments in the Interpretation Act; it failed. But really, what's at the heart of this is that the Government of Canada should have, as a matter of policy — in any policy they create — an analysis of the treaty rights of Indigenous people and an answer to the question: How does this affect Indigenous people and how does it affect their treaty rights? That would be a much better way. To put it into the Interpretation Act and make an assumption that it's all going to work out is wrong. That's why we have litigation.

I support Senator Boisvenu's amendment, and I encourage my colleagues here to think very carefully about that.

• (1650)

If you want to really think about it, look at it through the eyes of an Indigenous person being told, "We promise you it will be better next year." If you're an Indigenous person, I'm sure you'd answer that question by thinking, "Not on your life. I don't accept it anymore." That's what we should be telling the federal government right now while we have the opportunity.

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

What's troubled me about the amendment before us — and it goes to the discussion of the definitions — and what has struck me throughout this debate is that there are as many definitions of what constitutes "consultation" as there are First Nations Indigenous groups across this country.

Consultation means different things to different people, and there's no consultation protocol that exists in the Government of Canada. That's part of the problem. We have constitutionally protected rights. Senator Dalphond has spoken to that.

This amendment, from what I've heard, is redundant if we don't clarify exactly what it's supposed to do, which would be to provide a definition of "consultation." For that reason, I'm struggling with it. I appreciate the passion that you have brought forward, but I also know that when I first stood in the Yukon Legislative Assembly, I was asked, "Have you followed the consultation protocol duly negotiated with First Nations?"

That's why I can't support this amendment. What is "consultation"? Do you have a definition?

Senator Arnot: It's been litigated. Even that's been litigated, but I would say, yes, you're right; it would be good if the federal government had a protocol that was understood and attorned to by Indigenous people, but they don't.

Similarly, they don't have a policy of analyzing every piece of legislation coming from the federal government or House of Commons in implementing policy to determine whether it breaches Indigenous rights, treaty rights or fiduciary duty.

Senator Duncan: What you have talked about repeatedly, then, is policy, and this is the legislation. To me, the administrative law is that we've got the Constitution; now we need the policy. This is where the rubber will hit the road, so we urge the government to have a consultation protocol in place that applies throughout the government. We don't write it in legislation.

Senator Arnot: What Senator Boisvenu is trying to do is help solve a problem that the government created by not doing the consultation correctly in the first place. In my opinion, there's no downside to implementing this particular amendment.

Hon. Frances Lankin: Thank you, Senator Arnot. I appreciate the knowledge and experience you bring to this, both legal and in terms of working with and supporting First Nations in your province and beyond.

First of all, we can all have different opinions. In my opinion, there is a potential downside, but putting that aside — and by the way, I agree with Senator Patterson on a lot of what he has said regarding what has not been done to include Innu people. I have no complaints about what he has said.

What I want to ask you and the others who have made this point is this: What makes you think that adding this amendment will be preventive in any way? If a government is not going to follow the Constitution, the Interpretation Act, their own legislation or a minister's letter that says, "I messed up and we're fixing it now," how does this amendment ensure that the government will do it and that First Nations people won't end up having to litigate it anyway? This does not preclude further litigation if they don't live up to their already multiple stated obligations.

This bill is important, and I know that there are many amendments coming. Think about what we're doing in one place or the other. Where are we attempting to make the situation better by repeating something that has already been ensured across laws? It does nothing to address the basic concerns that I'm in agreement about and which Senator Patterson has put forward.

Senator Arnot: One way to look at it is this: Let's say you're a judge in the Supreme Court of Canada, and you're looking at this at some point in the future. You see this in the legislation, and it says, "Well, the legislature spoke. You're supposed to do that. Not only that, it's in the Constitution as well." It enhances the argument, in my opinion.

I believe that that's the right thing to do. It's excellent. It gives —

An Hon. Senator: Litigation.

Senator Arnot: That's my opinion —

Hon. Andrew Cardozo: I agree very much with the intent of what you have said, Senator Arnot. I agree very much with Senator Boisvenu's amendment, but I have — excuse me, I think I have the floor. Thank you.

I'm thinking of some of the voices we heard. When you say, "What do we have to lose? What is the downside?" My answer is, "Bill C-21." I want to say a couple of things. I look to PolySeSouvient, which said:

> We recommend that the Senate pass the bill as is so that it can be implemented as quickly as possible. We support Bill C-21 because of some of the very strong measures to better protect victims of intimate violence, as well as the public safety potential of the freeze on handgun purchases in addition to other measures.

We can try to make every bill perfect, but we live in the real world. The chaos in the other place is enormous. Let's not pretend it's not happening. The chance of getting Bill C-21 passed by sending it back to the House — are you prepared to give that up to ensure your amendment, which Senator Lankin just outlined is ensured in many places? Adding it here wouldn't ensure it any further, in my view.

Senator Arnot: You're talking about public safety. I don't think any hunter, trapper or First Nations person I've talked to would say that they are not in favour of ensuring public safety. I see that as a completely different issue.

This is about the rights of Indigenous people. I'll speak to that later, perhaps on the third reading of this bill. I understand the passion. I understand the reason that Canadians need to feel protected. There's a tsunami of handguns coming across the border. That's separate from this issue.

This is about the protection of minority rights and Indigenous people. It's about reconciliation. It's all wrapped up in that, and that's the way I see it. It's at that frame. Thank you.

Senator Cardozo: I see that, but in a debate like this we're never dealing with just one issue. We're dealing with many different issues.

I would say the issue we raised has been protected quite well, as Senator Lankin has brought up, in terms of Indigenous consultation. I would just go back to the fact that the Danforth Families for Safe Communities said it needs to be supported by the Senate without delay and that:

> Every level of government needs to be involved. However, our position is that Bill C-21 is a strong contribution to the federal level of government and needs to be supported by the Senate without undue delay.

I leave you with that, sir.

Senator Arnot: That's the answer: "We didn't do the consultation. It was too difficult. It was too time-consuming. It's too complicated."

That's the wrong answer. Those are the explanations we received and they are not sufficient. We need to make sure that Indigenous rights are protected. This is what I'm proposing, and I believe that's what my friend Senator Boisvenu is proposing.

Senator Plett: Senator Cardozo very clearly indicated that it is not our job to fix legislation. I'm surprised that on one bill they want to fix it, and on another bill he's saying we should not fix legislation, which Senator Boisvenu is trying to do and you're supporting.

He further indicated that this bill was going to die because the other place is in a bit of disarray now, and they wouldn't be able to get this bill back to us. Senator Arnot, I have a question: Have

you heard anything about prorogation or an election coming up that would prevent the government from dealing with this at the end of January or beginning of February, if they are going home?

• (1700)

Senator Arnot: Nothing I can rely on.

Hon. Mary Jane McCallum: I wanted to go back to the suggestion about consultation and defining it. When we look at consultation, it's defined by the groups that they consult with. That group defines what it means to them. To have a pan-Canadian approach hasn't worked, and it will never work.

We live with the reality that there's very little to no consultation that happens, and First Nations are continuously left to struggle with the legislation that we pass here, such as Bill C-91 and Bill C-92. I was talking to the Assembly of First Nations about that today. There are limited time resources, so I think this consultation —

The Hon. the Speaker: I'm sorry, Senator McCallum, the time for debate has expired. Are you asking for leave to answer the question, Senator Arnot?

An Hon. Senator: No.

The Hon. the Speaker: I hear a "no." Sorry.

Senator Gold: Honourable senators, the importance of this amendment and the importance of this bill cannot be overstated. The passion with which all of the debate has taken place — and it has certainly affected me and my questioning — is palpable, real, authentic and welcome.

I'm rising today to speak very briefly — because I do want to get to the question, and I hope you'll allow us to do that — to express the government's position. I'm appealing to you as legislators with convictions, passions, constituencies, beliefs, frustrations and memories. I'm appealing to you as legislators about what it is and how laws are actually interpreted by governments and by courts.

There is a duty to consult on legislation and regulations that flows proactively and positively from the operation of the Constitution, whether it's in any legislation or not, that is independent of any non-derogation clause. There's a positive obligation to consult on the regulations that I also believe is implicit in the non-derogation clause that will be part of every legislation, as was outlined in an earlier intervention.

It has been said that if there is no consultation or inadequate consultation in the regulatory process absent this amendment, then Indigenous rights holders and groups will have to go to court to seek a remedy. It was implied, and I think indeed stated, "But this amendment will change that." But that, colleagues, to the lawyers and non-lawyers, is nonsense — it is nonsense, as Jeremy Bentham would have said, upon stilts. I say that with no disrespect, but it misunderstands exactly how the laws operate. There could be the most specific positive obligation in this amendment on top of the other obligations that I've already outlined, but if there's a breach, you still have to go to court. There is no avoiding litigation when there is a breach of a positive constitutional and legal obligation.

It is not true that this amendment solves that problem. It's a real problem. First Nations and Indigenous groups have had to spend far too much money and, more importantly, far too much time — sometimes generations — to get their rights recognized. The Government of Canada, whether it's this government or the previous government or governments before that, have been dragged by the courts into recognizing and acknowledging Indigenous rights.

Thank goodness that section 35 in the Constitution is open-ended enough so that our courts still have the ability to learn from Indigenous voices and to articulate, in the myriad of cases that have not yet been resolved either through negotiation or litigation, what the true contours and shapes of Indigenous rights are. We don't know. Our generation is the first to really confront the extent to which rights are being held in this country — lands were not surrendered, treaties were dishonoured. Our children and grandchildren will live in a world with much more expansive rights and understandings, and it will be the courts, to be frank, not governments, who will be leading the way.

This amendment does not solve the real problem you identify, but there is a problem with this amendment. Again, if I'm speaking passionately, I'm doing it as a legislator and as a constitutional law professor — rusty, though; maybe the rust is coming off a little bit — and I'm trying to offer you an analysis of how legislation actually works in the law-making process, and there are problems with this amendment.

The first one flows from the comments that Senator Dupuis made and from what I just said. If our Constitution is a living tree — harkening back to the Persons Case, which we celebrate every time we leave this building — what that means is that the contours of the rights, whether they're section 35 rights, equality rights or any other rights, are able to evolve with time not because of the political whims of the day, not because of the passions of the day, but because of the evolving understanding that we have as citizens of what our rights and obligations to each other entail.

This amendment has one problem, and this is downside number one, Senator Arnot, to your point. I agree with Senator Lankin in this respect; if it was not Senator Lankin, then some other senator. We are all equal as senators, and your interventions are all equal of my respect.

One downside is that this has the potential for narrowing the interpretation of the evolving, not yet fully circumscribed rights, the duty to consult, the nature of consultation and the meaning of consultation to the groups, which is evolving with time.

With respect, Senator Prosper, I think that is a problem. Though it is true, of course, that the Constitution trumps all, it is also true that the standard principle of legislative interpretation — we heard it recently in connection with another bill — is such that we are supposed to actually have meant what we say. Therefore, there is a presumption that we have to put all the words together, and if we put a narrower phrase, maybe that qualifies a broader one, or maybe it doesn't. We are inviting litigation all the way up to the Supreme Court on this narrow issue that might have actually nothing to do with whether there was adequate consultation or not.

So if we're trying to avoid legislation and the human cost of people having to wait years and generations for their rights to be vindicated, this is not part of the solution — this is a potential problem. I can't predict the future. That's one downside.

The second downside is identified by Senator Boyer, and it flows from the nature of this amendment that is coming at third reading. It's totally legitimate to introduce amendments at third reading — that's not my point. When an amendment is introduced at third reading, it has not been studied. It hasn't been vetted. We haven't asked officials what it means. We don't have legal opinions as to whether or not the ambiguity is or is not a problem, whether it will be solved in the consultation process or not, or when one group that wasn't consulted claims it should have been, but it's not clear whether they were involved, that becomes a litigation matter.

There are some downsides with the narrowness of the drafting, the ambiguity that appears to be there and the fact that we didn't have a chance to study it the way this bill was studied extensively in the other place and in this place.

There is a final downside, and that is simply that this bill is being looked upon by survivors and communities across the country who have asked us to pass it with dispatch, without amendment.

• (1710)

We have studied this properly, and we have studied it seriously. I think that, as legislators, we've done our job. More importantly, however well-intentioned this provision is and however passionate you feel, it will feel good to pass this. It will feel good to pass it. I understand the feeling, but it's not the right thing to do as legislators. It's not the right thing to do. It's an unnecessary, potentially complicating amendment that does not solve the problem that, with respect, its proponents in the best faith — we assume — have argued for.

Therefore, I urge you to acknowledge your feelings, but let's do our job as legislators. Our job as legislators, in my opinion, is to vote against this.

Thank you very much.

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

Hon. Senators: Question.

The Hon. the Speaker pro tempore: All those in favour, please say yea.

Some Hon. Senators: Yea.

The Hon. the Speaker pro tempore: All those against, please say nay.

Some Hon. Senators: Nay.

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

And two honourable senators having risen:

The Hon. the Speaker pro tempore: Honourable senators, do we have an agreement on a clock?

Honourable senators, do you give leave for a vote in 15 minutes, following the clock?

Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: The vote will occur at 5:26 p.m.

• (1720)

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

YEAS
THE HONOURABLE SENATORS

Arnot
Ataullahjan
Batters
Boisvenu
Carignan
Downe
Greene
Housakos
Marshall
Martin
McCallum
Oh
Patterson (*Nunavut*)
Patterson (*Ontario*)
Plett
Prosper
Quinn
Richards
Ross
Seidman
Smith
Wallin
Wells—23

NAYS
THE HONOURABLE SENATORS

Aucoin
Bellemare
Bernard
Boehm
Boniface
Boyer
Busson
Cardozo
Cordy
Cormier
Coyle
Cuzner
Dalphond
Dasko
Deacon (*Ontario*)
Jaffer
Kingston
Klyne
LaBoucane-Benson
Lankin
Loffreda
MacAdam
McNair
McPhedran
Mégie
Moncion
Omidvar
Osler
Petitclerc
Petten

Dean	Ravalia
Duncan	Ringuette
Dupuis	Saint-Germain
Forest	Simons
Francis	Sorensen
Gerba	White
Gignac	Woo
Gold	Yussuff—47
Hartling	

ABSTENTIONS
THE HONOURABLE SENATORS

Moodie	Pate—2

• (1730)

[*Translation*]

THIRD READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Yussuff, seconded by the Honourable Senator Duncan, for the third reading of Bill C-21, An Act to amend certain Acts and to make certain consequential amendments (firearms).

Hon. Éric Forest: Honourable senators, it is my moral duty to express my support for Bill C-21.

[*English*]

It's even more important for me because yesterday marked the thirty-fourth anniversary of the femicide at École Polytechnique in Montreal, when 14 women were murdered by firearms.

[*Translation*]

Since yesterday was the National Day of Remembrance and Action on Violence Against Women, it is important to remember the context of Bill C-21, which is designed to improve gun control and reduce gun violence, particularly between intimate partners.

More specifically, Bill C-21 includes a freeze on the sale, purchase, transfer and importation of handguns. Canadians will be allowed to continue to possess, use and sell registered weapons currently in circulation under certain conditions.

The bill also provides for a new technical definition that contains the characteristics of prohibited assault-style firearms. Firearms currently on the market would not be affected, however.

The Canadian Firearms Advisory Committee will be re-established in order to facilitate the firearms classification process. This classification will require all guns to have a valid Firearms Reference Table number before entering the Canadian market.

Bill C-21 also contains measures to prohibit ghost guns, which are unregistered firearms that are difficult to trace, since they have no serial number and can be assembled from parts purchased online.

The bill also contains measures to support the fight against intimate partner violence by creating "red flag" and "yellow flag" laws that will allow firearms licences to be revoked in cases of domestic violence or criminal harassment.

Lastly, Bill C-21 would increase the maximum sentence for firearms smuggling and trafficking from 10 years to 14 years.

There are other measures in this bill, but, in my opinion, these are the most important ones.

I would like to thank the government for giving up on its misguided plan to give municipalities the ability to ban handguns in their jurisdiction. This plan, which was denounced by the municipalities, would have caused even more confusion because the enforcement provisions might have varied from one municipality to another.

With more than 1,100 municipalities in Quebec alone, it is easy to imagine the chaos that would have ensued if each one of them had their own permit requirements, regulations and exceptions. The government made the right choice in deciding not to shirk its responsibilities.

I would now like to list some of the arguments I have heard over the past few weeks and try to respond to them.

One argument that we've heard a lot in recent months from opponents of Bill C-21 is the idea that most of the weapons used to commit crimes are smuggled across the border, so stronger gun control for gun owners in Canada would be unnecessary.

While gun trafficking is admittedly a problem that needs to be addressed quickly, Bill C-21 contains a few measures that would help. That argument shouldn't stop us from tightening up gun control here in Canada, because a lot of weapons owned by law-abiding Canadian citizens sometimes get stolen and used to commit crimes.

For example, the RCMP Commissioner said in December 2021 that three out of four weapons used to commit crimes were from Canada. She stated, and I quote:

> In the tracing centre, of the known source, 73% were deemed to be sourced within Canada and 27% were smuggled or possibly smuggled within the country from the U.S.

Those numbers confirm data from various other studies showing that, over time and in different jurisdictions in Canada, a significant percentage of the guns used to commit crimes are Canadian-sourced, so it would be absurd to abandon gun control on the pretext that many of these guns come in from other countries.

Here are some other interesting statistics. According to RCMP data, between 2001 and 2016, an average of 639 firearms a year were stolen from legal gun owners, for a grand total of 8,952 firearms stolen during that period. Ninety per cent of those guns were never found.

[*English*]

For me, the conclusion is clear: The better we control handguns, the less likely they are to end up in the hands of criminals.

[*Translation*]

Furthermore, in recent weeks, we heard from hunters' groups, such as the Fédération québécoise des chasseurs et pêcheurs, who said that they were concerned about the fact that the definition of "prohibited firearm" would ban some guns that are regularly used by many hunters, mainly because of the clause that prohibits firearms that were "originally designed with a detachable cartridge magazine with a capacity of six cartridges or more."

[*English*]

Personally, even as a hunter, I believe that this provision is still too permissive. On the one hand, the new definition of "prohibited weapon" contained in Bill C-21 does not prohibit any existing assault weapons.

[*Translation*]

According to PolySeSouvient, there are at least 482 models of firearms that the government considered to be sufficiently dangerous to ban last November, but none of those models is affected by the latest iteration of Bill C-21, because the government backed down on its amendments. These models will remain legal, and most of them will not be subject to any restrictions.

• (1740)

Among these 482 models that the government has decided not to ban is the well-known SKS rifle, a Russian semi-automatic weapon designed for warfare in the late 1940s. It has been imported in large numbers since the 1980s. It fires the same bullets as the infamous AK-47.

This gun is very popular due to its low cost. It uses steel-core bullets and is so dangerous that most shooting ranges have banned it because the ricochets can perforate equipment.

Think about how absurd that is. A gun is too dangerous for shooting ranges yet safe enough to circulate without restriction.

Bill C-21 will not prevent new models that can accommodate magazines with a capacity of six rounds or more from entering the market, because manufacturers will be able to continue marketing guns with a smaller-capacity magazine that could later be swapped out for a larger-capacity magazine.

It is important to understand that the Criminal Code prohibits the possession of magazines that hold more than five rounds, under penalty of criminal charges. The limit is set at 10 rounds for handguns. Instead of systematically providing smaller-capacity magazines, however, several new-generation gun manufacturers supply 30-round magazines that are limited to five rounds using a controversial mechanism that can be easily bypassed. That is what Richard Bain did to commit the attack at the Métropolis against the former premier of Quebec, as senators will recall.

[*English*]

I know that the minister has promised to tackle the problem of high-capacity magazines by criminalizing modification of such magazines, but it would have been preferable to act upstream by trying to prohibit the import of weapons designed to accommodate these magazines.

[*Translation*]

In closing, even though I would have liked us to go much further, I support Bill C-21 because, in my opinion, it will reduce the number of handguns and assault-style weapons in circulation; it will ban certain gun parts; it will help us crack down on ghost guns; it will support the fight against domestic violence; and lastly, it will strengthen the ability of the Canada Border Services Agency to tackle gun trafficking at the border. Thank you. *Meegwetch*.

(On motion of Senator Martin, debate adjourned.)

[*English*]

CANADA EARLY LEARNING AND CHILD CARE BILL

THIRD READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Moodie, seconded by the Honourable Senator Miville-Dechêne, for the third reading of Bill C-35, An Act respecting early learning and child care in Canada, as amended.

Hon. David M. Arnot: Honourable senators, I rise today in this place of cool, calm second thought in support of Bill C-35, An Act respecting early learning and child care in Canada. This legislation aligns with the objectives of the Multilateral Early Learning and Child Care Framework, which has set a transformative vision for Canada — a vision where every child can access the enriching environment of quality early learning and child care.

It is well known that the early years of a child's life are pivotal. As outlined in the multilateral framework, quality early learning and child care systems are instrumental in promoting the social, emotional, physical and cognitive development of young children. These formative experiences significantly impact their learning, behaviour and health throughout their lives, especially for vulnerable children.

Bill C-35, rooted in these understandings, commits to the establishment of a national system that is of high quality, accessible, affordable, flexible and inclusive. This aligns with the

framework's commitment to these principles, ensuring that our systems respect and value diversity, responding to the needs of children from diverse backgrounds, including those with disabilities and from Indigenous and linguistic minority communities.

Colleagues, much of our debate on this bill has been, in my view, a collective effort to ensure that this legislation does not omit or ignore these groups of children, and further, that this bill does not omit or ignore the charter rights, the human rights, the Indigenous rights and the treaty rights obligations that are afforded to these children through citizenship or treaty. The amendment that we passed just yesterday responds to those obligations.

Even with this amendment affirmed, however, there is no room for complacency.

Today, I want to emphasize just how imperative it is that we affirm the existing rights-based obligations of not only this bill but, more broadly, the existing rights-based obligations of minorities in all future deliberations. It is our fundamental role as senators.

In relation to Bill C-35, I will begin with the Crown's obligation to Indigenous children. As Regine Halseth and our colleague the Honourable Senator Greenwood, before she joined the Senate, stated in a 2019 report:

> There are also unique structural and systemic factors that enable or hinder Indigenous children's development, including lack of community-focused, culturally safe and accessible, health, education, child welfare, and social services systems; legislation, policies and agreements that contribute to (un)healthy family or community environments; and unresolved jurisdictional disputes over which level of government is responsible for funding programs and services for Indigenous peoples. . . .

A comprehensive early learning and child care system must consider these factors, particularly in terms of resolving jurisdictional concerns. Why? Because it is in the interest of children; it is in the interest of reconciliation; it honours the treaties; and because of the inherent rights of Indigenous peoples.

I recall the words of the late Saulteaux Elder Danny Musqua, who relayed oral history from his grandfather who was present at the Treaty 4 negotiations in 1874 at Fort Qu'Appelle, now in Saskatchewan. His grandfather spoke about an elderly Saulteaux speaker who:

> . . . inquired about the "learned man" who was taking notes for the Treaty Commissioners. On being told that this was a learned man, the Saulteaux exclaimed, "that is what I want my children to have. That kind of education is what my children must have."

He was hoping for integration into the new economy, not assimilation. He got assimilation instead.

The importance of language, culture in the education and early learning of Indigenous children cannot be overstated. Early learning is not merely a pathway for future success. It can embody and crystallize cultural heritage, traditions and identity.

In providing early learning and child care, we are acknowledging that it incorporates Indigenous languages and cultures. Child care fosters belonging and identity among Indigenous children and ensures the vitality of these languages for future generations.

In Saskatchewan, as in other Prairie provinces, First Nations communities are young and growing. In February 2007, in my role at the time as Treaty Commissioner for Saskatchewan, I submitted a report to the federal government about the successes and the challenges of fulfilling the covenant that was created by the treaties. That document acknowledged that First Nations:

> . . . are struggling to retain their languages, cultures and important teachings of their elders, to achieve practical forms of governance, to achieve economic self-reliance, and to live as healthy individuals within healthy families and communities. These are not the conditions that the treaties promised.

For the First Nations in Saskatchewan, language is fundamental to the understanding of Treaties Nos. 4, 5, 6, 8 and 10 — treaties that cover every square metre of the province of Saskatchewan. A central principle in that is that "First Nations have distinct perspectives and understandings deriving from their cultures and histories and embodied in First Nation languages."

Responding to unique cultural and linguistic needs fulfills a critical element of the treaty relationship. It demonstrates the commitment to reconciliation, and it also ensures the long-term well-being and development of Indigenous children.

• (1750)

Education, particularly in the early years, is a bridge to understanding, respect and reconciliation. It is a powerful tool that can help mend the gaps created by historical injustices, and it honours the spirit and intent of the treaties. The treaties are not relics of the past. They are, in fact, living documents, and the principles in those treaties are as good today as the day they were entered into.

In this chamber, there has been much well-thought analysis and talk about reconciliation and economic reconciliation. Elders in my home province also call for spiritual reconciliation, a reconciliation which requires affirmation of the cultural and spiritual traditions of First Nations in Saskatchewan, and clear actions designed to re-instill traditional values, languages and cultural ceremonies.

I believe that this investment will also contribute to self-sufficiency for this and future generations in the Cree culture. This is known as *pimâihisowin*, part of which is the pursuit of *iyinîswin*, the ability to develop a clear mind.

This past June, the Greater Saskatoon Catholic School Division announced that it would construct a new school known as the St. Frances Cree Bilingual Elementary School. This school already exists but in a different building.

This school has 700 students. Saskatoon Tribal Council Chief Mark Arcand stated that the St. Frances Cree Bilingual Elementary School is the largest Cree language school in Canada, if not the world. I am hopeful that this school will serve as an example and encourage the provision of Indigenous language and child care.

More broadly, Bill C-35 must afford all children the ability to develop a keen mind. This bill and the framework apply to all children.

Senate study and debate has focused on the recognition and the support of the development of early learning and child care programs that are culturally relevant and linguistically appropriate for all children. This means investing in programs that are developed in partnership with all communities, respecting their cultures, identities and languages. It means heeding the lessons from other jurisdictions, as highlighted by the Senate committee, to prevent the commodification of child care, especially in ways that might overlook or undervalue the importance of culturally specific care.

The Senate committee's meetings on Bill C-35 further highlight the importance of collecting comprehensive, valid, timely and comparable data. This is crucial for monitoring, evaluating and improving the effectiveness of our early learning and child care systems.

The committee's meetings also emphasized the importance of ensuring equal opportunities and access for children with disabilities in line with the principles of the United Nations Convention on the Rights of Persons with Disabilities. Indeed, the Supreme Court of Canada, in 2012, in the *Moore* case set out the parameters of accommodation for children with learning disabilities in school systems. More broadly, it affirmed that programs must be based on subjective, child-centred individual needs of each child.

As a former Chief Commissioner of the Saskatchewan Human Rights Commission, I can tell you that while the jurisprudence on accommodation of children with disabilities took a leap forward with the *Moore* decision, the actual funding, provision and tracking of the system — the data points — remains very murky. One can hope that the maxim, "What gets measured gets managed" will prove true in, it is hoped, the best possible way.

I am mindful of the standing committee's debate over respecting language rights and bilingualism, particularly in provinces such as New Brunswick, which has a unique constitutional status concerning its two linguistic communities. This aligns with our national commitment and our Charter obligations in supporting educational opportunities for citizens from official language minority communities throughout their lives.

Colleagues, I am grateful for the effort of our colleague the Honourable Senator Cormier and his pursuit of clarity of Indigenous language rights and minority language rights through the amendment of this bill.

From first-hand experience, and on a much smaller scale, I witnessed the establishment of commitment to official bilingualism in a small, 20,000-person city in Saskatchewan. The path to success was not straightforward. As a result of the effort of many people, however, under the banner of the Canadian Parents for French organization, many children, including my own, were able to become fully bilingual in the school system.

The rights of child care-age children must be respected, whether they are part of an official language minority community, they have a disability, they are Indigenous or if they have an intersectional identity, including one or more of the above.

Accessing, obtaining and advancing individual rights through the courts, as in the *Moore* decision, is not only unnecessarily burdensome for a parent or parents — very costly — but also resolution through the courts will not likely be effective or it will not benefit the school-aged child that actually starts the litigation because it takes too long and is too expensive. To be clear, the need to seek recourse through the justice system for rights-based obligations is a demonstration of failure of the system, which I mentioned earlier today.

The *First Nations Child and Family Caring* case reminds us all of this, and that the rights of child care-age children must also be respected across jurisdictions.

Colleagues, Bill C-35, as amended, considers the Charter rights, human rights, Indigenous rights and the treaty rights obligations in the provision of child care. As is often said in this chamber, no legislation is perfect — I also said that today.

Bill C-35 is sorely needed, and we must support it. This legislation represents a significant step forward in building a more equitable future for all Canadian children.

This is not about a one-size-fits-all solution. It is about creating an inclusive system that responds to the needs of Canadian families. It embodies our collective commitment to ensuring that every child in Canada, regardless of their background or abilities, can thrive and reach their full potential.

I will be voting in favour of Bill C-35. I encourage you to do that.

I offer my thanks and appreciation to our honourable colleagues on the Standing Senate Committee on Social Affairs, Science and Technology, to Senator Cormier, who reached out to me, and to all others who are speaking for the needs of children in this chamber. Thank you very much.

The Hon. the Speaker pro tempore: Honourable senators, it is almost six o'clock, and pursuant to rule 3-3(1), I am obliged to leave the chair until eight o'clock when we will resume, unless it is your wish, honourable senators, not to see the clock.

Is it agreed to not see the clock?

Some Hon. Senators: No.

Some Hon. Senators: Agreed.

The Hon. the Speaker pro tempore: We will suspend and resume our sitting at eight o'clock.

(The sitting of the Senate was suspended.)

(The sitting of the Senate was resumed.)

• (2000)

CANADA EARLY LEARNING AND CHILD CARE BILL

THIRD READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Moodie, seconded by the Honourable Senator Miville-Dechêne, for the third reading of Bill C-35, An Act respecting early learning and child care in Canada, as amended.

Hon. Marty Deacon: Honourable senators, I rise to speak on this important piece of legislation: Bill C-35. We've heard from many of you during this debate, bringing to bear both your experiences and background on why this legislation is so important for those in your communities. Tonight, I'd like to add what this legislation will mean for my region of Waterloo.

From 2016 to 2021, Waterloo was the sixth-fastest growing large urban centre in Canada. Young families were moving there because of access to the economy in the Golden Horseshoe and a growing job market. I have to say that the region of Waterloo, with its eight townships, is a mighty fine place to live.

An influx of young families will, of course, bring with it much more demand for early childhood education and child care. As is the case across much of the world, gone are the days when one parent — almost always the father — would earn an income while the other parent stayed at home. Now both parents often have to work. Often, this is out of necessity, but, as we've discussed over the course of this debate, this has unlocked untold economic potential for our country, and has allowed women to enter the workforce and pursue a career outside the home.

But this comes at a cost for those who have children and young families. They often have to make a hard choice in how their children will be cared for in those early and formative years.

Consider that, as recently as 2022, families in the Waterloo region were forced to pay between $9,012 and $23,939 annually for one child to be in full-time licensed child care. And now consider that the most recent census results show that the median after-tax income of households in the Waterloo region is $81,000. At the median cost of child care that I just referenced, the average family in Waterloo, and many other communities, would have to spend roughly 20% of their household income for a child care spot. With two young children, that's about 40%.

Families look at these costs and have a stark choice to make. Is it even worth it for both parents to work if one parent is barely covering the costs of child care? If they decide it's not, it goes without saying that, too often, it is the mother who makes the decision to stay at home. While this is only a temporary arrangement before the children are old enough to attend school, I don't need to explain to this room — of high-achieving individuals — what even a few years of interrupted professional development means for one's career. Not only is this a loss to the individual, but to the economy as well.

You've heard the statistics: Forcing mothers to stay at home because child care is unaffordable has a negative impact on the economy. We will always respect moms who choose to stay home.

Part of this unaffordability, especially in growing regions like Waterloo, is due to a lack of child care spaces. Costs are high because there are so few spots to go around. Currently in Waterloo, 7,000 children are on the wait-list for child care. Some haven't even been born yet, but if parents wait, their child will be in school before a spot is available. So this conversation — about whether it's even worth it for both parents to work — is happening inside thousands of households in my region.

Colleagues, that is why I was so happy when, last year, 98% of Waterloo child care operators opted into the $10-a-day program — when a deal was reached between the federal government and the province as part of the Canada-wide Early Learning and Child Care system — and it's why I was even more thrilled when, just two weeks ago, through this agreement, the provincial government announced they would provide the region with $97 million to help create 3,725 child care spaces over the next three years.

This included an announcement that early child care workers enrolled in the Canada-wide Early Learning and Child Care system will get a 19% pay raise, and they will see their pay increase, on average, from $20 an hour to $23.86 an hour, as of January 1. This is good news.

It's this latter point, colleagues, that I want to focus on at this moment. For this program to work, we need qualified, motivated staff to work in these centres with our young children. To do so, potential workers need education. They need training. It's not the kind of vocation that one can take on a whim. There needs to be some stability and the promise that Canadians — who want a career in this field — know these jobs will be there for them once they complete their training.

It's the kind of stability that this legislation offers. It enshrines into law the federal commitment to early learning and child care that is needed for this system to grow and thrive. Specifically, for those who wish to embark on a rewarding career in early childhood education, clause 7 states:

> Federal investments respecting the establishment and maintenance of a Canada-wide early learning and child care system — as well as the efforts to enter into related agreements with the provinces and Indigenous peoples — must be guided by the principles by which early learning and

> child care programs and services should be accessible, affordable, inclusive and of high quality and must, therefore, aim to
>
> . . . support the provision of high-quality early learning and child care programs and services that foster the social, emotional, physical and cognitive development of young children, including through the recruitment and retention of a qualified and well-supported early childhood education workforce, recognizing that working conditions affect the provision of those programs and services.

Colleagues, I had the special privilege of working in, with and for education for over 35 years. Working first-hand — and sometimes on the classroom floor — with families, child care leaders and early learning leaders, they taught me so much. I had the opportunity to pilot early learning programs, such as Strong Start which helps young learners get a jump on their literacy and numeracy. Before I finish, let me take a moment to take you back a few years.

As I look about the Senate, being a young child, or the parent of a young child, might have been a while ago, and it might have been quite different for most of us. Many of you are grandparents and great-grandparents.

In my education system leadership, I had the opportunity to work with Ms. Mary Lou Mackie. She was an executive superintendent of learning who was passionate and relentless about the conditions for success and our inclusion for all students and their families. She advocated very hard to change our structures to improve early student learning — one example being full-day kindergarten and the Extended Day Program in Ontario.

What is the Extended Day Program, you ask? That is basically where child care comes to the students. Their day is extended in the classroom, and it's a seamless daycare that comes into the classroom so that there's less disruption on our students rather than the child care taking place in a separate facility. It was a significant and fabulous change for our young people.

Ms. Mackie, like many of us, was inspired by the late Charles E. Pascal — the prime architect of full-day kindergarten and extended day learning in Ontario. I would like to share a quote with you today. This was said by Pascal while he was the special adviser on early learning to the Premier of Ontario and the executive director of the Atkinson Foundation:

> In my view, there can be no better measure of progress of our society, our nation, than how well we support the youngest of our young through a shared and consistent commitment about the needs of all of Canada's children. Like a teeter-totter with a decentralized block of cement dropped on one end, our nation seems up in the air. While we still have some glue left that seems to define what it means to be a Canadian, the obvious binder being universal health care, we need more . . . much more. High quality early childhood education which is a key determinant of health, one that can dramatically reduce health care expenditures, should be the stuff of getting our nation moving to a more cohesive and balanced society.

• (2010)

Charles Pascal passed away earlier this year. If he hadn't, he would be sitting front row watching this debate. His passionate commitment to building an education system that enshrined high-quality early learning and child care has continued to resonate with many and challenge some. Pascal's views were not partisan; rather, they reflected deeply held principles, supported time and again by research. He believed that fragmented policies and structures can and do prevent the kind of progress necessary to improve the quality, accessibility and affordability of early learning for children, parents, guardians and governments alike.

Senators, I have seen first-hand how wonderful it is when these things go well. I have also seen the repercussions when they do not. This legislation, in formulating principles that I think tick every box that we need ticked at this moment, will ensure that these early learning and child care programs succeed in every region, in every community, from coast to coast to coast — not just mine.

It's not merely throwing money at a problem. It's creating a scaffolding with which early learning and child care can grow and thrive in this country, and not just for those who can afford it but for all Canadians. Thank you, *meegwetch*.

Hon. Frances Lankin: Honourable senators, I am so excited to speak to this bill. This is a passion of mine and has been for many years. Before I start, I want to very much thank Senator Moodie for her excellent job as sponsor of this bill. Boy, I'll tell you, it's been a long time coming.

I also want to say congratulations to Senator Cormier and others who fought fiercely and passionately for the amendment that was passed yesterday. I had informed Senator Cormier and Senator Poirier before that I would be voting against it. I think you know, from the passion I seem to have found to articulate to you what I believe are the legislative, legal and order of law parameters, that I feel strongly about the issue of federal-provincial jurisdiction.

I did vote against it, but I took the time, with the help of Louise Mercier in my office, to pull the Canada-Ontario agreement. We heard much about this, but nobody entered it into the record, and I want to do that.

In recognizing that it's a provincial jurisdiction, and in this case I'm talking about my province of Ontario, we looked at the Ontario agreement and the language that the federal government insisted on in the negotiations, which appears in this. I believe

that whenever there has been an agreement signed thus far, the same language appears. I haven't checked them all, so I'm not going to assert that, but that's what I have been informed of.

Let me read to you, from the "objectives and areas of investment" section, so tying it to measurement and investment, the overarching objectives that have to be met. One of them is inclusivity, and it's very clear here in the agreement: "Ontario commits to develop —" put in by the federal government and negotiated with the provincial, but the jurisdiction is provincial "— and fund —" with federal and provincial dollars "— a plan that supports access to licensed child care spaces for . . . ." And there are a lot of categories that we would imagine for inclusivity:

> . . . for vulnerable children and children from diverse populations . . . children living in low income families, children with disabilities and children needing enhanced or individual supports, Indigenous children, Black and other racialized children, children of newcomers to Canada. . . .

The point I was making yesterday about these agreements was a very specific reference to the subject of our amendment yesterday: official language minorities. Later, it talks about what that means, but official language.

We know what that means: "Where possible, to report the annual public expenditures on child care programming dedicated to children from . . . ." these various groups, and let's be straight-up — we have not had reporting requirements like this before in a whole range of programs where we seek to know whether we have made progress, but the numbers aren't there. The federal government negotiated with the province by funding collaboratively and placing respect in their jurisdiction to reach these goals.

Specifically, with respect to the amendment yesterday, they commit to, and Ontario commits:

> . . . to maintain or increase the current level of licensed child care spaces offering French-language programs and licensed spaces offering bilingual programs for children age 0 to 5 by fiscal year 2025 to 2026 and continue to meet or exceed the number of French child care spaces for children age 0 to 5 proportional to the population of French speaking people in Ontario by fiscal year 2025 to 2026 . . . .

It goes on.

The point I want to make is that these agreements we enter into when there are funding agreements in federal-provincial jurisdiction, we have not in the past had such explicit direction that could be monitored because there was no monitoring; there was no data. This promises to fix that, and I think we will be able to, at an appropriate time, measure the results that will also be in response to the amendment that was passed by this chamber yesterday, and we will be able to see the success — or not — and hold accountable the funding partner here.

There's also a commitment, by the way, to appropriate development of these plans going forward with representatives of all of the diverse groups who should be involved in this, so the duty to consult, which doesn't apply to all groups — morally, maybe — which doesn't include the province, has been written into the federal-provincial agreement.

I want to go on with where we are — and my history. Some of my friends have looked at my history and said, "Can't you keep a job?" I keep doing different things in my life, but they have all built up to an experience which has helped form my approach to things and my sense of my values.

My first job out of university in the early 1970s was as a director of a child care centre. It was a for-profit child care centre. I learned a lot and came out of that fully committed to universal access to non-profit, quality child care, and those aren't buzz words. They make a difference.

I can tell you about the broken equipment that kids were injured on. I can tell you about the poor quality of meals. I can tell you about our getting a call from the Ministry of Social Services two days before an inspector showed up — every time an inspector was coming. What we had to go through to clean the place up and make it look great for those inspectors belies the problem, where profit is a motive to up the revenue, and it comes at the expense of our most precious assets — our kids. I very strongly believe that. To me, this bill doesn't go far enough on that, but it does speak to the preference for that and to working with provinces to try to achieve that.

I was also — here is where I start to admit how old I am — a founding member of the Ontario Coalition for Better Child Care. I was a member of the Ontario Federation of Labour Women's Committee. I was a representative on the coalition that came together to look at child care, and I was a representative for the Ontario Public Service Employees Union at that point in time.

We started our work — are you ready for this? — in 1981. We've been working for years on the issue, but this coalition, which led to the establishment of the Ontario Coalition for Better Child Care, was formed in 1981. We issued our report, which I'm going to talk about in a second, called *Daycare* — back in those days we called it "daycare," not "child care." We've graduated from older language. We've evolved and transitioned. The report was called, in 1986, *Daycare Deadline 1990*. Keep that in your mind.

I want to talk for a moment about some of the recommendations that came out of that report. For any of you who are interested in that report for a historical review and to see the relevance today, our office will gladly provide you the link to it. You can find it online.

I mentioned that we started this work as a coalition with labour, community partners and others in 1981. Reading from the report, there are a number of recommendations. I won't go through them all. Let me just highlight that they are divided into — our province of Ontario, for example — what Ontario must do, what the federal government must do and what the roles of municipalities, labour and management are. There are numerous recommendations under each of these. Within the "what Ontario must do" category is a number of things, including — by the way, we were looking for implementation then of a $5-per-day space subsidy, right, which would do

nothing today. Had they done it then, we would be in a lot better situation — implementing that immediately and move for the rest of the recommendation implementations by 1986.

• (2020)

On what the federal government must do, okay, please understand the relevance of the bill before us. They must create a national child care act to demonstrate a federal government commitment to the philosophy of universal child care as a public service that should be implemented. The act would replace the Canada Assistance Plan as it relates to daycare services and provides funding on a universal basis.

You remember how many years ago that was. You know what we're doing today with this bill. I sometimes wonder.

There is a really interesting section on the role of municipalities and labour and management, and I want to pay tribute to those in the trade union movement who stepped ahead, before the Ontario government, before the federal government, and created workplace-based child care programs. One of the first was what was then — it might have even been the United Auto Workers, or UAW, and then the Canadian Auto Workers, or CAW, and now Unifor, and their particular focus was auto plants and the shift workers and the impossible situation of parents working shifts in terms of getting the appropriate care for their kids. They stepped forward. Many other trade unions did, in public the sector, in what we call the MUSH sector in Ontario — municipalities, universities, school boards and hospitals. Many of those workplaces have them now.

The unions came forward with that. Management helped make it come to fruition, and there was also incredible support from many municipalities who have played a role and who have expanded on their own, out of municipal tax dollars, the provision of these programs which really should be at the provincial and federal level, which we're achieving now. I pay tribute to all those people who were the early leaders in that situation.

There also are so many organizations to say thank you to for the work that they have done continuously for so many years. I read the submission from Dr. Gordon Cleveland, who is now a retired associate professor of the University of Toronto, a specialist in the analysis of child care and base costs, and he and his team are the ones that came up with the statistics you might remember from years ago, that every dollar invested into child care saves $7 — that was back then; it's more now — in terms of costs of social services, supports for families in poverty, a whole range of things.

He, by the way, back in the 1980s, I think it was, was the key adviser on child care to prime minister Brian Mulroney. So let's not think that this is a partisan approach. We may have differences of how to deliver it, right? That's fair enough. That's about implementation. But I believe every senator here, and to a certain degree, other than other reasons to perhaps oppose it in the House of Commons, every one of us wants the best for kids and the best education, and we recognize that. I'm looking at Senator Seidman because I've listened to many of her speeches. We recognize what these investments will mean and how important they are.

To all of you from Quebec, I thank you for the leadership that you and your province have shown over the years, because we have been lobbying to follow Quebec for many, many years.

Organizations like the Ontario Nonprofit Network — I think of the YWCA and the years that they have invested in trying to bring about these improvements. Campaign 2000, Martha Friendly — there are so many people, like former lieutenant governor Margaret Norrie McCain. She, through her time in leadership that continued over all of these years, has continued to invest and support and lend her voice to getting to where we are today, so I am thrilled about that.

I don't want to take long. We've got a lot to do tonight, but let me say this is a historic moment for this country. It is a historic moment for all of us as legislators to be here and to participate in this, and it is a historic moment — forgive me for personalizing this — for me personally because I have been working on this issue since at least the late 1970s and early 1980s.

Now, looking at that, in 1981 we started the process of writing this report. We consulted all across the province. In 1986 we issued our report. We wanted this done by 1990. It's now 2023, so it's 33 years later. Let's pass it, make it law and make a difference for the kids in this country. Thank you very much.

Some Hon. Senators: Hear, hear!

The Hon. the Speaker: Senator Rebecca Patterson has a question. Senator Lankin, would you take a question?

Hon. Rebecca Patterson: Senator Lankin, I support this bill 100%. What I do want to do is talk about a very distinct and unique intersection of children in Canada, and they are the children of military members. As you know, military bases are federal territory within provincial jurisdiction. Very often, provinces don't like going on to federal land in order to provide services, and it's an afterthought.

We also know from repeated studies that we are actually impacting the ability of jets to fly in Cold Lake and ships to sail in Halifax because parents can't find child care for their families. In all the research that you've done, and since you have such an extensive background in this, even though children are the jurisdiction of the provinces, have you seen anywhere in anything that you have read that there will be an acknowledgement of very distinct groups?

While I am not from the Royal Canadian Mounted Police, I would suggest that RCMP families, where they are often dual-service couples, also struggle with this, and it directly impacts first responders. Have you seen anything?

The Hon. the Speaker: Senator Lankin, your time for debate has expired. Are you asking for time to answer the question?

Senator Lankin: Just this question, yes.

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

An Hon. Senator: No.

The Hon. the Speaker: I hear a "no."

Senator Cardozo: Thank you, Madam Speaker. I just want to take a few minutes in much the same vein as Senator Lankin. There are a few people I would like to pay homage to today. This has been a process that has been going on for — my math is not very good, but 55 or 60 years. I want to start by mentioning the late Honourable Monique Bégin, who passed away just a few weeks ago. She was the secretary of the Royal Commission on the Status of Women, which was the first royal commission that recommended a national child care program. It's taken us a long time to get there, but we are almost there.

I would also salute the Honourable Margaret McCain, former lieutenant governor of New Brunswick and head of the McCain Family Foundation. Some of the other individuals who appeared before us include people from the McCain Family Foundation, as well as Martha Friendly from the Childcare Resource and Research Unit and Morna Ballantyne, executive director of the child care organization called Child Care Now, and, of course, as Senator Lankin mentioned, Pauline Marois, who was the minister of education and brought in the first $5-a-day child care program in Canada that we have now followed throughout the country.

Kudos to all these women who have worked on this for a long time, and it's really to their credit that we now have a national child care program. Thank you.

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I rise today to speak to Bill C-35, An Act respecting early learning and child care in Canada, as the official critic. I wish to also extend my gratitude to Senator Moodie, the sponsor of this bill, and to all senators who contributed to the debate in the chamber and at committee.

Let me begin by re-emphasizing the importance and need for early learning and child care for every child and family.

At the time of our need for child care, my husband and I were fortunate to be able to live with my parents, who provided child care to our daughter as we both worked as full-time teachers. My mother even timed her early retirement with my return to work after my maternity leave ended and our daughter was 14 months old. Under their loving care for more than a decade, our daughter enjoyed home-cooked meals; learned to understand, speak and read Korean, my heritage language; and enjoyed a range of experiences that all became a part of the foundation of her character, values and distinct identity.

• (2030)

While I support Bill C-35 in principle, I want to reiterate some of my concerns, along with the recommendations and compelling testimonies heard during the study of the bill at the Standing Senate Committee on Social Affairs, Science and Technology. Bill C-35 is set to legislate key principles, primarily from the Multilateral Early Learning and Child Care Framework. Importantly, it acknowledges the Indigenous Early Learning and Child Care Framework as a fundamental aspect for funding guidelines.

The Indigenous Early Learning and Child Care Framework, which is a collaborative creation between the Government of Canada and Indigenous peoples, is a cornerstone of this legislation. It articulates principles that are essential for realizing a vision where all First Nations, Inuit and Métis children and families are empowered by an early learning and child care system that is not only comprehensive and coordinated but also deeply embedded in Indigenous knowledge, cultures and languages.

The need for this coordination was highlighted by the testimony of Natan Obed, President of Inuit Tapiriit Kanatami. His insights underscored the critical importance of respecting and integrating the unique practices and teaching forms of Indigenous communities. Mr. Obed's testimony illustrated how these distinct cultural practices are not merely educational methods but are integral to the preservation and continuation of Indigenous heritage and identity.

I want to highlight my support for the proposed amendment put forward by Senator Cormier, which we adopted, that ensures commitment from the Canadian government to sustain long-term funding for early learning and child care programs, including those for Indigenous peoples and official language minority communities, primarily through agreements with provincial governments and Indigenous governing bodies.

As my colleague Senator Poirier aptly noted, our commitment to linguistic minorities is not just about funding; it's about working together to ensure that, by the time of the next negotiations, we can enhance support for francophones and Indigenous communities to live and thrive in their chosen language and culture.

It's important to note that this amendment does not seek additional funding or detract from Indigenous peoples' rights. Instead, it aims to bring us closer to the reality and respect for linguistic minorities.

Senator Moncion highlighted the necessity of an effective funding mechanism in this amendment. It underscores the importance of agreements with provincial governments and Indigenous entities, ensuring that the funding for early learning and child care services, including for official language minority communities, is allocated effectively and respectfully. This approach respects the unique relationship between Indigenous governing bodies and the federal government while also catering to the needs of official language minority communities.

Yesterday was Senator Kingston's first speech in the Senate Chamber, and through her support for this amendment, she echoed our collective goal in this chamber to give voice to equity-seeking groups, ensuring that our approach to early learning and child care is inclusive and equitable. Therefore, as we consider Bill C-35, it is imperative to ensure that the legislation not only acknowledges but actively respects and

incorporates these individual practices and forms of teachings. Such an approach is vital for honouring the diverse cultures and languages of First Nations, Inuit and Métis children and families.

As I mentioned in my second-reading speech, it is crucial for the frameworks to be flexible in responding to the different regional and cultural needs of all Canadians from coast to coast to coast. In Canada's history, we have seen the complexities of national frameworks and their implications for diverse communities, which emphasizes the need to turn our attention to the pressing challenges of demand and limited availability of early childhood educators.

This was further underscored by the briefings of the Canadian Federation of University Women to the Standing Senate Committee on Social Affairs, Science and Technology. They focused on the critical issue of retaining early childhood educators, ECEs. Their recommendation for a national strategy on recruiting and retaining ECEs is a call to action that we cannot afford to ignore. This strategy is not just about ensuring quality care; it's about supporting the backbone of the child care system: the educators, predominantly women, who dedicate their lives to nurturing our future generations.

While we've seen a decline in the ECE workforce across the country, we must acknowledge that this decline not only stresses the obstacles in fulfilling the need for more skilled personnel but also emphasizes the critical need to value and support our educators.

As highlighted in my second-reading speech, a fundamental aspect of Bill C-35 is the role of parents in their child's upbringing. Parents serve as the cornerstone of emotional nurturing and attachment for a child. The deep connection established in the early stages of life profoundly influences the child's emotional stability and overall well-being.

It is through parents that children first learn vital social and ethical principles. By exemplifying behaviours, imparting empathy and establishing limits, parents are instrumental in shaping their children's ethical compass. These initial teachings are the foundation upon which children build their future interpersonal bonds and ethical choices.

In Bill C-35, the introduction of mandatory conditions for child care centres to be eligible to opt in for the government program remains a concern to me. I question how these conditions would cater to the rich diversity of beliefs and values that Canadian families hold dear. The Family Program Director of Cardus presented a compelling brief to the Social Affairs Committee, echoing the sentiments I initially expressed regarding the government's preferred form of childcare. Cardus states that the Canada-wide Early Learning and Child Care Plan is inherently unfair, focusing solely on the government's preferred form of care, thereby neglecting the diversity of Canadian families.

Their assertion that funding parents directly would ensure fairness and offer families the flexibility to meet their unique requirements is a perspective that resonates deeply with our ongoing discourse.

In her briefing to the Social Affairs Committee, Beverley Smith presented a critical analysis of the child care system in Canada, particularly addressing the shortcomings of the proposed legislation in meeting the diverse needs of all Canadian families. Her briefing challenges the prevailing focus on institutional daycare, advocating for a broader understanding of child care that encompasses the ways families choose to raise their children, including at-home care and care by relatives. There were recommendations that emphasize the need to recognize and support parents as their children's primary caregivers, whose roles are often undervalued in policy discussions.

Beverley Smith illustrated the disconnect between government subsidies for daycare and the lack of direct funding for parents who choose to care for their children at home, arguing that such policies may unintentionally discriminate against families that prefer non-institutional care settings.

The recommendations related to parental rights in this bill are calls to action for policy-makers to consider the full spectrum of child care preferences across Canada. We must support and respect all children, regardless of whether they are in daycare or cared for at home. We must respect the cultural, social and personal preferences of families in ensuring that all children have equal access to resources that support their unique development.

Bill C-35 favours public and non-profit child care providers. As I highlighted previously and now supported with witness testimonies, favouring public and non-profit child care providers potentially marginalizes the pivotal role played by private operators in the child care system.

Cardus called for a strengthened commitment to flexible care options, supporting all forms of care and eschewing preferential treatment of public and non-profit providers.

A brief from the Child Care Providers Resource Network has also been instrumental in highlighting challenges in child care. They draw attention to the labour shortages in the child care sector and the need for arrangements that cater to families requiring flexible hours beyond the traditional nine-to-five model. This insight echoes the concerns I raised in my initial speech, emphasizing the necessity of a child care system that adapts to the evolving dynamics of modern family life.

• (2040)

On December 5, 2023, Statistics Canada released the results of the Canadian Survey on Early Learning and Child Care and the 2023 Survey on Early Learning and Child Care Arrangements. The *Child care arrangements, 2023*, report provides insights on how child care use has evolved since 2019. The report found that a higher proportion of parents report difficulty finding child care in 2023.

The proportion of parents who used child care and who reported having difficulty finding it increased from 36% in 2019 to 49% in 2023. Difficulty finding available child care remained the top challenge for parents, and the proportion of those reporting this difficulty increased from 53% in 2019 to 62% in 2023. Finding affordable care also remained a common concern among parents, but the proportion of those reporting this declined from 48% in 2019 to 41% in 2023.

Difficulties in finding child care often resulted in negative impacts on the working life of families. For example, in 2023, similar to other years, the top impacts among these parents were having to change their work or study schedules, 34%; having to work fewer hours, 33%; or postponing a return to work, 31%.

On the question of the role private child care providers have, it's important to note that for families with specific cultural or religious preferences, those providers can offer programs that align with these values and traditions, creating a culturally sensitive and nurturing environment. My colleague Member of Parliament Michelle Ferreri in the other place and myself have been firm on the importance of the role of private child care providers.

MP Ferreri put forward an amendment highlighting and emphasizing the need for Bill C-35 to allow for all types of child care providers — from traditional daycare centres to before- and after-school care centres — who meet or exceed the standards to be included in the system. In a country as vast as Canada, with 10 provinces and 3 territories, from rural to urban, with Indigenous communities, minority linguistic communities and all the wonderful cultures we have from coast to coast to coast, there is not a one-size-fits-all.

Quality daycare must be more affordable, but it cannot be done on the backs of private daycare providers, because at the end of the day, we must ensure parents have options to answer all the various priorities parents have for their child's upbringing.

As I mentioned in my second-reading speech, the complexities of a national framework and the implications it will have for diverse communities, coupled with the pressing challenges of demand and limited availability of early childhood educators, must be considered carefully in Bill C-35. Ontario's Financial Accountability Officer has estimated that demand for child care spaces will outpace the current expansion plans by a staggering 220,000 spaces by 2026, and that is just for one province.

This looming gap in availability is further exacerbated by a concerning decline in the workforce. Among early childhood educators who resigned their position in Ontario, the majority sought other employment outside of licensed child care.

We must therefore ask ourselves: Does Bill C-35 address the critical questions on how we adequately compensate a profession that historically receives lower wages compared to their counterparts in the K-12 system? How do we fix inadequate training and encourage professional development to ensure that individuals stay in the profession? It is not a one-size-fits-all solution.

Honourable senators, upon my examination of Bill C-35 and through the compelling witness testimonies and briefings, it becomes evident that despite the government's admirable goal to create a national child care framework, there are some issues that remain in question.

While Bill C-35 is a step in the right direction, we must ensure that its implementation fosters an inclusive, equitable and diverse child care system that honours the wishes of all Canadian families and respects the cultural and personal choices that they make for their child's upbringing.

As we move forward, let us affirm our commitment to these principles, ensuring that Bill C-35 not only creates a framework for early learning and child care but also upholds the values and rights that are central to the well-being and identity of our children and families.

Thank you.

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

Hon. Senators: Question.

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

Hon. Senators: Agreed.

(Motion agreed to and bill, as amended, read third time and passed.)

JUSTICE

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

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of December 5, 2023, moved:

> That, pursuant to section 3 of the *Statutes Repeal Act*, S.C. 2008, c. 20, the Senate resolve that the Act and the provisions of the other Acts listed below, which have not come into force in the period since their adoption, not be repealed:
>
> 1. *Parliamentary Employment and Staff Relations Act*, R.S., c. 33 (2nd Supp.):
>
> -Part II;
>
> 2. *Contraventions Act*, S.C. 1992, c. 47:
>
> -paragraph 8(1)(d), sections 9, 10 and 12 to 16, subsections 17(1) to (3), sections 18 and 19, subsection 21(1) and sections 22, 23, 25, 26, 28 to 38, 40, 41, 44 to 47, 50 to 53, 56, 57, 60 to 62, 84 (in respect of the following sections of the schedule: 2.1, 2.2, 3, 4, 5, 7, 7.1, 9, 10, 11, 12, 14 and 16) and 85;

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

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

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

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

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

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

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

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

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

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

   -Part 18 other than section 125;

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

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

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

    -sections 394, 399 and 401 to 404;

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

    -sections 6 and 7;

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

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

13. *Financial System Review Act*, S.C. 2012, c. 5:

    -sections 54 and 56 to 59;

14. *An Act to amend the Railway Safety Act and to make consequential amendments to the Canada Transportation Act*, S.C. 2012, c. 7:

    -subsections 7(2) and 14(2) to (5);

15. *Protecting Canada's Immigration System Act*, S.C. 2012, c. 17:

    -sections 70 to 77;

16. *Jobs, Growth and Long-term Prosperity Act*, S.C. 2012, c. 19:

    -sections 459, 460, 462 and 463;

17. *Jobs and Growth Act, 2012*, S.C. 2012, c. 31:

    -sections 361 to 364;

18. *Strengthening Military Justice in the Defence of Canada Act*, S.C. 2013, c. 24:

    -sections 12, 13 and 46;

19. *Yale First Nation Final Agreement Act*, S.C. 2013, c. 25:

    -sections 1 to 17, 19, 20, 21, 22, 23 and 24;

20. *Economic Action Plan 2013 Act, No. 1*, S.C. 2013, c. 33:

    -subsection 228(2); and

21. *Economic Action Plan 2013 Act, No. 2*, S.C. 2013, c. 40:

    -sections 263, 266 and 267.

She said: This motion, Motion No. 144, proposes, before December 31 of this year, to defer the repeal of one act and the provisions of 20 other acts that are listed in this motion.

As Legislative Deputy to the Government Representative in the Senate, this is my first time initiating debate on a Statutes Repeal Act motion, which has become an annual Christmas tradition in the Senate. Like my predecessors Senator Gagné, Senator Bellemare, Senator Martin, I hope I'll be able to do this process justice and do it quickly.

Before going into the specifics of this motion, I'd like to provide some general information about the Statutes Repeal Act as a refresher and to provide some useful context for colleagues who have recently joined this chamber.

The Statutes Repeal Act was enacted in 2008 and came into force two years later. The act is a housekeeping measure for the federal statutes and seeks to ensure the effective maintenance of federal legislation through the regular repeal of provisions that are not in force and no longer needed.

Section 2 of the Statues Repeal Act requires that the Minister of Justice table an annual report before both houses of Parliament on any of the first five sitting days in each calendar year. This report lists the acts of Parliament or provisions of acts of Parliament not yet in force that were enacted nine years or more before December 31 of the previous calendar year.

Under the Statutes Repeal Act, every act or provision listed in the report is automatically repealed on December 31 of the year in which the report is tabled, unless it comes into force on or before that date or unless during that year either house of Parliament adopts a resolution exempting them from repeal.

The thirteenth annual report under the Statutes Repeal Act was tabled on January 31, 2023, in the House of Commons and on February 1, 2023, in the Senate.

• (2050)

Following the tabling of the report, the Department of Justice contacted the departments responsible for the act and provisions listed in the report to verify whether their repeal should be deferred. Thanks to valuable input from senators over the past few years, the Government Representative Office, or GRO, has made efforts to improve the process of the Statutes Repeal Act in the Senate to ensure all honourable senators can receive as much information as possible.

Last year, the GRO began providing a detailed backgrounder to all senators on the Statutes Repeal Act. This yearly summary includes a detailed list that explains this act and the provisions of 20 other acts for which ministers have recommended deferral of repeals, including the reason for the recommended deferrals. That information was circulated from my office yesterday to all honourable senators and their staff.

In addition, some senators in the past, including our colleague Senator Dennis Patterson, have suggested that there should be greater parliamentary oversight built into the process for the Statutes Repeal Act resolution process so that senators could hear directly from departmental officials as to the rationale behind the deferral of repeals. As a result, the Senate adopted a motion on November 9 put forward by the GRO to allow the Standing Senate Committee on Legal and Constitutional Affairs to examine the 2023 annual report under the Statutes Repeal Act so that a Senate committee would have an opportunity to study the issue before the resolution was put forward. With the benefit of hearing from officials representing over 11 departments, the Legal Committee examined and reported on the annual report, and this study was reported back to the chamber last Thursday by Senator Cotter.

I want to thank our colleagues in the Canadian Senators Group for this constructive proposal, and thank the committee for their diligent and thorough work. I hope that a similar process can be replicated for the Statutes Repeal Act process for years to come.

Of note, the committee made several thoughtful suggestions as to how the process could be improved, particularly through annual reporting. The committee observed that:

> Your committee encourages the government to, in future, provide a statement of reasons explaining why the Acts and provisions listed in the annual report have not yet come into force, as well as a timeline for their implementation, when tabling the required annual report under the Statutes Repeal Act.

I believe this type of information should be integrated as part of the annual report, and I can indicate that the GRO has raised this matter proactively with the government, including the Minister of Justice.

Honourable senators, this year, certain provisions of four acts will be repealed on December 31 by operation of the Statutes Repeal Act because the responsible ministers have not recommended that their repeal be deferred. Thirteen ministers have recommended that repeal be deferred for one complete act and the provisions of 20 other acts for which they are responsible. These are listed in the annex of the background document my office has shared with all senators, along with the reasons for the recommended deferrals.

Since my speaking time is probably limited, I refer senators to that document for more comprehensive information, but I'll provide a few general overview points now about this year's recommended deferrals.

The Minister of Foreign Affairs is recommending that the repeal be deferred of the complete act named the Comprehensive Nuclear Test-Ban Treaty Implementation Act.

The Minister of Agriculture and Agri-Food, the Minister of Crown-Indigenous Relations, the Minister of Innovation, Science and Industry, the Minister of Labour and Seniors, the Minister of Northern Affairs and the Minister of Public Services and Procurement have each recommended the deferral of repeal for certain provisions of one act, for which they're responsible for.

The Minister of Justice, the Minister of National Defence, the President of the Treasury Board and the Minister of Public Safety, Democratic Institutions and Intergovernmental Affairs are each recommending deferral of repeal for certain provisions of two acts within their area of responsibility.

The Minister of Transport is recommending deferral of repeal for certain provisions of three acts.

Finally, the Minister of Finance is recommending deferral of repeal for certain provisions of four acts.

There are a variety of reasons for deferring repeal. In some cases, the external event must occur before legislation can come into force, such as the promulgation of an international treaty or the enactment of provincial or territorial legislation. In other cases, work is under way on other legislation that could affect the same provisions. Sometimes deferred provisions are wrapped up in matters being adjudicated before the courts. Other times there is work being done to develop regulations or to consult affected stakeholders, and provisions can't be enacted until that work is

done. There are also considerations involving international relations, relations with provinces and territories and relations with First Nations, Inuit and Métis people.

In all cases, the Statutes Repeal Act provides that repeal deferrals are valid for only one year. That means any act or provision whose repeal is deferred this year will appear again in next year's annual report, and next year those provisions will either have been enacted, repealed or have their repeal deferred once again through this same process.

Honourable senators, it is important that this resolution be adopted before December 31, 2023. Otherwise, the provisions listed in the motion will automatically be repealed by operations of the Statutes Repeal Act. This could lead to inconsistencies in federal legislation, it could damage relationships with governments within Canada and abroad and it could create a new need for new legislation to address the resulting legislative gaps. For these reasons, I encourage all honourable senators to support this motion.

As I said, I invite anyone who would like more information about this process or about the particular provisions involved in this motion to consult the documents we have circulated, speak to our colleagues on the Legal and Constitutional Affairs Committee or get in touch with my office. Thank you, *hiy hiy*.

(On motion of Senator Patterson (*Ontario*), debate adjourned.)

THE SENATE

MOTION TO RESOLVE INTO COMMITTEE OF THE WHOLE TO RECEIVE MARIE-CHANTAL GIRARD, PRESIDENT OF THE PUBLIC SERVICE COMMISSION NOMINEE ADOPTED

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate), pursuant to notice of December 6, 2023, moved:

> That, at 3:30 p.m. on Tuesday, December 12, 2023, the Senate resolve itself into a Committee of the Whole in order to receive Marie-Chantal Girard respecting her appointment as President of the Public Service Commission of Canada;
>
> That the Committee of the Whole report to the Senate no later than 45 minutes after it begins;
>
> That the witness's introductory remarks last a maximum of five minutes; and
>
> That, if a senator does not use the entire period of 10 minutes for debate provided under rule 12-31(3)(d), including the responses of the witness, that senator may yield the balance of time to another senator.

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

Hon. Senators: Agreed.

(Motion agreed to.)

GREENHOUSE GAS POLLUTION PRICING ACT

BILL TO AMEND—THIRD READING—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Wells, seconded by the Honourable Senator Batters, for the third reading of Bill C-234, An Act to amend the Greenhouse Gas Pollution Pricing Act, as amended.

Hon. Yuen Pau Woo: Honourable senators, thank you for allowing the adjournment of this debate on Tuesday so that I can speak this evening. I was ready to speak last week, but the opportunity did not present itself. As it turns out, I've adjusted my intervention to take into account some of the excellent points made by our colleagues in the course of third reading debate, especially what I consider to be the two most compelling speeches in favour of the bill, which were delivered by my Independent Senators Group, or ISG, colleagues, Senator Arnot and Senator Cotter.

I offer my remarks not as a rebuttal to my colleagues, but more as a kind of thinking out loud about their key points. To be sure, I will land in a different place, but I want them and all of you to know that their speeches have forced me to think harder about Bill C-234.

Both Senator Arnot and Senator Cotter are committed to climate action. They believe in the importance of a carbon price and, further, believe that a carbon price would incentivize farmers to shift to lower emissions in the heating and cooling practices for barns and grain dryers. Nevertheless, they support the bill because they argue that the impact of excluding barns and grain dryers from the fuel charge will not make a big difference to Canada's emissions reduction objectives, which, by the way, they support unequivocally. They also support the bill because of their belief in the necessity for small accommodations that can have large beneficial effects, especially in a fractious federation such as ours. Finally, they do not believe that Bill C-234 will contribute to any erosion of the greenhouse gas pollution pricing regime, and they are of the view that this bill should be considered specifically for what it purports to do and not for what it might lead to.

These are all reasonable and principled arguments that are worth our serious consideration. In some ways, I am comforted by their argument that the exemption of barns and grain dryers will not significantly affect Canadian greenhouse gas emissions. I suspect that many of you who are also concerned about climate change are similarly comforted. But should you be?

• (2100)

There are two difficulties with this argument: The first is that small differences add up, and the point about not bothering with such small differences is precisely the argument made by those who oppose any serious climate action by Canada because they say that we won't make a huge difference to the reduction of

global emissions. I have a hunch that this line of reasoning will gain traction if Bill C-234 is passed, and I personally do not want any part of it.

I respect the disciplined approach to the assessment of Bill C-234 proposed by Senator Arnot and Senator Cotter, which they believe should be taken strictly on its merits. That's fair advice from our colleagues, and it reflects the precision and focus of the legal approach in which they are expert.

I come from a different tradition — that of political economy — where what you see is not always what you get, and where an understanding of the provenance of legislation and its second-order and third-order effects are as important as the text of the bill.

Hence, I cannot not think about whether Bill C-234 will lead to further erosion of the greenhouse gas, or GHG, pollution pricing regime. While it might have been possible to avert our eyes to the possibility that it was a Trojan Horse against carbon pricing when we began debating the bill some weeks ago, I believe it is now impossible to ignore the chorus of calls to eliminate the carbon tax as an adjunct to exempting barns and grain dryers from the fuel charge. Premier Scott Moe of Saskatchewan wrote to us a few weeks ago to ask that we rubber-stamp Bill C-234, and to underscore that the carbon tax should be removed on ". . . everything for everyone . . . ." He is not alone.

The idea that Bill C-234 was only ever about exempting grain dryers and barns was always a stretch. The sponsor of the bill in the other place has clearly expressed his opposition to carbon pricing, and his party is loudly and publicly calling to axe the carbon tax.

There's nothing determinative about Bill C-234 leading to the further erosion of the GHG pollution pricing regime. I think that is the essence of Senator Cotter's point about staying focused on the bill at hand, but here's how I think about that point: Is it conceivable, even plausible, that the passing of Bill C-234 will lead to further erosion of carbon pricing in Canada? If it is, what weight should we give to this factor in our consideration of the bill?

When you consider the aggressive calls from federal and provincial politicians to axe the tax in the same breath as when they call on us to pass Bill C-234, I think the risk is real, high and something that should weigh heavily on us as we contemplate what to do with this bill.

In fact, I believe the other place has come to the same conclusion as I have, which is the reason why they voted to reject a motion — from the leader of the "axe the tax" party — calling on the Senate to rubber-stamp Bill C-234.

What about the point that this bill is a form of accommodation for a group of upstanding rural Canadians that will help preserve and protect the federation, and which supports regional fairness? This is an important consideration, and one that has special appeal when you combine it with the argument that the exemptions will not make much of a difference to GHG emissions anyway.

But we must be careful about the protection of the federation argument. If this bill is passed, the provinces campaigning in favour of it will not celebrate the strengthening of the federation, but will rather trumpet it as a victory for provincial powers. If you are in any doubt, just think about how some of these same provinces are acting, or threatening to act, in other domains that are actively undermining legitimate federal powers.

There's another important dimension to the fairness argument that has been overlooked in our debate: It is that Bill C-234 would only apply to backstop provinces, and not to jurisdictions that have their own emissions reduction regime, namely, B.C., Quebec and the Northwest Territories.

The national rules that apply to backstop provinces were designed such that they are equivalent to those in B.C., Quebec and the N.W.T. through a concept known as stringency. Here is how Environment and Climate Change Canada puts it:

> . . . any province or territory can design its own pricing system tailored to local needs, or can choose the federal pricing system. The federal government sets minimum national stringency standards . . . that all systems must meet to ensure they are comparable and effective in reducing greenhouse gas emissions. . . .

All the points made in this chamber about how Bill C-234 is good for Quebec, B.C. or the N.W.T. are not just irrelevant, but, in fact, they are the opposite of good for those provinces. In effect, relaxing the stringency of GHG pollution pricing in backstop provinces means they bear a lesser burden for the national emissions reduction effort than B.C., Quebec and the Northwest Territories. That is a form of unfairness that has not been touched upon in the debate so far. That kind of unequal treatment runs contrary to the idea of regional fairness that some advocates of the bill think it will foster.

I will return to the idea of stringency because it is a vital concept in the GHG pollution pricing regime that requires periodic monitoring and assessment. That concept is key to the determination of a sunset period for Bill C-234 because a misalignment in stringency for too long a period of time is, in effect, a perpetuation of unfair treatment — for some parts of the country — that undermines Canadian unity.

Before I return to that point, I want to touch upon another aspect of the idea that Bill C-234 is about accommodating the special needs of certain farmers. That view gives the false impression that no accommodations have been made, and that the federal GHG pollution pricing regime is an inflexible, mechanistic policy vice that is insensitive to special circumstances.

The fact is that barns and grain drying farmers are already accommodated by way of a rebate for the fuel charge that has been offered since 2021. Many senators have quoted the Parliamentary Budget Officer's estimate that cumulative revenues from the fuel charge on natural gas and propane over the next eight years will be around $1 billion. That is a highly

misleading figure because all those revenues will be returned to the farming sector in the form of a rebate. You might say that there is also no net cost if we exempt barns and grain dryers in the first place, but that defeats the purpose of a price signal.

It is true that farmers do not get back the exact amount that they spent on natural gas or propane, but those who do more in terms of energy efficiency will do better than those who have done less. Eliminating the rebate and having a blanket exemption will not only slow down the progress toward energy efficiency, but it will also be unfair to farmers who did respond to a carbon price signal.

Rather than exempting natural gas and propane, a better approach would be to see if the rebate can be better targeted at farms that rely on natural gas and propane while preserving the fuel charge. That was one of the recommendations in the Standing Senate Committee on Agriculture and Forestry report that this Senate rejected. I would have expected the Standing Senate Committee on National Finance to investigate this issue, as the chamber instructed, but that committee failed to hold even one hearing on the bill.

What a shame that the only way to dig deeper into this question is to send it back to the House of Commons. It was a missed opportunity for the upper house. Colleagues, tonight I have gone through what I consider to be some of the most compelling good faith arguments in favour of the bill — and why I do not agree with them. In previous speeches, I addressed what I consider to be fallacies in the proponents' understanding of how a carbon price is supposed to work, and the false assertion that there is no scope for energy efficiency improvements based on current technologies.

There are other arguments that can be summed up by the phrase "We love farmers." To this I say, "Amen," but the points raised about farmers feeding the world or sequestering carbon through better farming practices, while true, are non sequiturs. As legislators who should be concerned about the national interest, we must love even more the pursuit of good public policy.

• (2110)

In my view, Bill C-234 is not good public policy. This is why I oppose it as much as I oppose the Liberal government's exemption for home heating oil. Unfortunately, we have no ability to debate the home heating oil exemption. Hence, I think the best approach for us to take on Bill C-234 is to align its provisions with the home heating oil exemption, which will expire in three years. A three-year sunset clause will coincide with the mandated interim review of GHG pollution pricing in 2026, which will include consideration of interjurisdictional and international competitiveness issues and, crucially, the concept of stringency, which I referred to earlier. I had proposed such an amendment in committee, and it was defeated on a tied vote.

By aligning the sunset clauses of the home heating oil and Bill C-234 exemptions, we will have the benefit of a comprehensive review that brings to bear departmental resources and other expertise on the very questions that motivate this bill. If we pass the bill in this form, it will be a reasonable compromise to deal with the already dangerous slippage in our GHG pollution pricing regime.

More than that, an amended bill will give an opportunity to our colleagues in the House to reconsider their support for the original Bill C-234, as we have already seen in the motion that failed in the House last week. That motion called on the Senate to rubber-stamp this bill without amendment. It was defeated by a combination of Liberal, Bloc Québécois and Green MPs voting against it. I think they are appealing to us to give them the opportunity to reconsider their earlier decision. Since we know a thing or two about sober second thought, we should give them that opportunity. A common-sense amendment to align the sunset periods of the home heating oil exemption and Bill C-234 would do that.

MOTION IN AMENDMENT—VOTE DEFERRED

Hon. Yuen Pau Woo: Therefore, honourable senators, in amendment, I move:

That Bill C-234, as amended, be not now read a third time, but that it be further amended, in clause 2 (as amended by the decision of the Senate on December 5, 2023):

(a) on page 2, by replacing line 23 with the following:

"**into force on the day that is the third anniversary**";

(b) on page 3, by replacing line 6 with the following:

"**third anniversary of the day on which this Act**".

The Hon. the Speaker: I just wanted to mention that on debate, I have Senators Ringuette, Lankin, Dalphond, Wells and Plett.

Hon. Pierrette Ringuette: Honourable senators, I rise today to speak to Senator Woo's amendment. I hope you have verified the facts that I previously highlighted regarding the climate change costs to our economy and our health care system, among many other costs inherent to carbon emissions — because I have more facts tonight.

At the outset, I want to say that I have always been a strong supporter of farmers all my life, whether in the Legislative Assembly of New Brunswick, in the House of Commons or here. The increasing farm operation costs by carbon pricing on natural gas and propane are marginal. According to the Parliamentary Budget Officer, or PBO, the cost of heating and drying fuels for the average Canadian farmer, including the carbon pricing, represents 0.8% of their overall expenses — not even 1% of total operating expenses.

I would say that given the cost of carbon emissions on our GDP, this less than 1% is truly very marginal to the cost of climate change damaging everyone, including farm operations. It's like the chicken and the egg question.

Do we marginally increase costs to reduce farmers' emissions and their spiralling greater costs of climate change events? To me it is clear. The sooner we reduce emissions, the sooner we reduce climate change events and costs to all of us, including and particularly our farmers.

Honourable senators, our PBO has issued two different reports on carbon pricing. The first one was on June 15, 2023, in which he estimated the foregone revenue from carbon levy to the agriculture sector that is the current exemption for gas and diesel. For this year alone, the exemption for the agriculture sector is $595 million, and it will reach $1.562 billion by 2030. That means that the cumulative current exemption from this year to 2030 amounts to $8.622 billion.

It is unfortunate that our Agriculture and Forestry Committee did not investigate this PBO report during their hearings. This exemption represents 97% of total fuel used by our farming sector. You will agree that this exemption for farmers is very generous compared to all the other economic sectors of our country — particularly, I would say, for the farmers in Quebec and B.C.

The other PBO report, of September 15, 2023, provided the cost estimate for carbon pricing by Bill C-234. Some people referred to this report many times in this debate, saying that the cumulative cost to farmers would be $1 billion. The exact number in the PBO report is $979 million. But what I find somewhat disingenuous is that this is only half the equation. They completely sidetracked the 90% rebate associated with the above carbon pricing for propane and natural gas.

In fact, when you remove the 90% rebate from the carbon pricing on propane and natural gas, the actual cumulative rebate over the same period reaches $881 million. Therefore, if you take the cumulative cost of $979 million less the cumulative rebate over eight years, it is equal to $97.9 million. That is $122,375 per year for all of Canada's farmers.

Considering that in Canada — notwithstanding Quebec — there are 151,805 farm operations, that represents an average net cost of $806 per farm per year. These are the facts as per the PBO report. Do not be sidetracked by not looking at the entire picture.

Again, honourable senators, I will try to separate facts from myths regarding the arguments that have been heard so far.

• (2120)

The Greenhouse Gas Pollution Pricing Act created different schemes of charging for emissions as per the economic sector that you operate in. There is one for us, individual consumers. There is one for the industrial gas emissions based on carbon dioxide tonnes that can be part of the trading system for industry and another one for other operations, such as farm and commercial fisheries.

The act also provided for the provinces to create their own scheme — which was the case for my own province, until July 1 — that would relate to their own emissions situation and targets, as Quebec and B.C. did.

Last week, I had many conversations with farmers in my area who grow grain as part of their rotation crop. They confirmed the costs of a silo for grain drying at $200,000, a combine around $700,000 to $1 million. A 500-horsepower tractor is $600,000. A potato harvester is $2 million. Given the price of these other pieces of farm equipment, all things being relative and equal, a grain dryer in these operations is a very low-cost piece of required equipment.

I also asked if they were drying on farms or commercially. Even with the low equipment costs of a grain dryer, they are using the regional commercial dryer in Grand Falls. My next question was: Why a commercial dryer? The explanation was the commercial dryers are on a need-to-use basis, as they also provide storage and shipping facilities.

With climate change, floods or drought — one never knows — the drying of the grain may or may not be required. It's on an as-needed basis. That's the purpose of the commercial dryer.

Colleagues, that leads me to believe that the 60% to 65% of grain drying done in Ontario commercially is because it is most cost-efficient for the farmers. I cannot say regarding Manitoba, Saskatchewan and Alberta because I never saw any data pertaining to these provinces.

On the argument that there is no alternative to natural gas and propane, I was told by my farmers that the heat generated by cows either in a dairy farm or a beef-raising operation is minimal because of the heat that the animals generate themselves within that quarter.

I will also state — and Senator Mockler could confirm this — we have a local milk producer who, over 12 years ago, installed a biomass operation from the methane his operation generated, along with other farm waste, to generate electricity. He generates so much electricity that not only does it cover his operations, he is also selling it to the New Brunswick grid. This has been happening for 12 years in the small community of Saint-André, New Brunswick. There are alternatives.

If you want to reduce your operation costs, your climate change costs and reduce emissions, the current carbon pricing and rebates for farmers is balanced to incentivize cleaner technologies that are available. The rebates, designed to return

90% of the pricing, compensates farmers for the cleaner technologies they already have invested in, like my milk farmer in Saint-André.

The Fall Economic Statement announced that we will have upcoming legislation regarding clean economy investments as follows: carbon capture utilization and storage; clean technology; clean electricity for non-public and for public-owned entities; an investment tax credit to support using biomass to generate heat and electricity — these credits will be between 15% to 30% of the cost of going to biomass. These are upcoming measures that will benefit farm operations using their biomass.

In conversation with the New Brunswick chicken producers and transformers, they tell me that, if they have a three-year pause — and with this new tax credit to convert to biomass — they can convert their operation's energy needs to biomass within 12 to 18 months. So it is possible, colleagues.

Moving on to another cost question, how do our carbon pricing emissions compare to other countries? In 2023, the European countries are charging €100 per tonne of carbon dioxide, which is equal to $147.64 Canadian. For the U.K., the latest information I could acquire was from 2021, but it was equivalent to $141.60 Canadian. That was two years ago. For comparison then, Canada's 2023 carbon pricing per tonne was set at $65. The Canadian carbon pricing is 44% less than in the EU, where we have trade agreements, and 46% less than in the U.K.

Honourable senators, I hope that I have not bored you with all my fact-finding research. It was important to me, important for my own knowledge and for my own opinion-making on this bill, and it was important to share with you because we don't all have that time. I understand that.

For all the above reasons, and as a compromise — and considering the major biomass program in the Fall Economic Statement — the three-year period amendment proposed by Senator Woo is a reasonable and reasoned amendment that certainly makes common sense to me and the farmers in my area. If we don't do this, we're only saying, "Don't go to biomass; don't use new technology; don't look at the future; stay behind." I urge you, senators, to adopt Senator Woo's motion.

Thank you.

Hon. Pierre J. Dalphond: Colleagues, I rise to speak briefly in support of Senator Woo's amendment. He expressed arguments in favour of this amendment in a very clear manner and I thank him. I would like to add that, in my view, his proposal makes even more sense today than at committee where it was defeated by a tie vote.

Why? Because, since the end of our committee study, many important developments have occurred that call for this amendment in addition to the valid arguments that Senator Woo raised at committee and earlier tonight. I recognize I'm not an expert in agricultural finance. He is the expert. I defer to him. But I thought the arguments were quite convincing.

First, on October 26, the Prime Minister announced a three-year exemption on the price on carbon for home heating oil. Though it is often described as "the Atlantic exemption," we know now, thanks to Senator Ringuette, that it will affect more households in Ontario and elsewhere in Canada than the Atlantic provinces overall. Like I said in my third reading speech, I was rather puzzled by this announcement when it was made. After some research, I now understand that at current prices, it can cost four times more to generate the same amount of heat with oil compared with natural gas, and that the price of oil has increased significantly over the last few years — contrary to the price of natural gas, which went down. Finally, this expensive source of energy is mostly used by low-income households.

• (2130)

As Senator Ringuette previously illustrated, this exemption is not targeted at one region — it's targeted at a group of people who are using a product where the price went through the roof over the years and who are financially unable to adopt an alternative without some assistance.

It is also very important to remember that it is a three-year exemption and not an eight-year one, and without the easy extensions we find in Bill C-234.

As to the second development, since our committee study, the government has repeatedly said they're not open to further exemptions to the price on carbon. The government has also reaffirmed its strong commitment to the policy of a price on carbon and to doing whatever is necessary to meet Canada's undertaking under the Paris Agreement. We also know that the Bloc Québécois and the NDP share a commitment to Canada's climate plan and reject an "axe-the-tax" approach. This position does not exclude some exemptions to deal with dire situations, if proven.

Third, on November 6, the House of Commons defeated a Conservative motion calling for an exemption for all home heating fuel. Senator Woo referred to it briefly. Why should we have a bill that provides an exemption for heating all kinds of barns and farm buildings, including for those farmers operating in supply management systems that guarantee them a good income, while refusing a similar exemption for all home heating? I think it's a good question. As I asked at third reading, are cows and hogs more valuable than humans?

Furthermore, it would be illogical to adopt a bill that proposes exemptions for heating all kinds of farm buildings for a minimum of eight years while there is only one exemption currently, which is for homes using heating oil and limited to three years. I don't see the logic behind eight years for farm buildings but three years for the poorest people in the country using that type of heating system.

Fourth, last week the House of Commons defeated another Conservative motion. That one more or less ordered us to pass Bill C-234 without amendments in the midst of our review. Conservative MP Adam Chambers stated to the media, just before entering the Conservative caucus, that senators should go back to ". . . what they're good at, which is being invisible . . ." Obviously, he ignores the new reality of this place. We don't intend to be invisible, sir, and we are ready to do our constitutional duty of providing sober second thought in connection with all kinds of bills, whether from the Conservative Party or the government.

But we are also mindful of our role to propose amendments when we consider it appropriate, while leaving the final say to the elected MPs. This is the proper functioning of Canada's Parliament. To quote the late Senator Shugart, "We are very familiar with the fact that our role calls for some restraint."

In the end, the return of Bill C-234 to the other place will invite all MPs, including Liberals and ministers, to revisit the issue of exemptions and put in place a coherent approach in matters related to them.

Incidentally, this is also the goal of the motion tabled two days ago by our colleague Senator Bellemare. In her speech on Bill C-234, she urged all of us — including the provinces, the federal government and all stakeholders — to act together in the pursuit of solutions to the climate crisis. We can only get through that crisis, which is linked to our own survival, by acting together — not by threatening to not implement laws that have been federally adopted by this Parliament, or having states that are becoming rogue provinces and provinces that are becoming rogue states by refusing to implement laws that were constitutionally adopted.

If we have the will and can work together, as she suggested in her motion, then we can expect to meet our undertakings under the Paris Agreement. We will have a coherent policy and a strict price on carbon, with exemptions designed to give relief to those who are in absolute need of it, with a multiplicity of programs put forward by the federal government and the provinces to assist everybody in a green turnaround. That's the only way we can do it.

I know some farmers need assistance. I know they are oversubscribing to all of the programs that have been put forward so far by Agriculture Canada. I know they are willing to embrace changes because, as Senator Cotter said, they are the stewards of the land. They want the land to survive, they want to survive and they want to help keep us properly fed. But we all have to work together and not try to seek out how to escape the burden carried by others. We should all be sharing the burden and working together to achieve these goals. Thank you very much. *Marsee*.

Hon. David M. Wells: Honourable senators, I was going to ask Senator Ringuette a question because she spoke so glowingly about how farmers are so well off that you'd think they love the carbon tax. I was going to ask her if she had ever met a farmer who wanted and enjoyed the carbon tax. During this whole process, for months upon months, I've heard from farmers, ranchers, growers and grain dryers who don't want the carbon tax. I haven't heard one — and I've had a lot of outreach — who said, "You know what, Senator Wells? I love the carbon tax. Let's keep that going." Perhaps I should have asked some farmers from New Brunswick. I would have had a different response, certainly.

We also heard from Senator Woo, who gave great credit — and rightfully so — to Senators Arnot and Cotter, who gave great speeches — probably the best speeches on this topic. You would think that he was using those two great examples to support his cause. Of course, they are against his cause. They are against the carbon tax on farmers, growers and ranchers.

Colleagues, I want to go back to how we got to eight years on this bill, which was introduced here in the Senate some months ago. I mentioned it in one of my earlier speeches — again, I don't remember which one — but it was suggested by NDP member Alistair MacGregor at the Agriculture Committee in the other place. The proposal in the original bill was for 10 years, and he suggested it go down to 8 years. There was no debate at committee on that in the other place, and they all agreed that eight years was fair.

Aside from what the other place voted, with four parties in majority and one party in some, now we're hearing from Senator Woo that not 10 years, not 8 years, but 3 years is fair.

• (2140)

I'm going to comment on two things there. One — and I know I spoke about this before — I was at a canola event. I spoke to one farmer there, and I brought it up here in the chamber. They have a farm about an hour north of Ottawa. They were excited because they were going to buy their own dryer to dry their own grain, rather than send it to just south of Ottawa, in North Gower. They would save on trucking. They would save on batch amounts having to go, versus doing it on their own farm, when they needed it. It would also increase employment on their farm. And, finally, they wouldn't be paying the carbon tax that commercial dryers pay. They would be exempt from the carbon tax. Perhaps under this bill, they will be still, but it holds the same for farmers and ranchers and growers who do barn cooling and drying and have greenhouses.

They were excited because they wouldn't have to pay the carbon tax. They could control the flow of their drying, rather than batch by batch, and they wouldn't have to pay trucking charges. There were significant savings, even more than just savings on not having to pay the carbon tax. They were talking about a 12-year payback period. I said, "How long will it take?" They said, "It will take us 12 years, but we're excited about doing it." Colleagues, I don't know if they would be as excited today.

An Hon. Senator: No way.

Senator Wells: My next point addresses again some of the statements in one of the speeches. Senator Ringuette said that 90% of the carbon tax payout was rebated. I know this is false because I've seen the bills from farmers. One of them said to me — and I know I mentioned this in one of the amendment debates — that they had a carbon tax bill of $153,000 in one quarter. Their rebate was $53,000. I would take the carbon tax over that rebate any day.

Of course, we know, if the carbon tax were exempt on propane and natural gas, there wouldn't be a rebate. There would be no double-dipping, as suggested by some others in earlier speeches.

Colleagues, we know the rebate is unfairly applied because it doesn't just go on fuels on-farm; it goes on all costs. Even ranches that don't use propane or natural gas, which do not have exemptions — let's say they use dirty oil or diesel — they would get the exemption, but they would also get the rebate. There's a clear inequity and an unfairness in that.

Senator Woo, in his amendment, has anchored the three years to the announcement that the Prime Minister made some weeks ago on homes that heat with oil. You know what? That would make sense if that were the only comparator. But someone heating a home with oil — which we know is very few in Canada, but a lot in my province of Newfoundland and Labrador. In fact, my previous home was heated with oil. That was our only choice unless we changed out our system.

Farms that heat with oil have an exemption. Farms that heat with propane and natural gas do not have the exemption. That was the essence of the bill that came to us. I don't think it's fair to make the comparison. You can anchor it to what you want, but I don't think it's a fair anchor when you're talking about homes that heat with oil in a very small part of the country — well, a large part of the country but a small percentage of the country. The more fair comparison is to compare it with other farms. Why wouldn't you anchor it to other farms?

Colleagues that brings me to my final point. On the CRA website — and I've talked about this before — it says exemptions are built into the carbon tax, into the carbon pricing program. In fact, on the CRA website, they call it the fuel charge relief. That's another way to say an exemption on carbon tax. There are seven exemption categories under the fuel charge relief, from fishermen to other on-farm things, specifically for oil and diesel. There are seven.

Unfortunately, farmers who use propane and natural gas aren't one of the seven. We wanted to add this. We had an initial proposal of 10 years; it went down to 8; and now it's proposed to go down to 3. But for every other exemption category — except the one the Prime Minister announced last month — there is a note, and I'm reading right from the CRA website, which says, "A fuel charge exemption certificate does not have an expiry date." It's not 3 years; it's not 8 years; it's not 10 years. It's for as long as there's a carbon tax.

That is clearly unfair for anyone who has got a cap on how long they get the exemption. Why should it be different for a farmer than a fisherman? Why should it be different for someone who has a greenhouse versus a barn for keeping chickens warm in the winter and cool in the summer?

Colleagues, I will finish up there. Senator Dalphond also spoke about dire situations. The dire situations are those where people are losing money because they're paying additional charges that may not have the desired effect.

Colleagues, if we are to be anything, let's be fair. If we are to be anything, let's ensure equitability for the people who grow our food. Thank you.

Hon. Donald Neil Plett (Leader of the Opposition): Honourable senators, I will be very brief, but I do want to say just a few words on the amendment. I will focus on the amendment, not like one of the previous speakers who spoke for 13 minutes, and I wasn't sure whether she was speaking to the bill, whether she was speaking to the amendment or what she was speaking to. Then in the last minute and a half, she told us she supported this amendment.

Colleagues, I would encourage Senator Dalphond and Senator Woo, when they near their retirement age — I know they have a little bit of time left in the Senate — to offer to go and work in the agricultural industry. I'm sure every farmer in the country would love to hire them because they somehow know that all these problems the industry is having can be fixed, even though every expert in the country is saying it's not possible. Yet here are Senator Woo and Senator Dalphond telling us that, listen, we know there's technology out there, and it will be available for us in the next year and a half or two or three years. "If an expert is telling you it will take eight years and if a farmer is telling you it will take eight years, don't believe them because we, in Montreal and Vancouver, in the cities, know exactly how long it will take, and it will take three years, so let's reduce it."

Amazing, gentlemen. Amazing. I really encourage you. I think there are people who would pay you millions to go out and advise them and consult with them and help them make the money that they so desperately would like to make.

But, colleagues, let me speak a little bit about the amendment. Indeed, Senator Woo, even though the amendment failed, has the right to make this amendment, as does Senator Dalphond. Even though his amendment failed twice, he still introduced it a third time. The third time's a charm. I suppose if it had failed, maybe we would have had that one in some other form yet tonight.

Senator Yussuff seemed to indicate that although we had the right to make amendments, we should certainly defeat them here because they had been defeated somewhere else. I am certainly encouraged by the fact that Senator Yussuff will definitely be voting against this amendment because, indeed, it had been defeated at the committee. That's really all the information Senator Yussuff needs.

Colleagues, the sunset clause in Bill C-234 was added at the committee stage in the House of Commons. It was initially proposed as a 10-year window and then reduced to 8 years after debate. Senator Woo now wants to change it from eight to three because he has the technology.

This amendment is ill-advised for two reasons: First, the amendment is not supported — some people would stop speaking now because they can't speak when others are speaking, but I will just continue, and I will ignore the Leader of the Government and his partner while they continue to debate while I'm speaking.

First, the amendment is not supported by the evidence. There is no evidence provided at committee that indicated the sunset time frame should be changed from eight years to three years — none.

In fact, it was noted by Professor Lubitz, Associate Professor at the University of Guelph College of Engineering and Physical Sciences, that we're looking at a minimum of six to eight years and perhaps longer. This is simply an associate professor at the University of Guelph College of Engineering. I'm not sure whether he has any information.

Obviously, he hasn't talked to Senator Dalphond or Senator Woo or he would not have that opinion. Nevertheless, in response to a question from Senator Simons about whether certain technologies would be available within eight years, Professor Lubitz said, "For the technologies that are under development, it's difficult to say."

Professor Lubitz continued:

> We mentioned the heat pump technology; we are looking at that. Others are working on biomass and other things as well. . . .

• (2150)

Senator Ringuette, of course, says that biomass will do quite fine.

Professor Lubitz continued, "One could argue some of these are close to being ready for small-scale, prototype, experimental use . . . ."

Perhaps it's some garden operation close to where Senator Ringuette lives.

Professor Lubitz continued:

> . . . but I think the big question is when will they be ready for large-scale deployment? I believe some of these will be ready within the eight-year window, but not in the next year or two. Our project will not reach that in the next year or two, but it has potential in the next six or eight years. . . .

Again, this is a professor:

> Similarly, I'm not aware of other technologies that are ready for that large-scale deployment in the next year or two. It takes a long time to go through those steps to roll out and scale up. This is large infrastructure that takes a long time to build, test and build again.

Professor Singh, Senior Research Chair, Agricultural Engineering and Technology at Lethbridge College, echoed the uncertainty of Professor Lubitz by saying:

> I don't know if it takes three years or five years and if it's available in a way that farmers can use. Maybe or maybe not. I'm sorry, I don't have a clear answer . . . .

In their brief to the House of Commons Standing Committee on Agriculture and Agri-Food, the Agri-Food Innovation Council said the following:

> Research and innovation on the use of [alternative] renewable and "clean" energy sources show significant promise in farming operations. [However, the technology is not at a point where it is viable for many farming operations. Further research and new innovations are needed to meet the needs of the agri-food sector.]
>
> As alternative sources of energy sources are identified, it would be important to think about scalability, affordability, and adoption.
>
> Does this mean that we will never get to the point where we're able to replace propane and natural gas? No. But most experts indicate that we would need at least a decade before we are able to have workable, proven, affordable and "scalable" alternatives.

Colleagues, this amendment is not supported by any of the evidence. For that reason, it should be defeated.

In addition to not being supported by the evidence, this amendment is completely unnecessary. Obviously, nobody knows exactly when new technology will be available and scaled up to a place where it can be adopted by farmers at large. However, as soon as such technology is available, the sunset clause can be changed by a simple amendment passed by both houses of Parliament. This amendment is entirely presumptuous and arbitrary because it is not based on any evidence, and it is completely unnecessary.

It was defeated at committee for a very obvious reason: The experts are telling us it's not a good amendment. The experts are telling us that when the technology is available, the government — both houses of Parliament — can make it available.

This is another attempt simply to kill a bill. I trust that, in the next day or two, you will finally have the opportunity to say "yea" or "nay" to the bill because I'm trusting that, after this, Senator Dalphond and Senator Woo will say, "Enough is enough. We've now messed this up long enough. We've completely gutted the bill with the previous amendment." This amendment is unnecessary. You achieved your purpose to kill the bill with the previous amendment. You've destroyed farmers' livelihoods. You've destroyed farm families and their livelihood. You've done that, so why continue with this charade?

Colleagues, let's, at least, look at the evidence — not at what you like; not at what Justin Trudeau wants; and not at what my leader wants. Look at the evidence. Look at what farmers want. Vote for farmers. A vote against this amendment is a vote for farmers. Let's, at least, do that on this amendment.

I ask you, colleagues, to defeat this amendment and move on to the main question at the earliest possible opportunity. Thank you.

Senator Dalphond: Would Senator Plett accept a question?

Senator Plett: No. Respectfully, I will not.

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

Hon. Senators: Question.

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

Some Hon. Senators: No.

Some Hon. Senators: Yes.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

The Hon. the Speaker: I think the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker: I see two senators rising. Is there an agreement on the length of the bell? The vote will be deferred to the next sitting.

ADJOURNMENT

MOTION ADOPTED

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate): Honourable senators, with leave of the Senate and notwithstanding rule 5-5(g), I move:

> That, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Monday, December 11, 2023, at 6 p.m.
>
> That rule 3-3(1) be suspended on that day; and
>
> That, notwithstanding rule 9-10(2), if a vote has been or is deferred to that day, it take place at the end of Question Period.

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.)

CRIMINAL RECORDS ACT

BILL TO AMEND—SIXTEENTH REPORT OF LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Cotter, seconded by the Honourable Senator Ravalia, for the adoption of the sixteenth report of the Standing Senate Committee on Legal and Constitutional Affairs (*Bill S-212, An Act to amend the Criminal Records Act, to make consequential amendments to other Acts and to repeal a regulation, with amendments*), presented in the Senate on September 26, 2023.

Hon. Yonah Martin (Deputy Leader of the Opposition): Honourable senators, I move the adjournment of the debate for the balance of my time.

(On motion of Senator Martin, debate adjourned.)

ROMAN CATHOLIC EPISCOPAL CORPORATION OF OTTAWA
ROMAN CATHOLIC EPISCOPAL CORPORATION FOR THE DIOCESE OF ALEXANDRIA-CORNWALL

PRIVATE BILL TO REPLACE AN ACT OF INCORPORATION—TENTH REPORT OF BANKING, COMMERCE AND THE ECONOMY COMMITTEE ADOPTED

The Senate proceeded to consideration of the tenth report of the Standing Senate Committee on Banking, Commerce and the Economy (*Bill S-1001, An Act to amalgamate The Roman Catholic Episcopal Corporation of Ottawa and The Roman Catholic Episcopal Corporation for the Diocese of Alexandria-Cornwall, in Ontario, Canada, with amendments*), presented in the Senate on December 5, 2023.

Hon. Pamela Wallin moved the adoption of the report.

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

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

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

(On motion of Senator Clement, bill, as amended, placed on the Orders of the Day for third reading at the next sitting of the Senate.)

• (2200)

CANADA–TAIWAN RELATIONS FRAMEWORK BILL

SECOND READING—DEBATE ADJOURNED

On Other Business, Senate Public Bills, Second Reading, Order No. 33:

> Second reading of Bill S-277, An Act respecting a framework to strengthen Canada–Taiwan relations.

Hon. Yonah Martin (Deputy Leader of the Opposition): With leave of the Senate, I would like to adjourn the debate in the name of Senator MacDonald.

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

Hon. Senators: Agreed.

(Debate postponed until the next sitting of the Senate.)

LEGAL AND CONSTITUTIONAL AFFAIRS

MOTION TO AUTHORIZE COMMITTEE TO STUDY THE IMPACT OF SUBSECTION 268(3) OF THE CRIMINAL CODE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Lankin, P.C., seconded by the Honourable Senator Jaffer:
>
> That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the impact of subsection 268(3) of the *Criminal Code*, enacted in 1997, including but not limited to:
>
> (a) the reasons why there have been no prosecutions under this provision since its enactment 25 years ago; and
>
> (b) the extent to which female genital mutilation is currently occurring in Canada and to Canadian girls taken abroad for such procedures;
>
> That the committee make recommendations, as appropriate, to ensure the *Criminal Code* provision has its intended impact of ending such crimes being perpetrated against girls in Canada; and
>
> That the committee submit its final report no later than December 31, 2023, and that the committee retain all powers necessary to publicize its findings for 180 days after the tabling of the final report.

Hon. Frances Lankin: I note that this item is on day 15. With the leave of my honourable colleagues, I would like to move adjournment for the remainder of my time.

The Hon. the Speaker: It is moved by the Honourable Senator Lankin, seconded by the Honourable Senator Moodie, that further debate be adjourned until the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(On motion of Senator Lankin, debate adjourned.)

ETHICS AND CONFLICT OF INTEREST FOR SENATORS

MOTION TO AUTHORIZE COMMITTEE TO STUDY CASE OF PRIVILEGE RELATING TO THE INTIMIDATION OF SENATORS—DEBATE

On the Order:

> Resuming debate on the motion of the Honourable Senator Saint-Germain, seconded by the Honourable Senator Clement:
>
> That the case of privilege concerning events relating to the sitting of November 9, 2023, be referred to the Standing Committee on Ethics and Conflict of Interest for Senators for examination and report;
>
> That, without limiting the committee's study, it consider, in light of this case of privilege:
>
> 1. appropriate updates to the *Ethics and Conflict of Interest Code for Senators*; and
>
> 2. the obligations of senators in the performance of their duties; and
>
> That, notwithstanding any provision of the Rules, when the committee is dealing with the case of privilege:
>
> 1. it be authorized to meet in public if it so decides; and
>
> 2. a senator who is not a member of the committee not attend unless doing so as a witness and at the invitation of the committee.

Hon. Denise Batters: Honourable senators, I rise today to speak to the motion of Senator Saint-Germain stemming from the Speaker's finding of a prima facie case of privilege concerning events related to November 9, 2023.

As the Speaker stated in her conclusion in Tuesday's ruling:

> . . . this initial review has been to determine whether, at first appearance, a reasonable person could conclude that there may have been a violation of privilege. . . .

Colleagues, "prima facie" means "on the face of it," so the Speaker found these events may have breached parliamentary privilege. This is not a conclusive finding of an actual breach at this point. That is for a second process to determine, and Senator Saint-Germain suggests a method, one that I submit is improper. I will get to that. But nothing in Senator Saint-Germain's motion asks the Ethics Committee to determine whether an actual breach

of privilege occurred, as should be the case. Instead, this motion already presumes a breach of privilege as fact. Senator Saint-Germain said:

> In her decision, the Speaker was clear in establishing a breach of privilege. Hence, neither privilege nor any of our rules in this case need to be studied, interpreted or amended. . . .

Legally, this is extremely troubling. It's like convicting someone of a crime solely based on a preliminary inquiry without ever having a trial to decide guilt, but instead only handing down their sentence.

I still maintain my actions in this matter did not meet the requirements for a breach of parliamentary privilege, neither on the face of it nor in fact.

There are four criteria required under rule 13-2(1). Only one of these criteria was met, the requirement for written notice at the earliest opportunity.

The Speaker's 18-page ruling contains almost no facts to substantiate her finding that my case met the other three criteria.

The second requirement is that the matter must directly concern ". . . the privileges of the Senate, any of its committees or any Senator . . . ."

This condition was not met in my case. Social media does not fall under the purview of the Speaker of the Senate. Even Speaker Gagné's ruling stated:

> . . . we must, of course, be most cautious about the risk of unduly limiting freedom of speech, which is a key principle in our society. For this reason, we would not normally deal with social media matters through the route of privilege. Unfortunate comments posted on social media should not rush us into changing this principled approach. . . .

The reason Speakers don't normally deal with social media matters is because they can't. Social media is outside the purview of the Speaker and the chamber on privilege matters, as it is not considered a "parliamentary proceeding." There have been several rulings on this, none of which were quoted in Speaker Gagné's decision. We have precedent from courts to guide us in this matter as well and, yet, that was similarly not included.

Page 79 of the Third Edition of *House of Commons Procedure and Practice* states:

> The Federal Court specifically determined that communications to constituents are not a proceeding in Parliament nor do they constitute parliamentary papers, and found that they are not protected by parliamentary privilege.

The 2003 case in question involved an MP's householder, or newsletter, but social media would be the 2023 equivalent of communications to constituents.

The third requirement is that it must be a ". . . grave and serious breach . . . ." Senator Clement herself referred to the tweets as "Careless communication . . ." and said it ". . . lacked nuance . . . ." This does not qualify as a grave and serious breach. Furthermore, neither the post nor the retweet were threatening in any way, nor did they encourage that behaviour.

Speaker Gagné's ruling states "There was an extremely tight nexus of cause and effect that clearly relates to privilege. . . ." But just saying that doesn't make it so for my case. There was simply no causal link between my retweet and the threat towards Senator Clement. There was zero evidence that linked the cause of my retweeting a post to the effect of Senator Clement being threatened. No one has shown any link of that.

The post I retweeted told people how to contact two public officials who have publicly funded, publicly advertised contact information so that the public can contact them. The post suggested asking them why they voted as they did on a particular piece of legislation, something which we all are and should be accountable for as parliamentarians. But with that said, I did not and would not encourage anyone to threaten them or harass them.

There is zero evidence that my retweet, one of 796 retweets, in any way caused the threat Senator Clement received. If I had never retweeted that post, the exact same situation could still have happened. Only a few people even engaged with my retweet. We have heard no evidence that the person who threatened Senator Clement even saw my retweet or the original post, or that they even saw her contact information on social media in the first place.

• (2210)

Senator Clement had been named in news reports for several days before that point as the person who moved the adjournment. Finding her Senate contact information takes two seconds through a Google search or the Senate website. Senators Clement and Petitclerc's Twitter bios still link directly to their contact information on the Senate website, along with the names of their staff members, even though I brought that to their attention in my speech two weeks ago.

The fourth and final criterion for determining a case of privilege is that the request must seek a genuine remedy that the Senate has the power to provide and for which no other parliamentary process is reasonably available.

The Senate does not have dominion over the sphere of social media, and Speaker Gagné's ruling itself outlined two other available processes on page 10. Clearly, the actions I took in this matter, retweeting a post of two senators publicly available contact information without any comment of my own, do not fit the four criteria to make a case of privilege, prima facie or otherwise.

With that established, I want to directly address the text of Senator Saint-Germain's motion. First, as I stated, the point of the motion should be to send what the Speaker has found to be a prima facie case of privilege to committee for further

investigation, findings and, if necessary, recommendations for an appropriate remedy for the breach. But her motion doesn't even mention that.

First, it refers the matter to the Ethics Committee for "examination and report." Normally, such matters are referred to the Rules Committee, of which I am deputy chair, but this is no ordinary motion. It first refers to updating the *Ethics and Conflict of Interest Code for Senators*, something that happens regularly and doesn't require a Senate motion to initiate.

Then it refers to "the obligations of senators in the performance of their duties." I'm not sure what Senator Saint-Germain is seeking with this part of the motion, but it is vague and wide-ranging, which is concerning to me.

But, honourable senators, I have especially grave and serious concerns about the last two clauses of this motion, which specify rules for the Ethics Committee's process to handle this crucial matter. The first authorizes the Ethics Committee to ". . . meet in public if it so decides," and the last clause of the motion stipulates that any senator who is not a member of the Ethics Committee may not attend that committee unless they have been invited by the committee to appear as a witness.

These last two provisions are highly problematic. These Ethics Committee hearings on this fundamental question of privilege significantly impacting the free speech of all senators might be in public if the committee so decides, and whether a senator facing breach allegations even has the opportunity to defend him- or herself before the committee is not a given. It is completely at the whim of the committee "if it so decides."

It is shocking that this is even being proposed by the Independent Senators Group leader. This is not an open, transparent process in the least. Committee hearings of this nature should not be held in secret. Normally, cases of privilege are sent to the Senate Rules Committee for investigation. I have been on that committee since 2013, and it almost always meets in public.

Instead, Senator Saint-Germain's motion would send this to the Ethics Committee, which rarely, if ever, meets in public. This lack of openness and transparency is especially problematic in light of the clause that follows, which prohibits any other senator who is not a member of the Ethics Committee from attending unless they are a witness and are invited to attend by the committee.

Honourable senators, this is completely contrary to the most fundamental rules of natural justice. This would be like a criminal trial where the accused is not allowed to attend or even watch the trial resulting in their conviction. Since I am not a member of the Ethics Committee, and even though I need to defend myself in this breach of privilege matter, I would not be allowed to attend these Ethics Committee meetings unless I am there ". . . as a witness and at the invitation of the committee."

What kind of a Star Chamber is this? This is actually horrendous. And how am I to defend myself when these Ethics Committee meetings could very well be held in private, so I would not even be able to watch or read transcripts of these proceedings? I would be unable to know the case against me that I need to meet, because I'll tell you there is almost nothing to go on for me in the documents and submissions we've seen so far. I regret to say Tuesday's ruling quoted minimal precedent, cited no senators' arguments from the debate and presented limited facts.

There was almost no precedent quoted in Speaker Gagné's 18-page ruling, except for a small, selected part of Speaker Furey's May 16 and June 13, 2019, point of order rulings that mention social media, but did not address its relationship to parliamentary privilege.

Furthermore, Speaker Gagné's ruling failed to cite Speaker Furey's actual question of privilege ruling from that same time frame on May 2, 2019, which stated clearly:

> Privilege does not cover all activities in which senators engage. As explained by the Speaker of the other place on April 11, "the authority of the Speaker is limited to the internal affairs of the House, its own proceedings." . . . I would also note the statement, at page 74 of the 14th edition of *Odgers' Australian Senate Practice*, that privilege does not cover "the content of a document which has come into existence independently of proceedings in Parliament." Such limits are in line with the point, made in the 2015 report of the Rules Committee on privilege, that stated:
>
> > In today's age of Twitter and social media it is also worth reiterating accepted Canadian law that communications made outside of parliamentary proceedings, for example tweets or blog posts, are not protected by parliamentary privilege.

My earlier speech on the question of privilege cited Speaker Kinsella's 2009 ruling on claims made in a press release involving Senator Cools, which was very similar to the facts of my case and where the Speaker found no prima facie breach of privilege. It was directly on point, yet never even mentioned in Speaker Gagné's ruling.

Our 2016 Senate Rules Committee discussion paper on privilege, produced when I was a member of that committee, cited five reforms recommended by the 1999 U.K. joint committee for members accused of contempt or facing a disciplinary process.

The committee recommended that these principles should be a minimum standard for disciplinary processes of procedural rights in Canada's Parliament. They include a precise statement of the allegations against the member, an opportunity to obtain legal advice, the opportunity to be heard in person, the right to call witnesses and examine witnesses, and the opportunity to attend any meeting at which evidence is given and to receive transcripts of evidence.

Honourable senators, from the text of Senator Saint-Germain's motion and the process to this point, it seems precious few of these principles would be applied in the adjudication of my case.

Potentially private hearings, no certain ability for me to attend or watch and defend myself, no transcripts of meetings — this is fundamentally unfair, and, deep down, I believe you know it.

Frankly, this chamber of Parliament should be better than this. We certainly used to be.

Today, you may figure it's fine because I'm just a partisan senator. Maybe you're keen to settle a score, but these unfair rules, once put in place, apply to us all, and while it's me today, tomorrow it could be just as easily any of you.

Speaker Gagné's ruling is a major impediment to the free speech of senators, applying parliamentary privilege for the first time to social media. This is contrary to the stated facts, all precedents and directly relevant Speakers' rulings in a largely unsubstantiated new ruling that doesn't even mention or distinguish the arguments that were outlined by senators or the Speakers' rulings senators cited.

Honourable senators, some of you are eager to throw the rules overboard in favour of creating a groundbreaking, new, independent Senate, but I ask you to take a step back and truly apply sober second thought here. The principles underlying our parliamentary processes, the freedom of speech, democratic debate, parliamentary privilege, the very laws of natural justice on which our whole system is founded should not be undone on any given Tuesday afternoon. This is not how we as parliamentarians should establish rules in this place for all Canadians.

Senator Saint-Germain said the decision on this matter will govern us for "decades to come." She may well be right. I ask you to consider this matter carefully before determining on which side of history you will stand. Thank you.

The Hon. the Speaker: Senator Wells? Do you have a question?

Hon. David M. Wells: I'd like to take the adjournment on this debate.

The Hon. the Speaker: It is moved by the Honourable Senator Wells, seconded by the Honourable Senator Batters, that further debate be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: No.

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

Some Hon. Senators: Yea.

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

Some Hon. Senators: Nay.

The Hon. the Speaker: I think the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: I see two senators rising. Is there any advice on the length of the bell?

• (2220)

An Hon. Senator: Now.

The Hon. the Speaker: Is there leave for now?

Some Hon. Senators: Five minutes.

The Hon. the Speaker: Honourable senators are saying five minutes. Is leave granted?

Hon. Senators: Agreed.

The Hon. the Speaker: The vote will take place at 10:25.

Call in the senators.

The Hon. the Speaker: Honourable senators, the question is as follows: It was moved by the Honourable Senator Wells, seconded by the Honourable Senator Batters, that further debate on the motion be adjourned until the next sitting of the Senate.

Motion negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Batters	Richards
Deacon (*Ontario*)	Wells—4

NAYS
THE HONOURABLE SENATORS

Arnot	Hartling
Aucoin	Kingston
Bellemare	LaBoucane-Benson
Bernard	Loffreda
Boehm	MacAdam
Boniface	McNair
Clement	Mégie
Cordy	Moncion
Cormier	Osler
Coyle	Pate
Cuzner	Patterson (*Ontario*)
Dalphond	Petitclerc
Dasko	Petten
Dean	Prosper
Forest	Saint-Germain
Gerba	Woo
Gignac	Yussuff—35
Gold	

ABSTENTIONS
THE HONOURABLE SENATORS

Ataullahjan	Martin
Busson	Moodie
Cardozo	Oh
Carignan	Omidvar
Cotter	Plett
Downe	Ravalia
Duncan	Ross
Klyne	Seidman—17
Lankin	

• (2230)

COMMITTEE AUTHORIZED TO STUDY CASE OF PRIVILEGE RELATING TO THE INTIMIDATION OF SENATORS

On the Order:

Resuming debate on the motion of the Honourable Senator Saint-Germain, seconded by the Honourable Senator Clement:

That the case of privilege concerning events relating to the sitting of November 9, 2023, be referred to the Standing Committee on Ethics and Conflict of Interest for Senators for examination and report;

That, without limiting the committee's study, it consider, in light of this case of privilege:

1. appropriate updates to the *Ethics and Conflict of Interest Code for Senators*; and

2. the obligations of senators in the performance of their duties; and

That, notwithstanding any provision of the Rules, when the committee is dealing with the case of privilege:

1. it be authorized to meet in public if it so decides; and

2. a senator who is not a member of the committee not attend unless doing so as a witness and at the invitation of the committee.

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

Some Hon. Senators: Agreed.

An Hon. Senator: On division.

(Motion agreed to, on division.)

INTIMATE PARTNER VIOLENCE

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Boniface, calling the attention of the Senate to intimate partner violence, especially in rural areas across Canada, in response to the coroner's inquest conducted in Renfrew County, Ontario.

Hon. Wanda Thomas Bernard: Honourable senators, this item stands adjourned in the name of the Honourable Senator Clement, and after today's interventions, I ask for leave that it remain adjourned in her name.

The Hon. the Speaker: Is leave granted?

Hon. Senators: Agreed.

Senator Bernard: Honourable senators, tonight I rise to speak to Inquiry No. 10 into intimate partner violence in rural areas of Canada, a heavy topic to end the night with. I start by acknowledging that we are currently on the traditional, ancestral, unceded territory of the Algonquin Anishinaabe people. I thank you Senator Boniface for bringing such an important inquiry to the Senate in response to the coroner's inquest in Renfrew, Ontario.

Colleagues, it's timely that I'm speaking on this bill today during the 16 Days of Activism Against Gender-based Violence. Nova Scotia has had several recent tragic deaths due to gender-based violence. In one week, just two months ago, two women were murdered by men known to them: 30-year-old Hollie Marie Boland in Cole Harbour and an 88-year-old woman in Pictou County whose name has not been publicized. Given these recent preventable tragedies and far too many others like them, I decided to speak to this inquiry to share some research and information about the unique challenges faced in rural Nova Scotia and, more specifically, in rural African Nova Scotian communities, where Black women experience the very real intersection of racism and sexism.

In research that I have done with colleagues, we have identified clear links between violence in dating relationships, which later becomes intimate partner violence. Often, it's the violence that starts as verbal abuse, threats and intimidation, which later progresses to other forms of violence.

In my career as a social worker, I frequently worked with cases of intimate partner violence and family violence. With the Association of Black Social Workers, we developed a number of community-based projects that were aimed at breaking the silence about intimate partner violence in Black communities. We learned that many Black women are hesitant to talk openly about intimate partner violence. As a result, they and their families live in shame and fear — fear of stigma.

The silence around violence is magnified for African Canadians because of anti-Black racism. Many African Canadians are reluctant to call police when dealing with intimate partner violence due to a rightful mistrust of police. They fear the consequences of police intervention because they believe that that could bring more harm to their family.

Our team facilitated focus groups with mostly African Nova Scotian women, and we hosted many forums, including a conference specifically for seniors to address the culture of silence around family violence and intimate partner violence in Black communities. We explored the role that racism plays in these situations. At the time, many feminist spaces working to protect women had omitted factors of race and racism despite this being at the core of Black women's experiences.

Violence has a multi-generational impact on Black families. Many of our homes, including mine, are multi-generational. Our families do not follow a nuclear model, which brings with it a strong sense of community support and love, for most. Unfortunately, that also means that any family issues of violence truly impact the entire extended family.

Many of us are aware of the impact intimate partner violence has on children, but seniors are not often included in these analyses. Many seniors who experience abuse from family members or who grew up with violence in their home environments suffer in silence.

Hearing the story of this 88-year-old Nova Scotian woman who was killed in October reminded me of a case that I worked with during my social work practice that has stuck with me many, many years later. I once helped an 80-year-old woman leave rural Nova Scotia to escape violence in her marriage. She ended up moving across the country to live with one of her adult children. Her decision to leave took tremendous courage, and I remain inspired by her ability to speak up, inspired by her ability to get help at her age despite the many barriers she faced, including isolation and shame. The shame, dear colleagues, was not hers to carry.

Senator Boniface drew attention to the nature of tight-knit communities in rural areas. The complex nature of small, rural community life is one of the many barriers faced by African Nova Scotian women trying to seek help. The opportunity for privacy is limited, and the process of reporting violence puts your family's business out in the open. In addition to services being few and far between, women are motivated to protect their family members, and they fear the consequences of talking about family violence. Bringing these conversations about intimate partner violence, race and racism out into the open allows for healing, learning and change within our communities. Breaking the silence may empower someone to feel less alone and may prevent future violence.

The final report of the Mass Casualty Commission released recommendations to address the prevalence of gender-based violence in Nova Scotia. Recommendation V.13 of the commission report calls for epidemic-level funding for gender-based violence. It reads:

• (2240)

> Federal, provincial, and territorial funding to end gender-based violence be commensurate with the scale of the problem. It should prioritize prevention and provide women survivors with paths to safety.

This recommendation specifies that:

> A further priority should be funding community-based resources and services, particularly in communities where marginalized women are located.

This recommendation is very important to note given that due to anti-Black racism, African Nova Scotian women, especially those in rural communities, need better access to culturally responsive services.

As the report states, despite gender-based violence or intimate partner violence being seen as "behind closed doors" or "private" forms of violence, they are indeed a public concern. The longer we perpetuate the idea that intimate partner violence is a private matter, tragedies like the Nova Scotia massacre and the deaths of the women like Hollie Marie Boland will continue to happen. Intimate partner violence is a public concern, but it's also a public health concern.

I would like to take a moment to revisit the Nova Scotia tragedy of the Desmond family murder-suicide. In 2017, we lost two African Nova Scotian women and one young girl: Shanna, Brenda and 10-year-old Aaliyah. The family violence was a result of Mr. Desmond falling through the cracks in Nova Scotia's rural health care system. He sought help for his severe post-traumatic stress disorder as a veteran and was discharged prematurely the night before the murder-suicide. This is a prime example of the interconnected nature of violence and public health.

Honourable senators, how many preventable femicides will we witness before something is done about intimate partner violence and family violence? After over 45 years of practising social work, I had hoped to see some improvement in the state of violence in Black rural communities. I've always identified prevention as a key component to gender-based violence, which can be done through educational programs in schools and community groups, on topics such as gender, mental health and healthy intimate and family relationships.

Yet, 45 years later, I still have critical hope. I have critical hope that by teaching each generation to address the violence, we will get closer to realizing healthier and more peaceful communities. It is slow, painful work, and we're still losing women to violence every day and as each year passes. However, I am committed to breaking the cycle. Our communities are resilient, and we need to protect them by pushing for more awareness about risk factors impacting marginalized women and pushing for improved access to culturally responsive services in rural communities to end gender-based violence. *Asante*. Thank you.

Hon. Kim Pate: Honourable senators, before I start my speech on the inquiry, I'd like to express our appreciation and gratitude to you, Your Honour, for providing this evening during the break the opportunity for all Senate staff to have their bodies and their souls nourished. We thank you very much.

Hon. Senators: Hear, hear.

Senator Pate: Honourable senators, I also rise today to speak to Senator Boniface's inquiry into the epidemic of intimate partner violence, particularly violence against women. I want to thank Senator Boniface for introducing this inquiry, as well as our colleagues Senators Hartling, Seidman, Boyer, Coyle and, this evening, Senator Bernard for speaking to this inquiry.

I also want to ask us all: How many more instances of violence will it take for the inequality of women that underlies these issues to be taken seriously? The genesis for this inquiry was the murder of three women in one day by a man with a known history of violence against them and other women. Since then, we've also witnessed many other individual incidents, as well as the horrific, misogynistic violence that gave rise to the Mass Casualty Commission in Nova Scotia.

Exactly how do we square the reality of the intersections of misogyny and racism that underscore the National Inquiry into Missing and Murdered Indigenous Women and Girls and the resulting intergenerational harms? The World Health Organization names intimate partner violence as a serious public health issue with a profound impact on the individuals who experience it, their families and their communities as a whole. This harm continues to flow from the individuals to their families and into their communities, as Senator Bernard so articulately identified as occurring within so many communities with which she has had direct contact.

In the absence of comprehensive government, community, systemic and individual approaches that prioritize equality interests of racialized and Indigenous women and those with disabilities, intimate partner violence will continue unfettered and relentless in its individualized and its broader harm.

The Canadian Femicide Observatory for Justice and Accountability noted that in 2021 alone, 173 women and girls were murdered in Canada. About 5% of them were murdered by a stranger, while about 35% of them were murdered by a current or former intimate partner. In cases where the victim's identity was known, about 51% were racialized and/or Indigenous women.

Social and cultural messages that privilege patriarchal ideas and attitudes also hyper-responsibilize women — from childhood — to consider themselves responsible for preventing their own victimization. This, combined with behaviours that control, isolate or intimidate by emotional, physical, social and financial abuse of inequities and misogynistic criminal legal policies, too often also results in charges being laid against women who defend themselves and their children or otherwise react to violence first perpetrated against them. The combinations of these contribute to both the gross victimization and massive underreporting of violence against women.

A recurring theme in *ex post facto* considerations of violence against women, be they inquests, investigations, inquiries, reports or studies, is the resounding inadequacy of initiatives characterized as designed to address intimate partner violence. These include but are not limited to programs, policies, services and legislation.

Sexual Assault Services of Saskatchewan launched a report in January of this year outlining the all-too-familiar themes of lack of funding and culturally responsive supports and services, in particular for women in remote or rural communities. This is not new information. The Native Women's Association of Canada published a report in 2018 outlining these same themes. Indigenous women are also more likely to face countercharges and arrest if and when police are called in response to violence being perpetrated against them.

Rather than address the systemic inequalities that give rise to misogyny and patriarchal violence, too often the only responses offered are ones of criminalization and incarceration. In a context where violence against women is not taken seriously, this only offers up a response to further entrench the very systemic and discriminatory biases that currently prevail within our criminal legal system.

The result is that the most privileged men are likely to continue to act with horrific impunity, being the least likely to be criminalized and imprisoned, whereas those who are racialized, poor or otherwise marginalized are more likely to be demonized, not to mention criminalized and incarcerated. If we instead chose to address systems that legitimize and normalize intimate partner violence, we might actually manage to begin to unknot the root causes. This is no doubt why most feminist law reform focuses on substantive equality approaches that are more likely to achieve primary prevention.

• (2250)

The National Inquiry into Missing and Murdered Indigenous Women and Girls, the Renfrew inquest and the Mass Casualty Commission final report all emphasize how essential social and culturally responsive resources are for individuals to leave violent relationships. Chronic underfunding and lack of availability of services, especially for those in rural or remote communities, often pushes women back into dangerous and too often lethal situations.

Alain Bartleman of the Indigenous Bar Association, when testifying at the Legal Committee with respect to Bill S-205, discussed the ineffectiveness of using tools such as electronic monitoring to address or respond to intimate partner violence. He said:

> Breaking the cycle of trauma through the provision of mental health and other resources, I'd suggest, is probably the most effective way of preventing domestic violence . . . .

He and other witnesses underscored the role of economic resources in facilitating access to physical safety, highlighting the need for income supports, which would reduce the financial burden on women and allow them to make decisions about how best to care for themselves and their families, and look further than short-term safety.

Among the long list of services that remain largely inaccessible to those fleeing violence is access to safe housing. The pandemic aggravated this situation for many trapped in abusive homes as a result of a lack of affordable housing. Here in Ottawa, for example, one woman's shelter, Interval House, had to turn away 941 women in 2022 alone. Horrifically, rather than providing opportunities for women to leave, too many safety plans consisted of women being coached to modify their own behaviour in efforts to not trigger violent impulses that might result in their abuse or their deaths.

As you may remember, honourable colleagues, this chamber has advocated for urgent and comprehensive government responses to address, redress and prevent violence against women and intimate partner violence. Such approaches centre the economic, social, racial and gender inequalities that abandon women to violence, poverty and racism, in strategies to unweave the fabric of misogyny, racism and class bias that fuels violence against women and is perpetuated in and intensified by the criminal legal systems.

Isn't it time we all decided to address the inequality and marginalization that both generate and fuel these issues rather than continuing to maintain the status quo? We know the root causes of these issues. It is time to push for systemic changes that will enable access to justice and culturally responsive programs and services that are not at a constant risk of loss of funding. It is time that we recognize the urgent need to finally redress this global epidemic. Academics, policy experts, front-line workers and survivors of violence, grassroots experts and advocates are calling on all of us to do our part by implementing effective strategies that leave nobody behind. Despite the many calls to action from national inquiries, studies, commissions and inquest reports, current responses continue to place our most vulnerable populations in harm's way, offering reactive crumbs — something dressed up to look like prevention or protection, but never adequate to address the underlying systemic issues.

Gender-based violence is an epidemic. We need no further research or analysis. We need resources and we need action. Declarations in cities and counties are fine, but the time for action is now. Talk is cheap. Let's get our collective act together, and walk that talk before too many more are victimized, before too many more are dead. *Meegwetch*, thank you.

(Debate adjourned.)

Hon. Patti LaBoucane-Benson (Legislative Deputy to the Government Representative in the Senate): Honourable senators, I move the adjournment of the Senate.

(*At 10:55 p.m., the Senate was continued until Monday, December 11, 2023, at 6 p.m.*)

CONTENTS

Thursday, December 7, 2023

PAGE

SENATORS' STATEMENTS

The Honourable Terry M. Mercer
Congratulations on Distinguished Community Service Award
Hon. Jane Cordy 5112

Battle of Hong Kong
Hon. David Richards 5112

Visitors in the Gallery
The Hon. the Speaker 5113

Battle of Hong Kong
Hon. Jane MacAdam 5113

Visitor in the Gallery
The Hon. the Speaker 5113

His Highness the Aga Khan
Congratulations on the Occasion of Eighty-Seventh Birthday
Hon. Mobina S. B. Jaffer 5114

Visitor in the Gallery
The Hon. the Speaker 5114

Pier One Theatre
Hon. Dennis Glen Patterson 5114

Visitors in the Gallery
The Hon. the Speaker 5115

ROUTINE PROCEEDINGS

The Senate
Notice of Motion to Affect Sittings During Week of December 11, 2023 and Authorize Committees to Meeting During Sitting on Wednesday, December 13, 2023
Hon. Patti LaBoucane-Benson 5115

Criminal Code (Bill C-295)
Bill to Amend—First Reading 5115

Canada-Europe Parliamentary Association
Annual Session of the Organization for Security and Co-operation in Europe Parliamentary Assembly, June 30-July 4, 2023—Report Tabled
Hon. Peter M. Boehm 5115

QUESTION PERIOD

Environment and Climate Change
Carbon Tax
Hon. Donald Neil Plett 5115
Hon. Marc Gold 5116

Finance
Food Security
Hon. Claude Carignan. 5116
Hon. Marc Gold 5116

Canadian Heritage
Play On! Street Hockey Championships
Hon. Tony Loffreda 5116
Hon. Marc Gold 5117

Global Affairs
Support for Ukraine
Hon. Ratna Omidvar 5117
Hon. Marc Gold 5117
Russian Sanctions
Hon. Ratna Omidvar 5117
Hon. Marc Gold 5117

Immigration, Refugees and Citizenship
International Students
Hon. Jim Quinn 5117
Hon. Marc Gold 5118

Finance
Alcohol Excise Tax

Privy Council Office
Senate Appointments
Hon. Wanda Thomas Bernard 5118
Hon. Marc Gold 5118

Finance
State of the Economy
Hon. Donald Neil Plett 5118
Hon. Marc Gold 5118

National Defence
Canadian Forces Personnel and Equipment
Hon. Yonah Martin 5119
Hon. Marc Gold 5119

Global Affairs
Conflict in Sudan
Hon. Mary Coyle 5119
Hon. Marc Gold 5119

Finance
Climate Action Incentive Payment
Hon. Frances Lankin 5120
Hon. Marc Gold 5120

CONTENTS

Thursday, December 7, 2023

PAGE

ORDERS OF THE DAY

Bill to Amend Certain Acts and to Make Certain Consequential Amendments (Firearms) (Bill C-21)
Third Reading—Debate
Hon. Hassan Yussuff . . . 5120
Hon. Marty Deacon . . . 5123
Hon. Mohamed-Iqbal Ravalia . . . 5123
Hon. Marilou McPhedran . . . 5124
Hon. Ratna Omidvar . . . 5124
Hon. Karen Sorensen . . . 5124
Hon. Pierre-Hugues Boisvenu . . . 5125
Motion in Amendment Negatived
Hon. Pierre-Hugues Boisvenu . . . 5126
Hon. Hassan Yussuff . . . 5127
Hon. Donald Neil Plett . . . 5127
Hon. Dennis Glen Patterson . . . 5128
Hon. Jim Quinn . . . 5129
Hon. Renée Dupuis . . . 5130
Hon. Frances Lankin . . . 5130
Hon. Tony Dean . . . 5131
Hon. Patti LaBoucane-Benson . . . 5131
Hon. Paul J. Prosper . . . 5131
Hon. Flordeliz (Gigi) Osler . . . 5132
Hon. Pierrette Ringuette . . . 5133
Hon. Yvonne Boyer . . . 5133
Hon. Marc Gold . . . 5134
Hon. Rebecca Patterson . . . 5135
Hon. Pierre J. Dalphond . . . 5135
Hon. David M. Arnot . . . 5136
Hon. Pat Duncan . . . 5136
Hon. Andrew Cardozo . . . 5137
Hon. Mary Jane McCallum . . . 5138
Third Reading—Debate Continued
Hon. Éric Forest . . . 5140

Canada Early Learning and Child Care Bill (Bill C-35)
Third Reading—Debate
Hon. David M. Arnot . . . 5141

Canada Early Learning and Child Care Bill (Bill C-35)
Third Reading
Hon. Marty Deacon . . . 5144
Hon. Frances Lankin . . . 5145
Hon. Rebecca Patterson . . . 5147
Hon. Yonah Martin . . . 5148

Justice
Statutes Repeal Act—Motion to Resolve that the Act and the Provisions of Other Acts not be Repealed—Debate Adjourned
Hon. Patti LaBoucane-Benson . . . 5150

The Senate
Motion to Resolve into Committee of the Whole to Receive Marie-Chantal Girard, President of the Public Service Commission Nominee Adopted
Hon. Patti LaBoucane-Benson . . . 5153

Greenhouse Gas Pollution Pricing Act (Bill C-234)
Bill to Amend—Third Reading—Debate
Hon. Yuen Pau Woo . . . 5153
Motion in Amendment—Vote Deferred
Hon. Yuen Pau Woo . . . 5155
Hon. Pierrette Ringuette . . . 5155
Hon. Pierre J. Dalphond . . . 5157
Hon. David M. Wells . . . 5158
Hon. Donald Neil Plett . . . 5159

Adjournment
Motion Adopted
Hon. Patti LaBoucane-Benson . . . 5161

Criminal Records Act (Bill S-212)
Bill to Amend—Sixteenth Report of Legal and Constitutional Affairs Committee—Debate Continued
Hon. Yonah Martin . . . 5161

Roman Catholic Episcopal Corporation of Ottawa
Roman Catholic Episcopal Corporation for the Diocese of Alexandria-Cornwall (Bill S-1001)
Private Bill to Replace an Act of Incorporation—Tenth Report of Banking, Commerce and the Economy Committee Adopted
Hon. Pamela Wallin . . . 5161

Canada–Taiwan Relations Framework Bill (Bill S-277)
Second Reading—Debate Adjourned
Hon. Yonah Martin . . . 5162

Legal and Constitutional Affairs
Motion to Authorize Committee to Study the Impact of Subsection 268(3) of the Criminal Code—Debate Continued
Hon. Frances Lankin . . . 5162

Ethics and Conflict of Interest for Senators
Motion to Authorize Committee to Study Case of Privilege Relating to the Intimidation of Senators—Debate
Hon. Denise Batters . . . 5162
Hon. David M. Wells . . . 5165
Committee Authorized to Study Case of Privilege Relating to the Intimidation of Senators . . . 5166

Intimate Partner Violence
Inquiry—Debate Continued
Hon. Wanda Thomas Bernard . . . 5166
Hon. Kim Pate . . . 5168
Hon. Patti LaBoucane-Benson . . . 5169